15.0696.06000

FISCAL NOTE
Requested by Legislative Council
04/22/2015

Amendment to: HB 1359

1 A. **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.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				$61,589		$272,713
Expenditures			$814,890	$61,589	$2,110,933	$272,713
Appropriations			$814,890	$61,589	$2,110,933	$272,713

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

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties			
Cities			
School Districts			
Townships			

2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

SB1359 requires the department establish procedures for determining rates of basic care facilities, establish methods for annual limits, provide payments for 30 days of leave per occurrence, and establish an uncompensated care expense of 180 days.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1 states the department shall establish procedures for determining rates of basic care facilities, shall identify cost that are recognized for establishing payment rates, shall establish limits by using the highest and lowest rates from 2014, provide for payment of rates for 30 days of leave per occurrence within the limits of legislative appropriation, establish an uncompensated care expense of 180 days.

With rates effective July, 2016 these changes increase expenditures for the 15-17 biennium by $876,479 of which $814,890 are General Fund and $61,589 are Federal Funds. In the 17-19 biennium, estimated expenditures would be $2,383,646 of which, $2,110,933 is General Fund and $272,713 is Federal Funds.

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.*

The increase in Revenue represents the Federal Funds the Department will be able to access due to the increased costs reported for Basic Care as a result of changing the rate setting structure. Increasing revenue for the 15-17 biennium by $61,589 in Federal Funds. In the 17-19 biennium, estimated revenue would increase $272,713 in Federal Funds.

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.*

With rates effective July 1, 2016, estimated expenditures under the Medicaid grants line item for the 15-17 biennium would increase $$876,479 of which $814,890 are General Fund and $61,589 are Federal Funds. In the 17-19 biennium, estimated expenditures would increase $2,383,646 of which, $2,110,933 is General Fund and $272,713 is Federal Funds.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

The Department of Human Services will need additional appropriation of $876,479, of which $814,890 are General Fund and $61,589 are Federal Funds for the 15-17 biennium. The Department will need an appropriation increase for the 17-19 biennium of $2,383,646 of which, $2,110,933 is General Fund and $272,713 is Federal Funds.

Name: Debra McDermott

Agency: Department of Human Services

Telephone: 701 328-3695

Date Prepared: 04/23/2015

15.0696.05000

FISCAL NOTE
Requested by Legislative Council
03/24/2015

Amendment to: HB 1359

1 A. **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.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				$318,609		$686,689
Expenditures			$1,287,470	$318,609	$2,762,223	$686,689
Appropriations			$1,287,470	$318,609	$2,762,223	$686,689

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

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties			
Cities			
School Districts			
Townships			

2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

SB1359 requires the department establish procedures for determining rates of basic care facilities, establish methods for annual limits, provide payments for 30 days of leave per occurrence, establish an uncompensated care expense of 180 days and abolish the annual compensation cap for management.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1 states the department shall establish procedures for determining rates of basic care facilities, shall identify cost that are recognized for establishing payment rates, shall establish limits on actual allowable historical operating costs within the limits of legislative appropriation, shall work with stakeholders to determine the methodology to establish the annual limits within the limits of legislative appropriation, provide for payment of rates for 30 days of leave per occurrence within the limits of legislative appropriation, establish an uncompensated care expense of 180 days and abolish the annual compensation cap for top management.

With rates effective July, 2016 these changes increase expenditures for the 15-17 biennium by $1,606,079 of which $1,287,470 are General Fund and $318,609 are Federal Funds. In the 17-19 biennium, estimated expenditures would be $3,448,912 of which, $2,762,223 is General Fund and $686,689 is Federal Funds.

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.*

The increase in Revenue represents the Federal Funds the Department will be able to access due to the increased costs reported for Basic Care as a result of changing the rate setting structure. Increasing revenue for the 15-17 biennium by $318,609 in Federal Funds. In the 17-19 biennium, estimated revenue would increase $686,689 in Federal Funds.

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.*

With rates effective July 1, 2016, estimated expenditures under the Medicaid grants line item for the 15-17 biennium would increase $1,606,079 of which $1,287,470 are General Fund and $318,609 are Federal Funds. In the 17-19 biennium, estimated expenditures would increase $3,448,912 of which, $2,762,223 is General Fund and $686,689 is Federal Funds.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

The Department of Human Services will need additional appropriation of $1,606,079,of which $1,287,470 are General Fund and $318,609 are Federal Funds for the 15-17 biennium. The Department will need an appropriation increase for the 17-19 biennium of $3,448,912 of which, $2,762,223 is General Fund and $686,689 is Federal Funds.

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Date Prepared: 03/27/2015

15.0696.04000

FISCAL NOTE
Requested by Legislative Council
02/24/2015

Amendment to: HB 1359

1 A. **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.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				$4,733		$10,671
Expenditures			$262,950	$4,733	$568,096	$10,671
Appropriations			$262,950	$4,733	$568,096	$10,671

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

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties			
Cities			
School Districts			
Townships			

2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

SB1359 requires the department establish procedures for determining rates of basic care facilities that qualify as vendors of an aged, blind, and disabled persons program and for implementing direct and indirect care rate limits and provides for payment of rates for 20 days of leave per occurrence.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Subsection 3 states the direct care rate limit will be established using the highest and lowest rates, multiplying the average by 70%. Section 3 also states the indirect care limit will be established using the highest and lowest rates, multiplying the average by 70%.

Subsection 4 increases the current number of leave days for a basic care resident, who is in a licensed health care facility and is expected to return, to 20 days. Current administrative code allows for 15 leave days.

These changes increase expenditures for the 15-17 biennium by $267,683 of which $262,950 is General Fund and $4,733 are Federal Funds. In the 17-19 biennium, estimated expenditures would be $578,767 of which, $568,096 is General Fund and $10,671 are Federal Funds.

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.*

The increase in Revenue represents the Federal Funds the Department will be able to access due to the increased costs reported for Basic Care as a result changing the rate setting structure. Increasing revenue for the 15-17 biennium by $4,733 in Federal Funds. In the 17-19 biennium, estimated revenue would increase $10,671 in Federal Funds.

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.*

With rates effective July 1, 2016, estimated expenditures under the Medicaid grants line item for the 15-17 biennium would increase $267,683 of which $262,950 is General Fund and $4,733 are Federal Funds. In the 17-19 biennium, estimated expenditures would be $578,767 of which, $568,096 is General Fund and $10,671 are Federal Funds.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

The Department will need an appropriation increase for the 15-17 biennium of $267,683 of which $262,950 is General Fund and $4,733 are Federal Funds. The Department will need an appropriation increase for the 17-19 biennium of $578,767 of which, $568,096 is General Fund and $10,671 are Federal Funds.

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Date Prepared: 02/26/2015

15.0696.02000

FISCAL NOTE
Requested by Legislative Council
02/13/2015

Amendment to: HB 1359

1 A. **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.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				$18,944		$40,315
Expenditures			$788,836	$18,944	$1,700,745	$40,315
Appropriations			$488,836	$18,944	$1,700,745	$40,315

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

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties			
Cities			
School Districts			
Townships			

2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

SB1359 requires the department establish procedures for determining rates of basic care facilities that qualify as vendors of an aged, blind, and disabled persons program and for implementing direct and indirect care rate limits and provides for payment of rates for 20 days of leave per occurrence.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Subsection 3 states the limits may not fall below the direct care rate established for the ninety-fifth percentile facility and the indirect care rate established for the ninetieth percentile facility. Subsection 3 also states the direct care rate limit will be established using the highest and lowest rates, multiplying the average by 85%. The Bill further states the indirect care limit will be established using the highest and lowest rates, multiplying the average by 80%. The limits calculated using the percentile facility are higher than the limits calculated using the highest and lowest rates multiplied by a percentage. Therefore, the fiscal estimate is based on the 95th percentile facility for direct care and the 90th percentile facility for indirect care.

Subsection 4 increases the current number of leave days for a basic care resident, who is in a licensed health care facility and is expected to return, to 20 days. Current administrative code allows for 15 leave days.

These changes increase expenditures for the 15-17 biennium by $807,780 of which $788,836 are General Fund and $18,944 are Federal Funds. In the 17-19 biennium, estimated expenditures would be $1,741,060 of which, $1,700,745 is General Fund and $40,315 is Federal Funds.

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.*

   The increase in Revenue represents the Federal Funds the Department will be able to access due to the increased costs reported for Basic Care as a result of changing the rate setting structure. Increasing revenue for the 15-17 biennium by $18,944 in Federal Funds. In the 17-19 biennium, estimated revenue would increase $40,315 in Federal Funds.

   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.*

   With rates effective July 1, 2016, estimated expenditures under the Medicaid grants line item for the 15-17 biennium would increase $807,780 of which $788,836 are General Fund and $18,944 are Federal Funds. In the 17-19 biennium, estimated expenditures would increase $1,741,060 of which, $1,700,745 is General Fund and $40,315 is Federal Funds.

   C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

   In addition to the General Fund appropriation of $300,000 included in Section 2 of the Bill the Department will need additional appropriation of $507,780, of which $488,836 are General Fund and $18,944 are Federal Funds for the 15-17 biennium. The Department will need an appropriation increase for the 17-19 biennium of $1,741,060 of which, $1,700,745 is General Fund and $40,315 is Federal Funds.

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Telephone: 701 328-3695

Date Prepared: 02/26/2015

2015 HOUSE HUMAN SERVICES

HB 1359

2015 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

HB 1359
2/3/2015
23082

☐ Subcommittee
☐ Conference Committee

Amanda Mucha

Explanation or reason for introduction of bill/resolution:

Relating to basic care payment rates; and to provide an appropriation.

Minutes: Attachment 1 and 2

Chairman Weisz: called to order the hearing on HB 1359.

Rep. Gary Kriedt: From district 33 (the energy district) introduced and testified in support of the bill. In my past life I was in health care and a nursing home administrator for many years. It relates to basic care and I'm not the expert on basic care. It is a unique care situation. North Dakota is the only state that has basic care and it was developed many years ago. HB 1359 is to update the basic care payment system. The bill spells out what is going to be defined and it establishes a new system for set up rates and limits for direct and indirect care. Those items are in the nursing home payment system. It will establish a top management limitation at a nursing facility limit. Number three will allow a maximum of a life time allowance of 180 days of care for an individual that has no payment source and all other ways to pay have been exhausted. It will increase the leave days from 15-30 to allow an individual more rehab days. On the fiscal side, a day care is $118 at this present time compared to the care in a nursing home which is $250. In this biennium the basic care appropriation is 38.8 million. By passage of the bill we can update the payment system, fund the system and bring rates up to proper levels.

Shelly Peterson: President of the ND Long Term Care Association testified in support of the bill. (See Testimony #1)

Chairman Weisz: You may want to change line 3 on page 2; you want that to be 180 days?

Peterson: You are correct.

Rep. Rich Peterson: Why didn't you come up with a number that would cover the entire number of nursing homes and basic care homes in the state?

Peterson: It was driven by the need that for every percent that we increased and covered costs there would be a higher fiscal note. We did have a debate about what should be the

proper limit we try to reach and that there should be some limitation; however we needed a much number for those to operate. We thought we should get a high enough number to cover most but not everybody knowing they will strive to be more cost effective.

Rep. Rich Becker: How can they do that if they aren't currently?

Peterson: They may never be able to. Anyone currently over the yellow line in indirect they are small facilities. If you look at direct facilities, some of them may have closed after losing so much after so many years. We have a number of basic care closes over the years. Some are attached to nursing homes and we have to follow closely to make sure we are not paying for the other half of the facility.

Rep. Rich Becker: These employers are often the largest employer in the communities so by not covering their costs, is that you are saying we are willing to risk the loss of 15-20 employees in a small community where there may be no place for them to go so really negatively impacts them on an economic point of view. The health quality we are talking about whether this affects negatively the health of a local economy.

Chairman Weisz: You pulled the 90% and 95% out of the hat?

Peterson: We didn't pull it out of the hat we had this data in front of us. We wanted it at the highest as possible to cover as many facilities as possible.

Rep. Oversen: When we are looking at the level of care that residents are receiving in basic care, is it more likely that if a basic care facility closes that they can transfer to an assisted living facility or did they go up in the level of care that is required? Do they end up in a more expensive facility?

Peterson: Turn to page 11 in the book I gave you. We have outlined the care needs of residents so if we see assisted living individuals at a more independent level and basic care is the intermediate care and then the skilled cared. A person in basic care would move out to a nursing home because their needs increase. If a facility would close many go to a nursing home because their care needs were growing.

Rep. Oversen: Wouldn't it be more cost effective if we did cover more of the cost at a basic care facility?

Peterson: Yes.

Rep. Mooney: Could you tell me some of the direct costs?

Peterson: Food, caregiver salaries, routine care supplies, laundry, social services, activities and staff.

NO OPPOSITION

LeAnn Thiel: Administrator of Medicaid Payment and Reimbursement Services of the DHS gave information on HB 1359. (See Testimony #2)

Chairman Weisz: Is there a reason there was not a fiscal note?

Thiel: We were not asked for one.

Chairman Weisz: I would like one.

Thiel: I'm sure the department would do that.

Rep. Porter: What is the current percentage of occupancy that Medicaid patients make up inside of basic care?

Thiel: Approximately 59% are Medicaid.

Rep. Porter: How many of the total facilities how many of those 50 are participating.

Thiel: Those are the ones that are participating in the basic care assistance program. WE do not receive cost reports or any cost information from a basic care provider who does not participate in the Medicaid program.

Rep. Porter: There are 68 total facilities, 50 participate in the Medicaid program.

Thiel: In the basic care assistance program yes.

Rep. Fehr: Can you give us more information in terms of how rates work?

Thiel: Having a payment system in basic care that would go along with case mix adjusting or pay them differently based on the equity would require the facilities to submit some type of assessment to the department in order for us to establish that. It would be a long process and the one thing in a basic care facility, an individual on Medicaid, once they meet the nursing facility level of care we can no longer reimburse for that and they usually do switch to a nursing facility. Basic care on the Medicaid side is not intended to be an equivalent of the nursing facility.

Rep. Oversen: Can you clarify. If they are in a basic care facility and they no longer qualify or they need increased services to skilled or nursing level you can no longer pay. Is that a department or federal rule under Medicaid?

Thiel: That is a federal regulation that you have to follow.

Chairman Weisz closed the hearing on HB 1359.

2015 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

HB 1359
2/9/2015
Job #23537

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature Kenneth M. Tschider

Explanation or reason for introduction of bill/resolution:

Proposed amendments to a bill relating to basic care payment rates; and to provide an appropriation.

Minutes:

Chairman Weisz explained the proposed amendments for HB 1359.

Chairman Weisz: This is the one where they're talking about the direct and indirect cost limits, and they are established based on a per bed. It's kind of a convoluted thing where, when possible, and of course when they set these limits, it means anybody over those limits doesn't get paid for that extra cost. That's the simplest way to put it. If the limit is established at, say $50 for an indirect cost, if you got $53, you're not getting paid. Part of the problem is that the way it's figured, it is possible for them to get a reduction from one year to the next, which seems a little backwards when costs are going up. I'm going to propose an amendment as part of it, and there may be others on 1359 that are different than what's in the bill. What they had asked for was to base it on facility instead of beds. Based on facility, you could still have the potential to have a decrease going forward from one year to the next. Not quite as likely, but it could still happen. What I am going to propose is that on both direct and indirect, that we take the high and the low, and take the average of those two, and that is roughly $65 for indirect. If you use your number and take 90 percent of that. In this case, that would come to $58.50. So that puts it exactly where it is under their projections that they wanted on the indirect. I'm certainly willing to look at a different rate, but it doesn't change much even if you would drop it to 85. It does then pay a little better than they're currently getting. On the direct cost, you do the same thing. That comes to $71 a day if you take the high and the low. There, I'm looking at 85 percent. That takes it roughly to Maple View, I think, is where that would occur. ($57.39) So that's kind of splitting the difference of what they would like and what's under current. So, one, under this scenario at least, you would never get a year when you would actually get less next year than you got this year because it would be based on their costs, not trying to base on figuring out a median or an average of a facility. So it would be based on the high and the low costs.

Rep. Anderson: What percent did you take by on the indirect again?

Chairman Weisz: On the indirect, I did use 90 percent. That basically came up to roughly $58.50.

Rep. Anderson: On the sheets that were handed out, though, 90 percent shows us at $51.08.

Chairman Weisz: Because they used it based on facility, not on a true average, so maybe we need to lower that to 85 percent.

Rep. Anderson: Where would it take you down? 85 percent?

Chairman Weisz: That's about 55. Maybe we should take it down to 80. We'd still be higher. 80 is $52. 80 would actually be very close to where they wanted it. At 80 percent on the indirect, and 85 percent on the direct, would be higher than it is currently, but somewhat less than they proposed. But again, you're going to have an increasing, then. As costs go up, the average changes. Instead of, by the luck, it moves up a facility or down a facility, then you could get paid less going into next year. And that's the way it was currently. They said it went down $3 or $4 a day there from one day to the next in one case.

Rep. Fehr: The concept makes sense. Are you to a point of having language to go in the bill? Or is that going to take a while?

Chairman Weisz: We'd have to have Austin draft it and get it down here so we can either accept it or sit around for this evening and wait until we get the amendments. If the amendments aren't correct, we can come back in and fix them. I knew what Long Term Care was looking at. They didn't want that dropped. They would like the limits raised. That's a simpler process, but even if Appropriations wants to take them back down, it's still at least you're not going to get a reduction from year to year. If Appropriations takes it down so it's basically where it is today, I guess they're still no worse off, and at least they don't go from year to year getting a reduction.

Rep. Fehr: Can I move that amendment even though we don't have the language?

Chairman Weisz: Absolutely. Do you want me to clarify what your amendment is, so everybody understands?

Chairman Weisz: Under direct rate, you would take the highest rate and the lowest rate and average it, and multiply it by 85 percent, and that would be the new direct limit. That would come to roughly $60. And then on the indirect rate, we take the average of the highest and the lowest, times 80 percent. That would be the new indirect limit. That would come out roughly to where they wanted it.

Rep. Seibel: Second.

LeAnn Thiel, Administrator of Medicaid Payment and Reimbursement Services of the DHS:

Now, when we do the averages, would we do that every year, or would we set them this year and inflate them by the approved inflation of increase granted by the legislature?

Chairman Weisz: How do you do it now?

Thiel: Right now, we calculate it every year based on the cost of living increase.

Chairman Weisz: Then that's the way you would do it under this scenario.

Chairman Weisz: Any questions on the amendment discussion?

VOICE VOTE TAKEN

MOTION CARRIED

Chairman Weisz: Any further amendments on HB 1359?

Rep. Porter: I would move an amendment to remove Subsection 4 on page 1, lines 21 through 24.

Rep. Hofstad: Second.

Rep. Porter: Again we go back to basic care. The rates are non-capitated; this only affects the compensation limit that's in place, only affects what we're totally reimbursing in regards to Medicaid patients. The private pay and the other pay individuals living in basic care; there is no capitated rate or fee charged to them. So, this is only dealing with how Medicaid looks at the residents that are on Medicaid.

Chairman Weisz: We have seen this in the past. Any further discussion?

Rep. Fehr: If we take it out, it will not increase costs? Or it will increase costs. For Medicaid reimbursements?

Rep. Porter: I think your question is, will it increase the amount Medicaid pays for an individual to be at a basic care facility? That amount will stay, in regards to this sub-piece, the amount will stay static to whatever the inflator is in the budget currently. And the existing rules that are in place.

Rep. Fehr: But if this goes through, then it would increase the cost of the Medicaid. Because it would allow increased compensation to be part of the allowable cost.

Chairman Weisz: But, as Rep. Porter pointed out, basic care does have the ability to pay more, but then they have to pick it up off the private-pay or however else they want to do it. So, if they do want to pay more than what's allowable, they would have to pick up the cost.

Chairman Weisz: Any further discussion?

VOICE VOTE TAKEN

MOTION CARRIED

Chairman Weisz: I have another proposed amendment. This came from the Department. The section that this bill is currently to go in is in basically the Skilled Care 50-24.4. There was concerns being this is basic care, they suggested that it go into a new section, which would be 50-24.5-02, so that we're not confusing or co-mingling so to speak skilled care and basic care. So, where you see on line 6, where it's talking about putting in section 50-24.4, this could now end up in 50-24.5-02.

Rep. Porter: I would move that.

Rep. Fehr: Second.

Chairman Weisz: This is just putting it in a different section; so it stays away from the skilled care.

Rep. Fehr: Is there anything else that's in this section on basic care, or is this all of basic care taken out?

Chairman Weisz: This is a whole new section.

Rep. Fehr: Is there anything else that isn't part of this bill that would need to be moved out? Or is this inclusive in terms of basic care, just creating this new section? I'm just asking, is there anything else that relates to basic care that's already in code?

Chairman Weisz: I assume there's other places we talk about basic care, licensing, etc. This would be the only place for the payment rates.

LeAnn Thiel: The chapter of Century Code that gives the Department authority to do rate-setting; that also has a couple other definitions in there; things related to the basic care assistance program. That's in 24.5.

Chairman Weisz: Any further questions or discussion?

VOICE VOTE TAKEN

MOTION CARRIED

Chairman Weisz: I guess, one other amendment, I do believe they want to change the 108 to 180, so I suppose we should.

Rep. Porter: Before we jump into that change, maybe Miss Thiel can come back up and re-explain the fiscal impacts of Subsection 5 and Subsection 6. I wrote down on Sub 6, by going to the 30 days per occurrence, the state would end up spending about $24,000 annually to cover that language. I didn't write anything down for Sub 5.

LeAnn Thiel: The fiscal estimate for #5 is $63,965 and for #6 is $30,798 for one year. These changes do not take effect until July 1, 2016.

Rep. Porter: With our current changes we made in Sub 1 and 2 regarding the cost for direct and indirect, what impact did that have on that figure of $63,965? It must have had some because earlier you told us $24,000 and now you're telling us $36,000 in sub 6.

LeAnn Thiel: I believe the $24,000 was the Long Term Care Association's estimate for that one.

Rep. Porter: Give me that figure again in Sub 6 is your estimate?

LeAnn Thiel: $30,798.

Rep. Porter: And there is no Medicaid cost share on this? This is all General Fund dollars. And so the impact for the next future biennium is to put the inflator in and take both of these times two?

LeAnn Thiel: Yes

Chairman Weisz: Any other questions for LeAnn?

Chairman Weisz: With the changes we made, in some case, this $628,000 needs to go down. But the question is where to?

Rep. Oversen: Can you repeat which section of Code we are typing this in?

Chairman Weisz: 50-24.5-02.

Chairman Weisz: One, we need to look at the 180 days if we're going to leave 5 and 6 in; and two, we do need to change the appropriation number because one, we're changing the direct and indirect, that's going to drop. And then by deleting section 4, that's going to drop.

Rep. Porter: I'm comfortable with the rate change and the fiscal impact that Sub 1 and 2 and 3 would do. I was uncomfortable with Sub 4, and I'm not extremely comfortable with Sub 5 and 6. I think when you look at what we're doing and all outside of the budget and all General Funds, I think it's going to get to the point that it's big enough that, as this goes over to Appropriations, that it's going to come back completely as a Do Not Pass. And from my standpoint I would rather send it over there in the best shape possible, and defend the two, direct and indirect, formulas, and just leave it at that, and get rid of Sub 5 and Sub 6 also.

Chairman Weisz: Currently they're allowed 15 days in Subsection 6, and currently there's no bad debt expense allowed. Just so everyone understands that. One, this will allow a maximum of six months bad debt expense for any individual. And changes from 15 to 30 days on whatever leave you want to call it.

Rep. Porter: The other component of this is that the drafters of the bill drafted it for one year rather than a biennium so that it didn't look like it had a huge fiscal note on it. So everything we talked about inside of this bill, as you go into the biennium after the next one, is times two plus the inflators.

Rep. Porter: I would certainly do them one by one, and I would move that we delete Subsection 5 on page 2.

Rep. Hofstad: Second.

Chairman Weisz: Discussion on that amendment:

Rep. Porter: My rationale is that it's brand new. It's currently not being done. It's 100 percent general funds. And I think that our adjustment inside of the other rates is going to be a fairly big move for this bill to stay alive inside of Appropriations. I wouldn't want to be down defending it from the aspect that now you're adding a whole brand new set of reimbursement structures to it.

Chairman Weisz: Any other comments?

VOICE VOTE TAKEN

MOTION CARRIED

Chairman Weisz: I assume you have your other amendment.

Rep. Porter: Just going into Sub 6, I can certainly see the Long Term Care Association's point on holding the bed and not getting paid for it. I would make an amendment to change the 30 to 20, and meet them part-way, which would bring the general fund expense down a little bit for that component of the bill, and still allow them to have a little more flexibility than they currently have.

Rep. Fehr: Second.

Chairman Weisz: And I would say that at least in Section 6, I think they do have a stronger case from the standpoint, they want to hold the bed and they're not getting paid if they're spending some extra time in there.

Rep. Porter: You look at the situation of the patient who is sick, maybe off to rehab, or that situation. You certainly don't want them to suddenly be homeless, either. We want people to be able to go back to their residence, and this is someone's residence. I think bumping that up from 15 to 20 is reasonable from our standpoint, and I think it helps out the basic care facilities at the same time.

VOICE VOTE TAKEN

MOTION CARRIED

Chairman Weisz: I would say we should have a suggested amendment to drop Section 2 to around 300. Obviously, by the time I get down to Appropriations, I'll have a better number, but it's going to drop, with taking 4 and 5 out, changing the direct and indirect. I would say it could easily drop close to 300,000.

Rep. Porter: Does the Department have any numbers?

LeAnn Thiel: I do not have any numbers right now.

Rep. Porter: Did you have a cost estimate on Subsection 4?

LeAnn Thiel: Subsection 4 was $566,000. That did have a Federal component. There was $267,000 in General.

Chairman Weisz: That's already $352,000 drop. And then we also dropped direct and indirect. I'd sure hate to have a number that's higher than what the actual fiscal note is.

Rep. Porter: I would move on line 12 to change 628 to 300,000.

Rep. Fehr: Second

Chairman Weisz: Further Discussion?

VOICE VOTE TAKEN

MOTION CARRIED

Rep. Porter: I would move a Do Pass on HB 1359 As Amended and Re-Referred to Appropriations.

Rep. Seibel: Second.

Chairman Weisz: Discussion on the bill? It's had some life changes, but it's given them quite a bit of what they're asking for in here, it looks like.

Chairman Weisz: Clerk will call the roll for a Do Pass As Amended, Re-Referred to Appropriations on HB 1359.

MOTION CARRIES YES: 13 NO: 0 ABSENT: 0

Rep. Porter will carry the measure.

15.0696.01001
Title.02000

Adopted by the Human Services Committee

February 10, 2015

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1359

Page 1, line 1, replace "50-24.4-02.3" with "50-24.5-02"

Page 1, line 4, replace "50-24.4-02.3" with "50-24.5-02"

Page 1, line 6, replace "**50-24.4-02.3**" with "**50-24.5-02**"

Page 1, remove lines 21 through 24

Page 2, remove lines 1 through 6

Page 2, line 7, replace "6." with: "The department shall establish the direct care rate limit by taking the highest rate and lowest rate from the cost reports submitted for the report year preceding the rate year, and multiplying the averaged amount by eighty-five percent. The department shall establish the indirect care rate limit by taking the highest rate and lowest rate from the cost reports submitted for the report year preceding the rate year, and multiplying the averaged amount by eighty percent.

4."

Page 2, line 8, replace "thirty" with "twenty"

Page 2, line 12, replace "$628,000" with "$300,000"

Renumber accordingly

Date: 2-9-15
Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1359

House Human Services Committee

☐ Subcommittee

Amendment LC# or Description: See below

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. Fehr Seconded By Rep. Seibel

Representatives	Yes	No	Representatives	Yes	No
Chairman Weisz			Rep. Mooney		
Vice-Chair Hofstad			Rep. Muscha		
Rep. Bert Anderson			Rep. Oversen		
Rep. Dick Anderson					
Rep. Rich S. Becker					
Rep. Damschen					
Rep. Fehr					
Rep. Kiefert					
Rep. Porter					
Rep. Seibel					

Voice Vote Motion Carried

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Take on direct & indirect take the high & low rate on indirect high 222 lowest take average $65 roughly take 85% of $65 would be $55.25 on direct take 85%

Date: 2-9-15
Roll Call Vote #: 2

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1359

House Human Services Committee

☐ Subcommittee

Amendment LC# or Description: See Below

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. PORTER Seconded By Rep. HOFSTAD

Representatives	Yes	No	Representatives	Yes	No
Chairman Weisz			Rep. Mooney		
Vice-Chair Hofstad			Rep. Muscha		
Rep. Bert Anderson			Rep. Oversen		
Rep. Dick Anderson					
Rep. Rich S. Becker					
Rep. Damschen					
Rep. Fehr					
Rep. Kiefert					
Rep. Porter					
Rep. Seibel					

Motion Carried

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent: Remove Sub Section 4 page 1 line 21-24

Date: 2-9-15
Roll Call Vote #: 3

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1359

House Human Services Committee

☐ Subcommittee

Amendment LC# or Description: See below

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. Porter Seconded By Rep. Fehr

Representatives	Yes	No	Representatives	Yes	No
Chairman Weisz			Rep. Mooney		
Vice-Chair Hofstad			Rep. Muscha		
Rep. Bert Anderson			Rep. Oversen		
Rep. Dick Anderson					
Rep. Rich S. Becker					
Rep. Damschen					
Rep. Fehr					
Rep. Kiefert					
Rep. Porter					
Rep. Seibel					

Voice vote
Motion carried

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

put in New Section 50 24.5 02

Date: 2-9-15
Roll Call Vote #: 4

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1359

House Human Services Committee

☐ Subcommittee

Amendment LC# or Description: See below

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. Porter Seconded By Rep. Hofstad

Representatives	Yes	No	Representatives	Yes	No
Chairman Weisz			Rep. Mooney		
Vice-Chair Hofstad			Rep. Muscha		
Rep. Bert Anderson			Rep. Oversen		
Rep. Dick Anderson					
Rep. Rich S. Becker					
Rep. Damschen					
Rep. Fehr					
Rep. Kiefert					
Rep. Porter					
Rep. Seibel					

Motion Carried

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Delete Sub 5 page 2

Date: 2-9-15
Roll Call Vote #: 5

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1359

House Human Services Committee

☐ Subcommittee

Amendment LC# or Description: See below

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. Porter Seconded By Rep. Fehr

Representatives	Yes	No	Representatives	Yes	No
Chairman Weisz			Rep. Mooney		
Vice-Chair Hofstad			Rep. Muscha		
Rep. Bert Anderson			Rep. Oversen		
Rep. Dick Anderson					
Rep. Rich S. Becker					
Rep. Damschen					
Rep. Fehr					
Rep. Kiefert					
Rep. Porter					
Rep. Seibel					

Voice Vote
Motion Carried

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Change 30 to 20

Date: 2-9-15
Roll Call Vote #: 6

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1359

House Human Services Committee

☐ Subcommittee

Amendment LC# or Description: See below

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Porter Seconded By Fehr

Representatives	Yes	No	Representatives	Yes	No
Chairman Weisz			Rep. Mooney		
Vice-Chair Hofstad			Rep. Muscha		
Rep. Bert Anderson			Rep. Oversen		
Rep. Dick Anderson					
Rep. Rich S. Becker					
Rep. Damschen					
Rep. Fehr					
Rep. Kiefert					
Rep. Porter					
Rep. Seibel					

Voice Vote
Motion Carried

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

on line 12, change 628 to 300,000

Date: 2-9-15
Roll Call Vote #: 7

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1359

House Human Services Committee

☐ Subcommittee

Amendment LC# or Description: 15.0696.01001

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☒ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep Porter Seconded By Rep. Seibel

Representatives	Yes	No	Representatives	Yes	No
Chairman Weisz	✓		Rep. Mooney	✓	
Vice-Chair Hofstad	✓		Rep. Muscha	✓	
Rep. Bert Anderson	✓		Rep. Oversen	✓	
Rep. Dick Anderson	✓				
Rep. Rich S. Becker	✓				
Rep. Damschen	✓				
Rep. Fehr	✓				
Rep. Kiefert	✓				
Rep. Porter	✓				
Rep. Seibel	✓				

Total (Yes) 13 No 0

Absent 0

Floor Assignment Rep. Porter

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

REPORT OF STANDING COMMITTEE

HB 1359: Human Services Committee (Rep. Weisz, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1359 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "50-24.4-02.3" with "50-24.5-02"

Page 1, line 4, replace "50-24.4-02.3" with "50-24.5-02"

Page 1, line 6, replace "**50-24.4-02.3**" with "**50-24.5-02**"

Page 1, remove lines 21 through 24

Page 2, remove lines 1 through 6

Page 2, line 7, replace "6." with: "The department shall establish the direct care rate limit by taking the highest rate and lowest rate from the cost reports submitted for the report year preceding the rate year, and multiplying the averaged amount by eighty-five percent. The department shall establish the indirect care rate limit by taking the highest rate and lowest rate from the cost reports submitted for the report year preceding the rate year, and multiplying the averaged amount by eighty percent.

4."

Page 2, line 8, replace "thirty" with "twenty"

Page 2, line 12, replace "$628,000" with "$300,000"

Renumber accordingly

2015 HOUSE APPROPRIATIONS

HB 1359

2015 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee
Roughrider Room, State Capitol

HB 1359
2/13/2015
23868

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature Mary Brucker

Explanation or reason for introduction of bill/resolution:
Relating to basic care payment rates; and to provide an appropriation

Minutes: No attachments.

Representative Robin Weisz testified as Committee Chair of Human Services: This is changing how we determine the direct care and indirect care limits.

Chairman Jeff Delzer: It's also taking the limit off of management?

Representative Weisz: No, we deleted that.

Chairman Delzer: You deleted it out of the section too, correct? So it won't be part of the current law anymore?

Representative Weisz: No, we just deleted it in the bill. We had a lot of discussion on that. To determine the maximum direct care limits and indirect care limits they are based on an average of the reporting basic care facilities and what their actual cost limits were then divided it up by the beds. On the list they find at the 80th percentile of how many beds that would be then they draw a line through it and whatever that facility's cost is at that 80% that is where the state's maximum is. One of the problems with the convoluted formula is that the maximum limits would decrease from one year to the next and it has happened. So this bill changes the formula in how that is determined; instead of trying to calculate it by bed it takes the lowest limit cost and the highest limit cost then averages it out. Direct care is 95 percentile and the indirect care is 90 percentile. That changes it slightly; the indirect care would raise the limits slightly versus the current system. You won't have a year where you happen to hit the wrong facility and the rate drops from year to year. The only way rates could drop or the maximum limits could drop is if the actual cost for the facilities went down. This makes a lot more sense and is more consistent. Under last year's scenario with the old formula the maximum limit for direct care was $55.34 so anyone over $45.34 doesn't get paid above that. Under this bill that would rise to $56.80. Currently, on the indirect it would be $42.52 and under this scenario it would be $52.00. This means that the majority of the facilities are still not affected. Any facility that has costs below that will already get 100 percent. This only goes to five indirect facilities which would get an increase.

Chairman Jeff Delzer: Did you ask for a fiscal note?

Representative Weisz: No, we did not but we should have. That was my fault. We knew there was a fiscal affect based on the numbers that we had. I'm sure a fiscal note could be supplied to you.

Representative Hogan: There are about five facilities impacted for indirect. How many were impacted on direct?

Representative Weisz: Currently there are 17 impacted today on indirect but on the new formula there would be six impacted.

Chairman Delzer: Would you leave a copy of that testimony?

Representative Weisz: I sure would.

Att. 1

2015 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee
Roughrider Room, State Capitol

HB 1359
2/19/2015
Job #24184

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature Kenneth M. Torkelson

Explanation or reason for introduction of bill/resolution:
Relating to basic care payment rates; and to provide an appropriation

Minutes: Attachment 1

Chairman Delzer called the hearing to order on HB 1359

Representative Kreidt: (Handed out amendment 02001; referred to fiscal note)

Chairman Delzer: While those are being handed out, the State Treasurer's accountant did tell me that there was a little bit of a different set of numbers on the $100-million for the ten largest oil counties, because he had rounded the number, and I've got a new set of numbers that are exact. They're very little different, but they are just a little bit different. I'll go ahead and pass those out so everybody can have them. There's another thing. We do have a packet of amendments in front of everybody's desk. These are all of our amendments. They're in numerical order. As I was asked last night how much money we spend on health insurance for state employees. This is just the state employees. It does not include Higher Ed. It's $261.6-million for the biennium-$153.4 general fund, and $108.2 of special funds.

Rep. Kreidt: What this amendment does, if you go down to line 18, that language is removed all the way over to line 20, after the 19th percentile period. What that will do, in discussion with the department, will generate a new fiscal note, which will be about half of what we have right now. We will not get a new fiscal note until we adopt the amendment. That's the rules we operate under. Once this amendment is adopted, then we will receive the new fiscal note. I would assume that will be out sometime tomorrow or Saturday. Then we can go ahead and take action on the bill.

Chairman Jeff Delzer: What fiscal note are you referencing? We did officially ask for that second one, and we got it at $1.7. I believe you're talking the difference between the first fiscal note and the second.

Representative Kreidt: The first one, if I remember correctly, well, there was an appropriation in the bill, is what there was to begin with, of a little over $6-million. Now the

appropriation in here is $300-million. In the original bill, there was the removing the limits on the basic care administrator's salary. That was removed by the policy committee. And that's the way the bill came down to Appropriations. So I'm just addressing the appropriation. But if the amendment is adopted, it will generate a fiscal note for the bill as it stands, by taking out the limits in the 95th and 90th percentile.

Representative Pollert: I think what we should do then is go ahead and adopt that, but we should also remove the appropriation because this is going to have to be dealt with in the Human Service budget as well.

Representative Kreidt: That's fine.

Rep. Pollert: If Rep. Kreidt can repeat his numbers, because I thought he said $300-million.

Chairman Delzer: The appropriation in the bill is $300,000.

Rep. Kreidt: I will move Amendment 02001 with the statement of purpose of this amendment and the opposed amendment, and the removal of Section 2.

Rep. Silbernagel: Second.

Chairman Delzer: Any further discussion?

VOICE VOTE TAKEN

MOTION CARRIES

Chairman Delzer: We have the amended bill before us.

Rep. Kreidt: I move a Do Pass on the engrossed bill HB 1359 As Amended.

Rep. Nelson: Second.

Chairman Delzer: This is just for basic care?

Rep. Kreidt: That's correct.

Chairman Delzer: We'll go ahead and take care of this. Hopefully we'll have the fiscal note before we turn it in to the front desk, so we can look at it if we needed to make any adjustments.

Representative Monson: Did I hear you say this was going to end up in the Human Services budget?

Chairman Jeff Delzer: If there's no appropriation. Since we took the appropriation out, so that's where it would have to be dealt with if we wanted to make it fit right.

Rep. Monson: The language will be in here, but it'll be funded through the budget?

Chairman Delzer: That's the only way to get a fiscal note, is to take the appropriation out. Otherwise there is no reason to put a fiscal note in it. And that's the only way to get the actual idea of how much money it's going to cost to do it.

Rep. Pollert: That's if I remember to do it.

Chairman Delzer: When you look at that whole realm of opportunity in the Human Service budget, you're looking at part of the Medicaid line item. You're looking at well over $1-billion there, so it all depends on whatever. It may not be a direct addition to the appropriation for this amount, but that doesn't mean it hasn't been looked at when the committee looks at the bill. Further discussion on the motion for Do Pass As Amended? The clerk will call the roll.

ROLL CALL VOTE TAKEN

YES: 22 NO: 0 ABSENT: 0

MOTION CARRIES

Rep. Holman will carry the bill.

Chairman Delzer closed the hearing on HB 1359.

2015 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee
Roughrider Room, State Capitol

HB 1359
2/23/2015
24266

☐ Subcommittee
☐ Conference Committee

Explanation or reason for introduction of bill/resolution:

Relating to basic care payment rates; and to provide an appropriation

Minutes: Attachment 1

Chairman Jeff Delzer: The fiscal note came back considerably higher than what we thought it would do which most of them do that. I think there is one small amendment that needs to be made in the bill basically on lines 23 of the bill on page 1, we need to change 85 to 70. Att 1

Representative Kreidt: That is correct. Line 23 page 1 the 85 percent would go to 70 percent and then on the second page line 1 again changing the 80 to 70. Those would be the only changes in this bill.

Chairman Jeff Delzer: What we did is we did amend the bill and then we put a do pass on it. I think we need to re consider our Do Pass motion but leave the amendment on. So what is the right motion Brady?

Brady: You would need to reconsider the Do Pass As Amended and then then further amend the bill and then re-pass it out as a Do Pass As Amended.

Chairman Jeff Delzer: When we reconsider our action, Do Pass As Amended, are we just taking the Do Pass off or are we taking the amendment off.

Brady: You are just taking the Do Pass off.

Representative Kreidt: I further amend.

Chairman Jeff Delzer: Representative Kreidt move to reconsider our acts where we passed the Do Pass on HB 1359

Representative Nelson: Second

Chairman Jeff Delzer: I think this would cut 1 million dollars to somewhere around 500,000 dollars. It keeps the issue alive for the second half to see where we are at.

Motion to reconsider our acts.
Motion made by Representative Kreidt.
Seconded by Representative Nelson.
Voice Vote.
Motion Carries.

Representative Kreidt: The fiscal note then will change to 268,000 dollars the general fund will be 262,350 dollars and the others would be 5,650 dollars and it should be ready to go. That should get the bill where we want it.

Chairman Jeff Delzer: Wasn't there two places we needed to make that change?

Representative Kreidt: Line 23 and then on the second page line 1.

Motion to change line 23 the 85 to 70 and line 1 on page 2 80 to 70
Motion made by representative Kreidt.
Seconded by Representative Nelson.
Voice Vote.
Motion Carried.

Representative Kreidt: I move a Do Pass on HB 1359 As Amended.

Representative Hogan: Second

Motion made to Do Pass As Amended.
Motion made by Representative Kreidt.
Seconded by Representative Hogan.
Total Yes 22. No 0. Absent 1.
Motion Carried.
Floor assignment Representative Holman.

Prepared by the Legislative Council staff for
Representative Kreidt
February 19, 2015

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1359

Page 1, line 18, remove "The limits may not fall below the direct care"

Page 1, remove line 19

Page 1, line 20, remove "established for the ninetieth percentile facility."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment removes language for basic care payment rates which would have provided that the limits for the actual allowable historical operating cost per diem, based on cost reports of allowable operating costs, may not fall below the direct care rate established for the 95th percentile facility and the indirect care rate established for the 90th percentile facility.

15.0696.02003
Title.04000

Prepared by the Legislative Council staff for
House Appropriations Committee
February 23, 2015

2/24/15

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1359

Page 1, line 2, remove "; and to provide an appropriation"

Page 1, line 18, remove "The limits may not fall below the direct care"

Page 1, remove line 19

Page 1, line 20, remove "established for the ninetieth percentile facility."

Page 1, line 23, replace "eighty-five" with "seventy"

Page 2, line 1, replace "eighty" with "seventy"

Page 2, remove lines 7 through 11

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment removes the $300,000 general fund appropriation which would have provided funds for implementing the basic care payment rate changes provided for in the bill and removes language for basic care payment rates which would have provided that the limits for the actual allowable historical operating cost per diem, based on cost reports of allowable operating costs, may not fall below the direct care rate established for the 95th percentile facility and the indirect care rate established for the 90th percentile facility. The amendment also adjusts the direct care rate limit to 70 percent of the average of the highest and lowest direct care rates during the preceding year and adjusts the indirect care rate limit to 70 percent of the average of the highest and lowest indirect care rates during the preceding year.

Date: 2/19/15

Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1359

House **Appropriations Committee**

☐ Subcommittee

Amendment LC# or Description: 15.0696.02001

Recommendation:	☑ Adopt Amendment	
	☐ Do Pass ☐ Do Not Pass	☐ Without Committee Recommendation
	☐ As Amended	☐ Rerefer to Appropriations
	☐ Place on Consent Calendar	
Other Actions:	☐ Reconsider	☐ _____

Motion Made By: Kreidt Seconded By: Silbernagel

Representatives	Yes	No	Absent	Representatives	Yes	No	Absent	Representatives	Yes	No	Absent
Chairman Jeff Delzer				Representative Nelson				Representative Boe			
Vice Chairman Keith Kempenich				Representative Pollert				Representative Glassheim			
Representative Bellew				Representative Sanford				Representative Guggisberg			
Representative Brandenburg				Representative Schmidt				Representative Hogan			
Representative Boehning				Representative Silbernagel				Representative Holman			
Representative Dosch				Representative Skarphol							
Representative Kreidt				Representative Streyle							
Representative Martinson				Representative Thoreson							
Representative Monson				Representative Vigesaa							

Totals

(Yes)	
No	
Absent	
Grand Total	

Voice Vote Motion Carries

Floor Assignment:

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

Adopt Amendment –
–Plus- Remove Section 2 of the Bill

Date: 2/19/15

Roll Call Vote #: 2

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1359

House **Appropriations Committee**

☐ Subcommittee

Amendment LC# or Description: 15.0696.02001

Recommendation:	☐ Adopt Amendment		
	☐ Do Pass	☐ Do Not Pass	☐ Without Committee Recommendation
	☑ As Amended		☐ Rerefer to Appropriations
	☐ Place on Consent Calendar		
Other Actions:	☐ Reconsider	☐ _____	

Motion Made By: Kreidt Seconded By: Nelson

Representatives	Yes	No	Absent	Representatives	Yes	No	Absent	Representatives	Yes	No	Absent
Chairman Jeff Delzer	✓			Representative Nelson	✓			Representative Boe	✓		
Vice Chairman Keith Kempenich	✓			Representative Pollert	✓			Representative Glassheim	✓		
Representative Bellew	✓			Representative Sanford	✓			Representative Guggisberg	✓		
Representative Brandenburg	✓			Representative Schmidt	✓			Representative Hogan	✓		
Representative Boehning	✓			Representative Silbernagel	✓			Representative Holman	✓		
Representative Dosch	✓			Representative Skarphol	✓						
Representative Kreidt	✓			Representative Streyle	✓						
Representative Martinson	✓			Representative Thoreson	✓						
Representative Monson	✓			Representative Vigesaa	✓						
	9	0	0		9	0	0		5	0	0

Totals

(Yes)	23
No	0
Absent	0
Grand Total	23

Floor Assignment: Holman

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

Date: 2/23/15

Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1359

House **Appropriations Committee**

☐ Subcommittee

Amendment LC# or Description: 15.0696.02002

Recommendation:	☐ Adopt Amendment		
Reconsider ✓	☐ Do Pass	☐ Do Not Pass	☐ Without Committee Recommendation
	☐ As Amended		☐ Rerefer to Appropriations
	☐ Place on Consent Calendar		
Other Actions:	☑ Reconsider		☐ _____

Motion Made By: Kreidt Seconded By: Nelson

Representatives	Yes	No	Absent	Representatives	Yes	No	Absent	Representatives	Yes	No	Absent
Chairman Jeff Delzer				Representative Nelson				Representative Boe			
Vice Chairman Keith Kempenich				Representative Pollert				Representative Glassheim			
Representative Bellew				Representative Sanford				Representative Guggisberg			
Representative Brandenburg				Representative Schmidt				Representative Hogan			
Representative Boehning				Representative Silbernagel				Representative Holman			
Representative Dosch				Representative Skarphol							
Representative Kreidt				Representative Streyle							
Representative Martinson				Representative Thoreson							
Representative Monson				Representative Vigesaa							

Totals

(Yes)	
No	
Absent	
Grand Total	

Voice Vote
Motion Carries

Floor Assignment:

If the vote is on an amendment, briefly indicate intent: Referring to Amend 15.0696.02001

Line 23 -
Change 85 to 70
on Pg 2 - line 1 changing 85 to 70

Date: 2/23/15

Roll Call Vote #: 2

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1359

House **Appropriations Committee**

☐ Subcommittee

Amendment LC# or Description: 15.0696.02003

Recommendation: ☑ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Further Amend the Bill

Other Actions: ☐ Reconsider ☐ _____

Motion Made By: Kreidt Seconded By: Nelson

Representatives	Yes	No	Absent	Representatives	Yes	No	Absent	Representatives	Yes	No	Absent
Chairman Jeff Delzer				Representative Nelson				Representative Boe			
Vice Chairman Keith Kempenich				Representative Pollert				Representative Glassheim			
Representative Bellew				Representative Sanford				Representative Guggisberg			
Representative Brandenburg				Representative Schmidt				Representative Hogan			
Representative Boehning				Representative Silbernagel				Representative Holman			
Representative Dosch				Representative Skarphol							
Representative Kreidt				Representative Streyle							
Representative Martinson				Representative Thoreson							
Representative Monson				Representative Vigesaa							

Totals

(Yes)	
No	
Absent	
Grand Total	

Voice Vote
Motion Carries

Floor Assignment: _____

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

Fiscal Note Change
(Page1) Line 23 85 to 70
(Page2) Line 1 80 to 70

Date: 2/23/15

Roll Call Vote #: 3

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1359

House **Appropriations Committee**

☐ Subcommittee

Amendment LC# or Description: 15.0696.02003 title 04000

Recommendation:	☐ Adopt Amendment		
	☐ Do Pass	☐ Do Not Pass	☐ Without Committee Recommendation
	☐ As Amended		☐ Rerefer to Appropriations
	☐ Place on Consent Calendar		
Other Actions:	☐ Reconsider	☐ _____	

Motion Made By: Kreidt Seconded By: Hogan

Representatives	Yes	No	Absent	Representatives	Yes	No	Absent	Representatives	Yes	No	Absent
Chairman Jeff Delzer	✓			Representative Nelson	✓			Representative Boe	✓		
Vice Chairman Keith Kempenich	✓			Representative Pollert	✓			Representative Glassheim	✓		
Representative Bellew	✓			Representative Sanford	✓			Representative Guggisberg	✓		
Representative Brandenburg			A	Representative Schmidt	✓			Representative Hogan	✓		
Representative Boehning	✓			Representative Silbernagel	✓			Representative Holman	✓		
Representative Dosch	✓			Representative Skarphol	✓						
Representative Kreidt	✓			Representative Streyle	✓						
Representative Martinson	✓			Representative Thoreson	✓						
Representative Monson	✓			Representative Vigesaa	✓						
	8	0	1		9	0	0		5	0	0

Totals

(Yes)	22
No	0
Absent	1
Grand Total	23

Floor Assignment: Holman

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

REPORT OF STANDING COMMITTEE

HB 1359, as engrossed: Appropriations Committee (Rep. Delzer, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (22 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1359 was placed on the Sixth order on the calendar.

Page 1, line 2, remove "; and to provide an appropriation"

Page 1, line 18, remove "The limits may not fall below the direct care"

Page 1, remove line 19

Page 1, line 20, remove "established for the ninetieth percentile facility."

Page 1, line 23, replace "eighty-five" with "seventy"

Page 2, line 1, replace "eighty" with "seventy"

Page 2, remove lines 7 through 11

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment removes the $300,000 general fund appropriation which would have provided funds for implementing the basic care payment rate changes provided for in the bill and removes language for basic care payment rates which would have provided that the limits for the actual allowable historical operating cost per diem, based on cost reports of allowable operating costs, may not fall below the direct care rate established for the 95th percentile facility and the indirect care rate established for the 90th percentile facility. The amendment also adjusts the direct care rate limit to 70 percent of the average of the highest and lowest direct care rates during the preceding year and adjusts the indirect care rate limit to 70 percent of the average of the highest and lowest indirect care rates during the preceding year.

2015 SENATE HUMAN SERVICES

HB 1359

2015 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

HB 1359
3/10/2015
Job Recording 24548

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature Donald Mueller MJ.

Explanation or reason for introduction of bill/resolution:

A bill relating to basic care payment rates

Minutes:

Attach #1: Testimony by Shelly Peterson
Attach #2: Testimony by LeeAnn Thiel

Representative Kreidt introduced HB 1359 to the Senate Human Services Committee. The State of North Dakota is unique that has a level of care called basic care. This has been around for many years, a lower level of care than skilled care and a much needed care. We are trying to establish a new rate setting procedure for direct and indirect costs for facilities. The care limits are included in there in setting the rates. The cost of basic care resident is over $100 per day, where cost of nursing home is over $250 per day. The engrossed bill is slightly different than the original House bill. It extends the days to 20 days instead of 15 days. House Human Services Committee made some adjustments, and deferred to Representative Weisz to these changes.

Representative Weisz (District 14) reviewed the direct care and indirect care limits. **Representative Weisz** deferred to Shelly Peterson regarding rate charts. The House committee decided to look at the per-bed and to a facility. The House committee decided to take the highest and lowest payment rates, average it and then it came out of our committee at 80 and 85% and appropriations cut it back to 70%. Since that conversation Shelly has informed me that there is a potential under the scenario that we did to have the rates could also go down from one year to the next. It was never the intent to decrease the payment rate from one year to the next. It appeared to do that until it was determined that the highest payment rate facility may actually close. They are quite a bit higher so then all of a sudden shifts it back and the lowest rate and multiply the averaged amount by 70%.

Chairman Judy Lee it was 85% for direct, and 80% for indirect. **Rep. Weisz** that moved it up very close to what the Long Term Care Association wanted. Appropriations took it down to a flat 70. We think the percentage should be higher; there probably is a problem with the formula and try to work with the committee to adjust the formula.

Senator Warner taking the high and the low seems a little bit unusual. Perhaps to drop the high and the low and then average, did anyone do the math to see if that came out to a closer number than what you needed.

Representative Weisz indicated they considered that. It was simpler to do it this way, but the proposed way could drop a facility out, so it doesn't work. The current method is very complicated and needs to be simplified.

Chairman Judy Lee she understands the same formula to be applied to everyone, but on the other hand, it might be more expensive in Watford City than Carrington.

Representative Weisz that was one of the reasons for increasing the direct care limits. They receive the direct costs up to the cap; they do not get up-to-the-cap. Appropriations cut the 80%-85% to the 70% which was a bit higher than the direct care limit. **Rep. Weisz** went through several scenarios. (15:06)

Chairman Judy Lee looks forward to keeping Rep. Weisz in the loop to help through conference committee.

Representative Weisz stated the House looked at all the bills together. The intent is to level the playing field to be fairer to all the facilities.

Shelly Peterson, President of Long Term Care Association, testified (attach #1) (16:54-30:42)

Senator Warner on skill nursing what is the calculation for rate computation?

Shelly Peterson skilled rate is calculated at median plus 80%.

Senator Warner In skilled care, is it weighted or based on size of facility average costs not bed average cost?

Shelly Peterson responded no. It is based on median cost facility. The median facility times 80%. Median is different than average. **Senator Warner** Would there be good purpose in making two systems analogous? **Shelly Peterson** I am going to address that in the testimony coming up. That was something that we considered.

Shelly Peterson continued her testimony (31:50-48:25)

Senator Warner what is a well paid director of nursing home paid - basic care. Looking at equal pay to an administrator. **Shelly Peterson** Are you thinking in a nursing facility, or in a basic care facility? **Senator Warner** Basic care.

Shelly Peterson in basic care a really well paid. **Senator Warner** I am just trying to create a relatively equal positon to administrator? That would be the highest amount.

Shelly Peterson could they be paid more than the administrator, yes, probably? **Senator Warner** There is no salary cap except for the directors? **Shelly Peterson** there is not a salary cap for anybody except humans of course. **Senator Judy Lee** You mean long term care, not just basic care. **Shelly Peterson** there is a salary cap on the administrator but not on anyone.

Senator Axness Through the administrative rules, Department of Human Services made sure there was no one who was losing. Does the legislature need to set the rate for the direct and indirect, or can just ask the Department of Human Services to do this through the administrative rule. That way were not talking about the highest, lowest and finding an average, but they do that through Administrative Rules.

Shelly Peterson indicated that the Department of Human Services does this through rule, and legislature sets the appropriation. So instead of putting this into statute, it could stay in the rules. We've asked the department to change it, and they say they don't have the money or were not sure so we need to bring it to the Legislature, so that's why we're here.

Senator Axness we do have the appropriation passed through the Senate appropriation in SB 2012.

Shelly Peterson confirmed.The Senate passed $623,000 for this bill. They put it in SB2012. So it wouldn't cover the first 3 features and maybe not the 3rd one completely. I would have to look at it to add it up, but it would cover the limit if your and the hospital and e- bills. The approved appropriation will cover the first 3 priorities.

Chairman Judy Lee it might be helpful to know what the total cost is of all 4 priorities. Can you help us with that? The 4 priorities that you have, that you said the $623,000 wouldn't cover the whole thing.

Shelly Peterson even putting the cap to $100,000 would help.

OPPOSITION TO HB 1359
No opposing testimony

NEUTRAL TO HB 1359
LeeAnn Thiel, Administrator of Medicaid Payment and Reimbursement Services of the Medical Services Division for the Department of Human Services, testified NEUTRAL for HB 1359 (attach #2) (52:42-57:37)

Senator Warner Can you tell me, in a skilled facility where would be the medical leave days, the amount of days a bed would be allowed to be reserved?

Lee Ann Thiel it is 15 days.

Chairman Judy Lee are the 15 days been found to be inadequate? Have you found that there are people who are not able to go back to their facility because they've been in a hospital longer than 15 days?

Lee AnnThiel Are you referring to Basic Care or Nursing Care? **Chairman Judy Lee** Well both of them at this point. Lee Ann Thiel We have some anecdotal when we talk to some members and sometimes that is not enough. Some facilities still continue to hold the bed some do charge them as a private pay resident and continue to hold their bed. It is just an mix up.

Chairman Judy Lee I could be off on this one, but it seems to me, perhaps it's more likely they would return to a long term care bed if they may have surgery or some such thing and they have gone to transitional care, which still would be a skilled care level, but they might not be quite good enough to go back to a basic care facility. There may be an issue to needing more days for the basic care. Maybe an appropriate consideration here. Am I guessing right that may where it came from?

Shelly Peterson If you go back to a skill facility you are getting the skill care you need and basic care you're not. The 15 days is enough for the Long Term Care skilled beds but may not be enough for the basic care beds.

Senator Warner I assume there is a formal determination of a need, as they transition from hospital to intermediate or skilled care. Somebody is making a determination as to what the level of need is, is that right?

LeeAnn Thiel the hospital and nursing/basic care facility work together to determine the transition.

Senator Warner the different levels of care in basic care, but no distinction in the rates. Is there a process and who would initiate this process in the basic care facility where they may need to step up to the next level of care in the basic care facility or somewhere else?

Lee AnnThiel it could come from family member or facility. Once they go to a hospital, additional care needs may be recognized.

Senator Warner assisted care seems quite aggressive in moving people out.

Chairman Judy Lee indicated that some go out of their way to deal with their increasing needs. So perhaps it depends on the facility and the patient and all of those kinds of things.

Senator Dever is this an issue of cost or an issue of occupancy? Do facilities have waiting lists for people waiting for beds?

LeeAnn Thiel some facilities have waiting lists, some don't. But they are more concerned about having a bed available and no one paying for it.

Closed Public Hearing on 1359.

2015 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

HB 1359
3/10/2015
24602

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature Donald Mueller

Explanation or reason for introduction of bill/resolution:

A bill relating to basic care payment rates

Minutes: No Attachments

The Senate Human Services Committee met on March 10, 2015 for committee work.

(1:00)
Chairman Judy Lee reviewed HB 1359 from this morning.

(3:35)
LeeAnn Thiel indicate that administrative rule making has worked very well so far, so she also has no issue with it being in administrative rule versus statute.

Shelly Peterson stated the intent was that when Department of Human Services did the rule making last summer, it had pending rule on the limits. We've had very good meetings with the Department of Human Services on the limit. When talking about the rules and moving forward, there is hesitation because they want to know legislative intent. She did state that both parties are interested in administrative rule for the policy issues.

Chairman Judy Lee in looking at the proposed language, we would have to amend to enable the Department of Human Services to establish the policy through rule making.

Ms. Peterson stated the Department of Human Services could have gone forward with the 30 days, and it got lost in the mix. They didn't view it as being negative, but just got lost, and this can be done through rule. It is only $30,000 to give more rehabilitation days. The funding needed in Basic Care appropriation is $3,800,000 less than the current biennium because limits have not increased where they thought they would be. Utilization is going up, but the money they need for basic care is less.

Ms. Peterson previously handed out a marked up bill with proposed changes in the original testimony (Job Recording 24548 attachment 1).

The Senate Human Services Committee discussed each section, first discussing the reinstatement of the 30 days. **Senator Warner** indicated that the only compensation is for the room and board rate, which is relatively low compared to the care rate. Committee confirmed. **Senator Warner** continued that if the circumstances were such that the person is unlikely to be coming back, they would want to fill that bed and wouldn't hold it. **V. Chairman Oley Larsen** stated from prior testimony, the data showed 12 extra days for a certain amount of people, and less than 30 people statewide. Committee confirmed.

The next area the committee looked at was the rate determination and the formula. The committee spoke in favor of enabling the Department of Human Services to establish rules to determine how this goes. **Chairman Judy Lee** asked the Department of Human Services if there was something more from the committee to help streamline what you want to do.

LeeAnn Thiel answered that the Department of Human Services has recognized that the intent is not for the rates to go down. We would like to come up with a solution to minimize that from happening.

Chairman Judy Lee indicated that she hates to put the formula in statute. Committee agrees. If you can adapt to more flexibility within the circumstances within the budget constraints, it seems that we should enable a smoother flow of business process. **V. Chairman Oley Larsen** our education formula we tweaked it, and now we are tweaking again. It never ends. He also supports the administrative rules. Committee confirms in administrative rules.

LeeAnn Thiel asked for some direction on basic care rates. They are set every July 1st. We are already starting the rate setting process for this year. We would work on a new formula with a July 1, 2016 rates. The Senate Human Services Committee confirmed.

Chairman Judy Lee reviewed the information thus far with Senator Dever, as he has returned to the committee. (13:27)

V. Chairman Oley Larsen indicated he talked to someone who runs a facility. He thinks a person should have 85% of the coverage, but they are not doing that. They are not able to fund at $16.00 per day, so they are eating the costs somewhere else and not reporting that. He says throw out the 85% and cover top to the bottom. In testimony, it was stated that if someone only submits $16.61, they only get paid $16.61. Why not pay them the 85% instead, so if that is $40, they all would get $40.

Ms. Peterson indicated that you can only pay what they submit. It may be an allocation issue within the nursing home.

Senator Howard Anderson, Jr. you can't claim them both on the nursing side and the basic care side.

Ms. Peterson agrees. However, there are very stringent requirements on claiming of costs and allocation. You can't claim a cost in the nursing facility report that is not a direct cost to the nursing facility.

Ms. Peterson also asked for some additional guidance on the other costs: the limits, the uncompensated care, and the compensation limit issues.

Chairman Judy Lee asked for clarification for uncompensated care.

Ms. Peterson restated from earlier testimony that it is when a person goes into Basic Care, there money runs out for whatever reason, and now no one is paying the bill. In a nursing facility, generally they are not Medicaid eligible, but you have to go after the asset and try to get paid. To claim as a bad debt for the uncompensated care, you generally have to put liens on property and sue families to get that coverage. If there is still no money, then there is the recovery that you can get for that care. In nursing facilities, they get a maximum per individual of 365 days. In Basic Care, we are asking for 180 days.

Senator Warner asked if we don't allow the uncompensated care, would that be a disincentive because they would incur the legal expense of going through the lawsuit.

Ms. Peterson stated you have to go through the process if you are going to claim it. Unless you are successful, you can't claim the costs. Sometimes the recovery is more expensive than the actual amount that we are trying to recover. The vast majority of families are wonderful, but some don't care about liens, but when it comes to them wanting to do something with the property, it suddenly becomes very important.

V. Chairman Oley Larsen just did a bill that put the funding equal to the legislative pay. Couldn't we do the overnight stay for $67.50 for this and say that's what it is.

Chairman Judy Lee not sure if she is ready to go there. Services are different.

Chairman Judy Lee we do have a comfort level with the 30 days, uncompensated for 180 days, and authorizing the formula to be determined in rule rather than statute. That leaves the compensation limit to discuss. This does not have enough money in appropriations.

V. Chairman Oley Larsen asked do we have a cap or a limit on the NDSU football coach? Chairman Judy Lee no we don't.

Senator Warner recollected that a certain member on the Appropriations committee was angered that his mother in law nursing home care could not be covered by the interest in her estate and had to go to principle, and he was sure it was all going to administration. The committee indicated that is possible.

V. Chairman Oley Larsen in last session, did we talk about this cap?

Ms. Peterson we gave a chart in the original testimony (refer to Job Recording 24548 attachment 1). If the basic care facility is connected to a hospital or nursing home, then it is $233,453. However, if you are freestanding facility, it is $68,627. They think this is the inequity.

V. Chairman Oley Larsen thought we changed that to $100,000 last session.

Ms. Peterson indicated that the legislature removed the salary cap last session, but the Governor vetoed it because there was no money in 1012, and the override lost by 2 votes. In the proposed amendments, we are asking for at least to $100,000. This would increase the total appropriation.

Chairman Judy Lee if we went to the $100,000, it will require a new fiscal note. This is so unfair, such an inequity.

V. Chairman Oley Larsen prefers that there be no cap, so at a minimum, he would go for $100,000.

Ms. Peterson said they may be paid more than the current $68,627 but cannot get reimbursed for more than that.

LeeAnn Thiel indicated there are administrators who are receiving more than the $68,000. Senator Dever asked if more than $100,000? Ms. Thiel indicated yes there are, especially regional office level.

Chairman Judy Lee asked the difference is made up by private rates.

Ms. Thiel stated not necessarily, if they have a regional office they may be covering those costs somewhere else.

The Senate Human Services Committee further discussed removing the salary cap completely. The Committee is in concurrence to do this.

Chairman Judy Lee assigned the intern, Femi, to work with LeeAnn Thiel and Shelly Peterson for the discussed changes for an amendment.

2015 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

HB 1359
3/17/2015
25018

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature Donald Mueller

Explanation or reason for introduction of bill/resolution:

A bill relating to basic care payment rates

Minutes:

Attach #1: Draft Bill with Proposed Amendments

The Senate Human Services Committee met on March 17, 2015 to discuss HB 1359 in committee.

A draft bill with the proposed amendments from Shelly Peterson was distributed to the committee for discussion. (attach #1)

(3:37)
Shelly Peterson, President of the Long Term Care Association, discussed the proposed amendment. They appreciate going to 30 days for rehab as they have been limited to 15, and that is not sufficient. Her understanding from the Department of Human Services is that costs $30,000. The next item is the 180 days of uncompensated care, estimated $68,000. The most expensive part of the issue is last statement in number 5, abolishing the compensation

V. Chairman Oley Larsen indicated the committee had received the email from Ms. LeeAnn Theil, listing the 5 places:
- Edgewood Vista in Bismarck
- Edgewood Senior Living in Minot
- Edgewood Village in Fargo
- Good Samaritan Society in Fargo
- Evergreen in Dickinson

Ms. Peterson confirmed correct. The administrative salaries in those locations are limited. Ms. Peterson appreciates that the Senate Human Services Committee is supporting abolishing the salary cap, but voiced her concern of what could happen to the entire bill since the House had such drastic cuts already to the bill. She would also support a $100,000 cap if necessary to keep the bill intact.

Senator Axness expressed his appreciation to the other side of the table for the support of this bill and refunding.

Senator Howard Anderson, Jr. expressed his support, and **V. Chairman Oley Larsen** had initially suggested and supports removing the cap. If necessary, it can be worked out in conference committee.

No further discussion in this meeting.

2015 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

HB 1359
3/23/2015
25284

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature Donald Mueller

Explanation or reason for introduction of bill/resolution:

A bill relating to basic care payment rates

Minutes: No attachments

The Senate Human Services Committee met on March 23, 2005 for HB 1359 committee work.

Chairman Judy Lee asked Shelly Peterson to review the bill.

Shelly Peterson, Long Term Care Association, recapped. There were four components of the bill:

1. How you set limits in the basic care payment system. The earlier committee discussions was to leave everything in administrative rule, and give the Department of Human Services rule making authority to work with the long term care profession to come up with a methodology for setting limits.
2. The second section was to provide 30 hospital leave days as opposed to 20 hospital leave days.
3. The third was to provide 180 days of uncompensated care.
4. Eliminate the compensation cap for administration top management.

Chairman Judy Lee recalled there were six facilities that fall under the compensation cap. It is the independent ones that are limited.

The committee discussed the four components to the bill.

Senator Howard Anderson, Jr. moved to ADOPT AMENDMENT, as presented by Shelly Peterson. The motion was seconded by **V. Chairman Oley Larsen**. No discussion.

Roll Call Vote to Amend
6 Yes, 0 No, 0 Absent. Motion passes.

V. Chairman Oley Larsen moved the Senate Human Services Committee DO PASS AS AMENDED HB 1359 and Re-Refer to the Appropriations Committee. The motion was seconded by **Senator Howard Anderson, Jr**. No discussion

Roll Call Vote
6 Yes, 0 No, 0 Absent. Motion passes.

V. Chairman Oley Larsen will carry HB 1359 to the floor.

15.0696.04001
Title.05000

Adopted by the Human Services Committee 3/23/15

March 23, 2015

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1359

Page 1, line 1, replace "50-24.5-02" with "50-24.5-02.3"

Page 1, line 4, replace "50-24.5-02" with "50-24.5-02.3"

Page 1, line 6, replace "**50-24.5-02**" with "**50-24.5-02.3**"

Page 1, line 18, remove "The department shall establish the direct"

Page 1, remove lines, 19 through 23

Page 1,line 24, replace "percent" with "The department shall work with stakeholders to determine the methodology to be used to establish the annual limits required under this subsection within the limits of legislative appropriation"

Page 2, line 1, after the second underscored comma insert "within the limits of legislative appropriation,"

Page 2, line 2, replace "twenty" with "thirty"

Page 2, after line 4, insert:

"5. Within the limits of legislative appropriation, the department shall establish an uncompensated care expense of one hundred eighty days.

6. The department shall abolish the annual compensation cap for top management of basic care facilities."

Renumber accordingly

Date: 03/23 2015
Roll Call Vote #: 1

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB1359

Senate Human Services Committee

☐ Subcommittee

Amendment LC# or Description: 15.0696.04001 Title 05000

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Sen Anderson Seconded By Sen. Larsen

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee (Chairman)	✓		Senator Tyler Axness	✓	
Senator Oley Larsen (V-Chair)	✓		Senator John M. Warner	✓	
Senator Howard C. Anderson, Jr.	✓				
Senator Dick Dever	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

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

Date: 03/23 2015
Roll Call Vote #: 2

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1359

Senate Human Services Committee

☐ Subcommittee

Amendment LC# or Description: 15.0696.04001 Title 05000

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☒ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Sen. Larsen Seconded By Sen. Anderson

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee (Chairman)	✓		Senator Tyler Axness	✓	
Senator Oley Larsen (V-Chair)	✓		Senator John M. Warner	✓	
Senator Howard C. Anderson, Jr.	✓				
Senator Dick Dever	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen. Larsen

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

REPORT OF STANDING COMMITTEE

HB 1359, as reengrossed: Human Services Committee (Sen. J. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1359 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "50-24.5-02" with "50-24.5-02.3"

Page 1, line 4, replace "50-24.5-02" with "50-24.5-02.3"

Page 1, line 6, replace "**50-24.5-02**" with "**50-24.5-02.3**"

Page 1, line 18, remove "The department shall establish the direct"

Page 1, remove lines, 19 through 23

Page 1,line 24, replace "percent" with "The department shall work with stakeholders to determine the methodology to be used to establish the annual limits required under this subsection within the limits of legislative appropriation"

Page 2, line 1, after the second underscored comma insert "within the limits of legislative appropriation,"

Page 2, line 2, replace "twenty" with "thirty"

Page 2, after line 4, insert:

"5. Within the limits of legislative appropriation, the department shall establish an uncompensated care expense of one hundred eighty days.

6. The department shall abolish the annual compensation cap for top management of basic care facilities."

Renumber accordingly

2015 SENATE APPROPRIATIONS

HB 1359

2015 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee
Harvest Room, State Capitol

HB 1359
3/31/2015
Job # 25642

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature Katie Olsrud for Allie Dietzler

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact section of the NDCC, relating to basic care payment rates (Do Pass)

Minutes: Testimony # 1

Chairman Holmberg called the committee to order on Tuesday, March 31, 2015, at 10:00 am in regards to HB 1359. All committee members were present. Lori Laschkewitsch, OMB and Michael Johnson, Legislative Council was also present.

Representative Kreidt: District 33. This bill deals with basic care facilities I am sure all of you are aware what happens in a basic care facility, North Dakota is the only state in nation that has basic care facilities; most states call them residential facilities. I introduced it a couple of months ago as I go through it now it I see that it is a horse of a different color but it still accomplishes what was in the original bill. Basic care is a step below skilled nursing care, the daily average rate in a basic care facilities is around $100.00 and if you look at a nursing home it's $200.00. It is a level of care that the state of North Dakota really needs to complete a total continuum of care with assisted living, basic care and the skilled nursing facilities. Basic care facilities do a great job of taking care of people and what we are looking at is coming up with a payment system, kind of similar to what happens in nursing homes using the direct care costs and indirect costs to set a rate for these facilities and I will admit I am not an expert on basic care, I dealt with skilled care in my career but we do have the experts in the field here to fill you in with more details on what they want to happen in basic care. The new sections of the bill the directions that the bill wants to go and the methodology; if you have the new fiscal note, 05000 version would be version for the 2015-2017 biennium to begin this new system.

Chairman Holmberg: Is the Human Service budget that you have over there now reflecting the money that this bill says that they should have to fulfill.

Representative Kredit: Yes, 1359 there are numbers in the Human Service Budget that reflect this. We in our section are working on SB 2012 right now and we are going to have a little different general fund amount than what is included in this bill.

Chairman Holmberg did you ever consider taking this bill and putting it right into Human Services bill?

Representative Kreidt: We have an expert in this field to talk about this bill. It is needed for basic care and I think that starting on this road is the right way to go.

Shelly Peterson, President of the ND Long Term Care Association in support of HB 1359. And presented written testimony supporting 1359. Testimony Attached # 1. (7:28-12:58)

Senator Robinson: Before we get too far, you list the number of beds here at 1247. How does that equate to actual residents, are these beds occupied or are they just beds at this time?

Shelly Peterson: The beds today for basic care are probably 83% occupied. Those would be all the beds in the B Cap payment program.

Senator Robinson: If you would bring us up to date if those dollars are sufficient to cover it.

Shelly Peterson: Continued her written testimony on page 2. (21.50)

Senator Robinson: You referenced the facts that of the 1,247 about 83%, on average, are occupied. I assume there are some facilities that are 100%, do we have some other facilities are at risk for closing for their fill or lack thereof.

Shelly Peterson: Occupancy limitations and status is very difficult. If your facility is half full it is difficult to operate. What happened in Williston when they closed it was an issue of operating over limits, not having sufficient staff, paying overtime for staff that you had, bringing in contract staff. But if you have occupancy and you are operating at very low numbers it is another issue.

Senator Robinson: In most cases are they rural facilities?

Ms. Peterson: Yes, the ones that are operating at 90%-95% are Bismarck, Fargo, and Grand Forks.

Senator Mathern: What are the chances are of adding more money in the House to human services to prevent another veto. What would this bill have to say to match the dollars that are present in the Human Service bill? Are their sections that would clearly match the amount of dollars?

Shelly Peterson: Right now as the bill is written there is a sentence after each section that says, "This section is subjected or must operate within the limits of the legislative appropriation". Clearly if the money is not appropriated then when we get together with DHS the discussion will be short because there won't be enough money to do it.

Chairman Holmberg: Then they have to get buy our conference committee.

Shelly Peterson: Your subcommittee on 2012 did an awesome job that's why we're alive today.

Senator Mathern: Are we going to have 6 policy options that are mushy? Should we focus on some to really make sure that they are strong enough.

Shelly Peterson: That is why we put our priority language in our priority would be increasing the basic care limit because that is where the staff are. Maybe to strengthen that language more in that section or at the back of the bill list your priorities as you see them.

Senator Mathern: Why didn't DHS establish the rules? We already have the program, they could have done that.

Shelly Peterson: DHS was fantastic, the year the limits went down I think that they were as surprised as we were. They have put in place an emergency rule so that it wouldn't happen this July 1 and we are greatly appreciative that they put that rule in place for fear that rates would decline because of the old methodology. They DHS said that this is a policy issue, something that the legislature needs to decide, they felt uncomfortable just changing it even though they have rule making authority and that everything that we have for basic care is in rule I think that they felt the role of the legislature is important in this and they wanted legislative input.

Senator Kilzer: I notice that this is the 5th version of the bill. What have the changes been as it has come along?

Shelly Peterson: The journey has been tremendous, in House Human Services they changed the methodology completely on how the limits were set. So that was a major change, the other thing that they did is they eliminated completely the top management, they did not support the change in the limitation, they did not support it and they did not support the bad debt. They did increase the hospital leave days by 10 days, they changed the methodology on setting limits but when we played that out and showed them how that would occur if the most expensive facility closed the rate would go down almost $20 a day of closing. They increased the direct care limit, they got it up almost to where we needed it.

Senator Kilzer: I notice there is a total of 1,200 beds in basic care and a little over 6000 beds in skilled care. Are the 1,200 beds going up or down over the past several years and how much of this might be caused by assisted living facilities opening.

Shelly Peterson: Right now totally there are 68 basic café facilities and about 1812 beds. The 1,200 beds are those that participate in the basic care assistance program. The other facilities of the 68 only 51 participate, which means they will take the low income people.

Senator Kilzer: In North Dakota and Minnesota we have a rule that says you can't charge private pay patients more than indigent patients, is that for skilled care or is it for basic also?

Shelly Peterson: It is just for skilled care, what happens in basic is you are allowed to charge more. We did a survey to see, of these 51, how many are charging more and only 40% are. On average it is probably $10 more a day to cover their loss because of Medicaid residents.

Chairman Holmberg: Is there anyone else to testify on HB 1359? If not, we will close the hearing on 1359. What does the committee think about this bill?

Senator Kilzer moved a do pass on HB 1359 with a second by Senator Erbele.

Chairman Holmberg: Call the roll on a Do Pass on 1359.

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

Senator Larson from Human Services will carry the bill. The hearing was closed on HB 1359.

Chairman Holmberg then closed the committee meeting on HB 1359.

Date: 3-31-15
Roll Call Vote #: 1

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1359

Senate Appropriations Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Kilzer Seconded By Erbele

Senators	Yes	No	Senators	Yes	No
Chairman Holmberg	✓		Senator Heckaman	✓	
Senator Bowman	✓		Senator Mathern	✓	
Senator Krebsbach	✓		Senator O'Connell	✓	
Senator Carlisle	✓		Senator Robinson	✓	
Senator Sorvaag	✓				
Senator G. Lee	✓				
Senator Kilzer	✓				
Senator Erbele	✓				
Senator Wanzek	✓				

Total (Yes) 13 No 0

Absent 0

Floor Assignment HS

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

REPORT OF STANDING COMMITTEE

HB 1359, as reengrossed and amended: Appropriations Committee (Sen. Holmberg, Chairman) recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1359, as amended, was placed on the Fourteenth order on the calendar.

2015 CONFERENCE COMMITTEE

HB 1359

2015 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

HB 1359
4/9/2015
Job #25970

☐ Subcommittee
☒ Conference Committee

Committee Clerk Signature Vicky Crabtree

Minutes:

Rep. Hofstad: We will call HB 1359 to order and the clerk will take the roll. We have met our statutory requirement of meeting within 2 days. We are waiting for information so we will adjourn.

2015 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

HB 1359
4/15/2015
Job #26125

☐ Subcommittee
☒ Conference Committee

Committee Clerk Signature Vicky Crabtree

Minutes: Handout #1

Rep. Hofstad: We will call the conference committee to order on HB 1359. Let's begin our discussion on the bad debt.

Rep. Weisz: I know we pulled it out in our committee and I would be interested in hearing from the Senate why they put 180 days in?

Sen. Dever: Shelly Peterson and Maggie Anderson provided valuable in put into this and with your permission we could have Shelly address that.

Shelly Peterson: From Long Care Association. We proposed in HB 1359 a 180 days of bad debt. Currently bad debt or uncompensated care is not allowed in the basic care system. There are 360 days provided in nursing facilities and we thought we would go for half the amount. A person may go into basic care and their money runs out and they apply for (inaudible) cap assistance or Medicaid and found not eligible and can discharge them for non-payment. However, it is almost impossible to discharge them because there is nowhere else for them to go. We go through a collection process and after a rigorous collection process you can claim part of that if you are never are able to recoup any money; whereas you can't in basic care. We just wanted to bring some equity and payment for uncompensated care which is currently not allowed at all.

Rep. Weisz: Is that why the Senate did what they did?

Sen. Dever: Sounded good to me.

Rep. Weisz: I have a question for LeeAnne. If we allow the 180 days of bad debt at a $64,000 cost, would that be for the full biennium?

LeeAnn Thiel: No. That would be for twelve months because it would start July 1.

Rep. Weisz: I'm trying to remember why we took it out.

Rep. Hofstad: How about the issue of medical care? Would the Senate like to weigh in on that issue?

Sen. Larsen: They were ending up spending more time for rehabilitation and they didn't want to lose that spot. There are about 15 individuals that this allowed their spot to be saved. After they had work done and rehabilitation instead of losing their space they were allowed to come back and grab that. That is why we did that.

Rep. Weisz: I don't have a problem going back to 30.

Sen. Larsen: We didn't want people falling through the cracks and having to go through the whole process again.

Rep. Hofstad: Rep. Oversen, do you have any particular problems with that?

Rep. Oversen: No. I do not.

Rep. Hofstad: Let's move to the compensation gap.

Sen. Larsen: If these facilities are standalone facilities they are subject to a certain amount of administrative wage. If the facility is connected to a hospital than the cap that we put on in this legislation is lifted its 200 and some thousand. There are 50 facilities that have this situation. Last session when this same issue came forward both House and Senate passed it and then the Governor vetoed it. As I decided to look and uncover it some more I was thinking we here this glass ceiling of about when they are not getting paid as much. We have 50 facilities that have administrators in them. There are 16 men in the facilities where there is no cap. The rest are women and thought this is not the problem. The real problem was when I looked into the 6 facilities that have the cap and every one of those administrators are women so they cannot get above the $68,000. They are capped at that. I want to stick to removing the cap. We passed this last session and the Governor vetoed it so let's give him that hot tator. Let him put the veto on the glass ceiling that women are hollering about.

Rep. Weisz: I suggest a compromise in there somewhere. I looked at making it a percentage on skilled care. On the House side the discussion has been they aren't limited on what they can pay, they are just limited on what they can get on allowable cost on the Medicaid portion. I think that is why there has been resistance on the House side. I did run some numbers. Looking at 40% of what the skilled facility would increase it to about $97,000 a year from the $68,500. I think that is about $118,000 general fund fiscal note. Currently it would be $267,000 if you remove the limitation completely.

Sen. Larsen: The only difference is if it is hooked to a facility or if a standalone. It should be the same if it is connected to a facility or not.

Rep. Weisz: I want to make sure the bill passes and I know there is some resistance to doing anything to that cap.

Sen. Warner: I think by basing it as a percentage as skilled compensation might be a way to look at it, but the number would have to be a lot higher, something perhaps in the 75% range. The duties are very similar as an administrator at a basic care facility versus skilled care. Compensated them at 40% at the other one doesn't make any sense to me. A higher percentage might.

Rep. Hofstad: Could you give us those numbers again?

Rep. Weisz: (See Handout #1) The numbers you see in the bottom bar would be based on 40% of the limit. It is over $233,000 I believe. Then 40% would cap it at 97 which would be about a 50% increase. For example if we don't have a limitation, definitely this is going to have trouble in the House. The cost would be less than half.

Rep. Hofstad: We are going from that fiscal note as we are looking at it right now from the House would be 118 and going to 170.

Rep. Weisz: Currently, that portion has no fiscal note because we left the cap in. The 40% would take it to 118 and if we go to 60% it would take it roughly 170 with the max salary at 140. I'm not suggested that yet.

Sen. Dever: Is this the only point of disagreement we have?

Rep. Weisz: Oh no.

Rep. Hofstad: From a House perspective we need to come to some kind of agreement with members. Is there room for compromise? This is one of those areas where we will have to find some kind of compromise on.

Sen. Dever: We would consider 60.

Rep. Hofstad: This is not the day to reach that agreement.

Rep. Weisz: I found what we did on the bad debt. It was taken out to make sure the bill stayed alive and got through appropriations. I would have room for movement on that one.

Sen. Dever: I think earlier in the session a lot of reductions were made with some expectation there would be movement. Now is the time to make that movement.

Rep. Weisz: I will certainly have some visits on the top management situation. I'm working on some numbers for direct care and indirect care limits that will hopefully reflect what both the Senate and House did in 2012.

Sen. Dever: We are interested in moving this forward.

Rep. Hofstad: We will adjourn.

2015 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

HB 1359
4/17/2015
Job #26200

☐ Subcommittee
☒ Conference Committee

Committee Clerk Signature Vicky Crabtree

Minutes:

Rep. Hofstad: We will open the conference committee on HB 1359.

Rep. Weisz: I have met with Appropriations about what is and what isn't going to be in the budget. We are looking at four items. One is looking at the increasing and directing and indirect care limits, two is the medical care leave days, third is the bad debt and fourth is the top management limitations. I got the number from Appropriations that is in the budget for those four items. I don't think there is an issue going from 15 to the 30 days on the medical care leave which costs about $31,000. My suggestion on the bad debt is to split the difference. The currently get none, you had 180 and we would split it and give them 90 days of bad debt allowance. That would have a cost of roughly $32,000. It appears to me that the biggest disagreement will be in the top management limitations. The House has not been very supportive of doing an increase in the past. If we remove that limitation completely as in the Senate; that is $268,000. We have approximately $1,012,000 to work with. If we take that out and leave it the way the House is that 267 goes up to increase the basic care direct and indirect care limits. If we do all of the above we would add roughly another $300,000 that could be to increasing the direct and indirect care limits. That is my suggestion of a compromise. If we can do that I will have the amendments drafted. Then we would know exactly how big of increase those direct and indirect care limits would be. Currently the direct care limit is $45 and the indirect is $42. I think you would see the indirect care in the 60 plus dollars and indirect would be $53-55. This should affect 10-20 facilities that will receive increase payments. There are 19 facilities that are currently over the indirect limit now. It appears 16 on the direct care limits. I'd like to hold on top management.

Rep. Hofstad: The cost to the general fund if we increase the basic care rate?

Rep. Weisz: We would increase this to close to $1,000,000.

Sen. Dever: We understand the reality and we would like the amendments drafted.

Rep. Weisz: We will try to schedule this again this afternoon.

Sen. Larsen: I got this e-mail and it says, "The 50 basic care facilities participating in basic care payment systems, 14 administrators are male and 36 are female. Of the 14 administrators that are male, 10 get the higher salary limitation because they are connected to a nursing home. It impacts 6 free standing basic care facilities which are not connected to a nursing home. Those 6 administrators are all female." With nursing homes the limit for the total compensation is $233,453. That is high enough for very few if any to exceed it. The basic care limit for free standing, basic care facilities is $68,627. I was looking at the Equal Pay Compensation Discrimination website and it says, "Equal Pay Act requires that men and women in the same workplace be given equal pay for equal work. The jobs need not be identical, but they must be substantially equal. Job content, not job titles determine whether the jobs are substantially equal." And then it goes on further. I agree with all of the amendments accept that last one and I'm not going to budge on that.

Rep. Weisz: Do you know of the 6 how many have assisted living?

Sen. Larsen: If they are connected they get the caps lifted. If they aren't connected they don't and that makes absolutely no sense to me. I think we passed this last session and it was vetoed by the Governor. So we let him do it again if he wants to have this discrimination.

Rep. Weisz: I didn't have a problem with increasing it some. We are not capping anybody's salary. We are just capping the costs that they can put on their cost sheet under indirect costs on the Medicaid portion that gets reimbursed.

LeeAnne Thiel: Of the 6, they all have assisted living licenses are all connected to assisted living.

Rep. Weisz: Steele, they take Medicaid don't they?

Thiel: Steele would not be affected by this because they are under the current cap of $68,000.

Sen. Dever: Talking about basic care and assisted living facilities how do they allocate those costs between the two?

Thiel: To allocate the cost of top management is based on the days of basic care and assisted living. The salary is based upon that.

Rep. Weisz: Are you looking at patient days for assisted living versus patient days for basic care?

Thiel: We take the census numbers from the facilities.

Sen. Dever: If it is 50/50 then 50% is $34,000 and not $68,000, the 50% of patient days is subject to that limitation and 50% assisted living is not.

Thiel: The current $68,000 is limited to prior to allocation.

Sen. Dever: Could they actually pay $136,000 and allocate $68,000 of it to the basic care?

Rep. Weisz: The Medicaid portion is capped at 68.5. If the mix is 50/50 they can only allocate the Medicaid portion. They calculate the 68.5 cost to the cost report.

Sen. Dever: So they can allocate that no matter what the ratio is.

Rep. Weisz: If only half that administrator's time is used in basic care, then they allocate 50% of the 68.5.

Rep. Hofstad: Do we have facilities that are paying more than the $68,000 and disregarding the mix what they can charge back to Medicare? Are there facilities that are paying their administrators more than that?

Thiel: Yes.

Rep. Hofstad: We will meet again. This meeting is adjourned.

2015 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

HB 1359
4/17/2015
26224

☐ Subcommittee
☒ Conference Committee

Committee Clerk Signature Carmen Hart

Minutes:

Rep. Hofstad: We will call the conference committee to order on HB 1359 and let the record show that all are present.

Rep. Weisz: I do not have the amendments, but I do have numbers and a proposal. In the spirit of compromise we would keep the medical care leave at 30 days splitting the difference on the bad debt at 90, and then on the top management it would be to go to 35% of the nursing facility limit which would move it from $68.5 to $81,700. That would increase as that facility limit also increases. If that $233,000 goes up, it would then also change the $81,700. It would change the direct care limit from $45.34 to $67.44, so we are looking at a $22 increase in direct care limit. The indirect care limit would go from $42.52 to $58.77, so that would be a $16 increase.

Rep. Hofstad: What is the cost to the general fund for those _ increases?

Rep. Weisz: Those items alone I believe add some $730,000 to the general fund, or take away from the general fund treasury would be the better way to say it. That basically puts the direct and indirect at 95% and 90%. Under the current scenario, there would only be five facilities above the indirect care limit. Currently, there are 16 that are above, and 2 of them would not be much above that new limit. On the direct care portion, you would have nine facilities with only five of them substantially higher. Currently, there were 17 facilities that were penalized. There might be a little room to even move the 95% and 90% somewhat higher.

Sen. Dever: Can you have those drafted so we can look at them next time.

Rep. Hofstad: It will be done.

The meeting was closed.

2015 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

HB 1359
4/20/2015
Job #26260

☐ Subcommittee
☒ Conference Committee

Committee Clerk Signature Vicky Crabtree

Minutes: Handout #1

Rep. Hofstad: We will open the conference committee on HB 1359. I'll have Rep. Weisz explain the amendments. (See Handout #1)

Rep. Weisz: The amendments having nothing to do with the Senate and House on this particular bill, these are results of SB 2083 which was defeated by the House. There were two areas where all parties agreed on. This amendment would tack on these two provisions that were part of 2083 and put them in 1359 if this committee so desires. There is a mistake on the amendments here where it says basic care facility and it should say assisted living facility. I'll get that corrected. (Reads the amendments.)

Sen. Dever: Does this apply for basic care or assisted care or both?

Rep. Weisz: It should say assisted living rather than basic care on the amendment and I'll get that corrected.

Sen. Dever: My understanding that in Mandan, it was an assisted living facility, but in the process of getting part of it licensed for basic care. Is that right?

Rep. Weisz: There was an issue there that had, then lost their license and it became a real problem. The department didn't have ability to work with them to work through the deficiencies without removing their license. That is where everything got ugly.

Sen. Dever: I don't have objection to this, but I don't think it fits in this section.

Rep. Weisz: This is strictly the language and it will have to go into the right section that was based on 2083. I just wanted to see if this committee was going to accept it.

Rep. Hofstad: I'd like to lay that aside so everyone can look at them. We were talking about some issues before on compensation cap, the leave days, bad debt, and basic care rate. Rep. Weisz was going to prepare some amendments.

Rep. Weisz: I do have some amendments, but there are some errors in them and don't feel right passing them out until the corrections are made.

Sen. Dever: Are those proposals the same as we talked about?

Rep. Weisz: The proposals would be the same (inaudible) drafted and implemented the right way. The proposal would be to go to the 30 days and the proposal is 90 days on bad debt and 35% on the nursing facilities.

Sen. Dever: I think we are in a position where we might be able to wrap this up with the drafted amendments.

Rep. Weisz: You are ok with that?

Sen. Dever: At least two of us are.

Rep. Hofstad: We will try and schedule again this afternoon. We are adjourned.

2015 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

HB 1359
4/20/2015
Job #26278

☐ Subcommittee
☒ Conference Committee

Committee Clerk Signature Vicky Crabtree

Minutes: Attachment 1

Rep. Hofstad: Let's call the conference committee on HB 1359 to order and let the record show that all are present and accounted for. The amendments aren't ready yet.

Rep. Weisz: I do have my amendments 04002 (See Attachment #1).

Rep. Hofstad: We certainly could look at them and pass them out.

Rep. Weisz: We could adopt those and get them out of the way.

Rep. Hofstad: I would recommend now that we have them we take a look at them. When we get the other amendments we can look at them all at once. We will adjourn.

2015 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

HB 1359
4/21/2015
Job #26322

☐ Subcommittee
☒ Conference Committee

Committee Clerk Signature Vicky Crabtree

Minutes: Attachment 1

Rep. Hofstad: We will call the conference committee on HB 1359 to order. Let the record show that all are present and accounted for. Rep. Weisz has some amendments he can explain.

Rep. Weisz: (See Attachment #1) The amendments change the medical care leave from 15 to 30 it also changes the bad debt to 180 where the Senate is. In the spirit of compromise we gave a 100%. It does leave the management limitation in place. On page 1, replaces line 15 through 24 with, (read from amendment). I ask the Senate Recede from the Senate Amendments and Amend as Follows with 04002 and 04004.

Sen. Dever: Second.

Rep. Hofstad: Rep. Weisz can you give us the dollar figure for those two? What is the total cost?

Rep. Weisz: For example, going to 180 on the bad debt was $64,000. The medical care leave days added about $31,000 and this will apply only to the last 12 months. It will double in the next biennium. It is $846,000 increase on the 95 and 90 on the direct and indirect care limit.

Sen. Larsen: Our ND government has put a cement ceiling on a gender wage that is written proof right here. It is not a fallacy. It is factual information that we are putting a cement ceiling on gender wages.

ROLL CALL VOTE: 5 y 1 n 0 absent

MOTION CARRIED

Prepared by the Legislative Council staff for
Representative Weisz
April 20, 2015

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1359

That the Senate recede from its amendments as printed on pages 1303 and 1304 of the House Journal and page 909 of the Senate Journal and that Reengrossed House Bill No. 1359 be amended as follows:

Page 1, line 2, after "rates" insert "; and to amend and reenact sections 50-32-02 and 50-32-04 of the North Dakota Century Code, relating to assisted living facilities"

Page 2, after line 4, insert:

"**SECTION 2. AMENDMENT.** Section 50-32-02 of the North Dakota Century Code is amended and reenacted as follows:

50-32-02. Licensing of assisted living facilities - Penalty.

1. An entity may not keep, operate, conduct, manage, or maintain an assisted living facility or use the term "assisted living" in its advertising unless it is licensed by the department.

2. An assisted living facility shall pay to the department an annual license fee of seventy-five dollars for each facility. License fees collected under this section must be deposited in the department's operating fund in the state treasury. An expenditure from the fund is subject to appropriation by the legislative assembly.

3. An assisted living facility shall apply annually to the department for a license. After the fifty-ninth day following the notification of noncompliance with annual licensing, the department may assess a fine of up to fifty dollars per day against an entity that provides assisted living services or uses the term assisted living in its marketing without a license approved by the department. Fines collected under this section must be deposited in the department's operating fund in the state treasury. An expenditure from the fund is subject to appropriation by the legislative assembly.

4. If there are one or more deficiencies or a pattern of deficiencies related to quality of care or compliance with licensing requirements, the department may issue a provisional license. A provisional license may not be valid for more than ninety days. A provisional license may be renewed once for no longer than an additional ninety days. If the deficiencies have not been corrected upon the expiration of a provisional license, the department may deny the assisted living facility's application or revoke its license.

5. Religious orders providing individualized support services to vowed members residing in the order's retirement housing are not subject to this chapter.

~~5.~~6. No more than two people may occupy one bedroom of each living unit of an assisted living facility.

SECTION 3. AMENDMENT. Section 50-32-04 of the North Dakota Century Code is amended and reenacted as follows:

50-32-04. Assisted living facility health services - Limitations on hospice services.

1. An entity may provide health services to individuals residing in an assisted living facility owned or operated by that entity. For purposes of this ~~section~~subsection, health services means services provided to an individual for the purpose of preventing disease and promoting, maintaining, or restoring health or minimizing the effects of illness or disability.

2. A tenant of an assisted living facility who is in need of hospice services and who exceeds tenancy criteria, as determined by the facility, may remain in the facility only if the tenant contracts with a third party, such as a hospice agency, or utilizes family support, or both, to meet those needs."

Renumber accordingly

15.0696.04004
Title.

Prepared by the Legislative Council staff for
Representative Weisz
April 20, 2015

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1359

That the Senate recede from its amendments as printed on pages 1303 and 1304 of the House Journal and page 909 of the Senate Journal and that Reengrossed House Bill No. 1359 be amended as follows:

Page 1, line 1, replace "50-24.5-02" with "50-24.5-02.3"

Page 1, line 4, replace "50-24.5-02" with "50-24.5-02.3"

Page 1, line 6, replace "**50-24.5-02**" with "**50-24.5-02.3**"

Page 1, line 14, remove "The department shall establish limits on actual allowable historical operating cost"

Page 1, replace lines 15 through 24 with "For the rate year beginning July 1, 2016, the department shall establish the limits by using the average of the highest and lowest rates from the 2014 rate year. The direct care limit must be ninety-five percent of the average and the indirect care limit must be ninety percent of the average. Beginning with the July 1, 2017, rate year, the department shall adjust the limits by using the cost percentage change from the prior two rate years, within the limits of legislative appropriations."

Page 2, line 1, after the second underscored comma insert "within the limits of legislative appropriations,"

Page 2, line 2, replace "twenty" with "thirty"

Page 2, after line 4, insert:

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

Renumber accordingly

15.0696.04005
Title.06000

Prepared by the Legislative Council staff for
Conference Committee
April 21, 2015

4/21/15
1/8

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1359

That the Senate recede from its amendments as printed on pages 1303 and 1304 of the House Journal and page 909 of the Senate Journal and that Reengrossed House Bill No. 1359 be amended as follows:

Page 1, line 1, replace "50-24.5-02" with "50-24.5-02.3"

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

SECTION 2. AMENDMENT. Section 50-32-02 of the North Dakota Century Code is amended and reenacted as follows:

50-32-02. Licensing of assisted living facilities - Penalty.

1. An entity may not keep, operate, conduct, manage, or maintain an assisted living facility or use the term "assisted living" in its advertising unless it is licensed by the department.

2. An assisted living facility shall pay to the department an annual license fee of seventy-five dollars for each facility. License fees collected under this section must be deposited in the department's operating fund in the state treasury. An expenditure from the fund is subject to appropriation by the legislative assembly.

3. An assisted living facility shall apply annually to the department for a license. After the fifty-ninth day following the notification of noncompliance

with annual licensing, the department may assess a fine of up to fifty dollars per day against an entity that provides assisted living services or uses the term assisted living in its marketing without a license approved by the department. Fines collected under this section must be deposited in the department's operating fund in the state treasury. An expenditure from the fund is subject to appropriation by the legislative assembly.

4. If there are one or more deficiencies or a pattern of deficiencies related to quality of care or compliance with licensing requirements, the department may issue a provisional license. A provisional license may not be valid for more than ninety days. A provisional license may be renewed once for no longer than an additional ninety days. If the deficiencies have not been corrected upon the expiration of a provisional license, the department may deny the assisted living facility's application or revoke its license.

5. Religious orders providing individualized support services to vowed members residing in the order's retirement housing are not subject to this chapter.

~~5.~~6. No more than two people may occupy one bedroom of each living unit of an assisted living facility.

SECTION 3. AMENDMENT. Section 50-32-04 of the North Dakota Century Code is amended and reenacted as follows:

50-32-04. Assisted living facility health services - Limitations on hospice services.

1. An entity may provide health services to individuals residing in an assisted living facility owned or operated by that entity. For purposes of this ~~section~~subsection, health services means services provided to an individual for the purpose of preventing disease and promoting, maintaining, or restoring health or minimizing the effects of illness or disability.

2. A tenant of an assisted living facility who is in need of hospice services and who exceeds tenancy criteria, as determined by the facility, may remain in the facility only if the tenant contracts with a third party, such as a hospice agency, or utilizes family support, or both, to meet those needs."

Renumber accordingly

Date: 4-21-15
Roll Call Vote #: 1

2015 HOUSE CONFERENCE COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. 1359 as (re) engrossed

House Human Services Committee

Action Taken

- ☐ **HOUSE accede to Senate Amendments**
- ☐ **HOUSE accede to Senate Amendments and further amend**
- ☐ **SENATE recede from Senate amendments**
- ☒ **SENATE recede from Senate amendments and amend as follows**

☐ **Unable to agree**, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Rep. Weisz Seconded by: Sen. Dever

Representatives	4/21			Yes	No	Senators	4/21			Yes	No
Rep. Hofstad	✓			✓		Sen. Dever	✓			✓	
Rep. Weisz	✓			✓		Sen. Larsen	✓				✓
Rep. Oversen	✓			✓		Sen. Warner	✓			✓	
Total Rep. Vote						Total Senate Vote					

Vote Count Yes: 5 No: 1 Absent: 0

House Carrier no carrier Senate Carrier no carrier

LC Number 15.0696 . 04005 of amendment

LC Number . 06000 of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

REPORT OF CONFERENCE COMMITTEE

HB 1359, as reengrossed: Your conference committee (Sens. Dever, Larsen, Warner and Reps. Hofstad, Weisz, Oversen) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ pages 1303-1304, adopt amendments as follows, and place HB 1359 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1303 and 1304 of the House Journal and page 909 of the Senate Journal and that Reengrossed House Bill No. 1359 be amended as follows:

Page 1, line 1, replace "50-24.5-02" with "50-24.5-02.3"

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Page 2, line 2, replace "twenty" with "thirty"

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

SECTION 2. AMENDMENT. Section 50-32-02 of the North Dakota Century Code is amended and reenacted as follows:

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3. An assisted living facility shall apply annually to the department for a license. After the fifty-ninth day following the notification of noncompliance with annual licensing, the department may assess a fine of up to fifty dollars per day against an entity that provides assisted living services or uses the term assisted living in its marketing without a license

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Renumber accordingly

Reengrossed HB 1359 was placed on the Seventh order of business on the calendar.

2015 TESTIMONY

HB 1359

HB 1359
2/3/2015
1.1

#1

Testimony on HB 1359
House Human Services Committee
February 3, 2015

Good Morning Chairman Weisz and members of the House Human Services Committee. My name is Shelly Peterson, President of the North Dakota Long Term Care Association. We represent 211 Basic Care, Assisted Living, and Nursing Facility members. I am here today in support of HB 1359 and ask for your support.

Basis Care is unique to North Dakota. It is a congregate residential setting with private and semi-private rooms. They have staff available 24/7 and residents range in age from 47 to 102 years old. The average cost in 2015 for one day of care in basic care is $117.43. This is an all-inclusive rate that includes all care and services.

Today fifty of the sixty-eight licensed Basic Care facilities participate in the basic care assistance program. Another ten Basic Care facilities are funded under the Medicaid Waiver Program, and they provide specialized care to those with dementia. Both programs allow North Dakota providers to provide cost effective 24 hour care and admission to a skilled nursing home is prevented or delayed. Each facility gets one rate and this amount is charged to each Medicaid resident. It is not acuity adjusted, so those with high care needs and those with low care needs pay the same rate. Facilities do not have equalization of rates, so they are allowed to charge private pay more if they choose too. Today less than 40% charge the private pay more. Those that do, indicate they must do so to cover operating over limits, having higher acuity residents, low occupancy or uncollectible resident accounts.

We have been advocating with the Department to change key features of the payment system, so today that request is before you. HB 1359 contains four important provisions. It creates a new chapter to the century code as today everything is in rule. This new chapter gives the Department of Human Services rule making authority, but specifies very clearly how the system would work. We and our basic care members have been studying and reviewing the different

/

payment methodologies. Subsection 3 on page 1 establishes how limits for direct costs and indirect costs will be established.

Today limits in these two cost categories are based upon the 80th percentile bed. We propose to keep the percentile system but increase the percentile and base it upon the facility at a certain percentile not the bed count.

What is happening under the current system of the 80th percentile bed, is in some years, even though costs are increasing, the limits decrease.

Basic Care Limitations- 80th Percentile Bed		
Rate Year	Direct Limit	Indirect Limit
2010	$38.61	$39.24
2011	$40.62	$36.82
2012	$44.07	$38.92
2013	$42.23	$39.98
2014	$45.34	$42.52

We believe the percentile system is still the best, however it needs to be based upon the facility count not the bed count, and needs to be the 95th percentile for Direct Care and the 90th percentile for Indirect Care.

How it works now: Each facility has a Direct Care Rate & an Indirect Care Rate. Then all facilities are ranked from the low to high in the two categories. Using each facility's licensed bed count, the facility with the 80th percentile bed is identified and that facility's rate establishes the limit. This happens each year and it establishes the maximum rate for each year.

The 80th percentile bed limits are resulting in 39% of all BCAP (Basic Care Assistance Program) providers being limited. There is not a case mix adjustment, so facilities with higher need residents are negatively impacted. Smaller facilities or those connected to a nursing home, who are required to do specific allocations, find it impossible to operate under the current limits. Costs in the Direct Care category include resident caregiver salaries, routine care supplies, food, laundry costs, social service & activity staff. To reduce costs in this category means to cut back on staff caring for residents or their food quality or quantity. This directly impacts the resident's quality of care.

Thus we be believe the Direct Care limit needs to be established at the 95th percentile facility.

The Indirect Rate includes the following types of costs: Administration, Chaplain, Housekeeping and Dietary Salaries, Supplies, Utilities and Plant Operations. We believe this limit should be set at the 90th percentile facility.

Subsection 4 on Page 1 states the salary limitation for top management of Basic Care will be the same as the Nursing Facility top management limitations. Remember Basic Care already has one limit because it goes into the Indirect Care limit category and then a second limit is applied, further decreasing the facility's ability to attract highly qualified staff.

We believe two limitations on salary are not warranted. Of all the Medicaid providers, only Basic Care and Nursing Facilities have a salary limit, with the Nursing Facilities limitation being higher. If you are a Basic Care facility and connected to a hospital or nursing home you get the nursing facility limitation. It is our stand alone Basic Care facilities that get negatively hit in this situation. We want Basic Care facilities to care for and serve the low income population so we should not create a barrier, so they cannot be competitive and pay what they need to secure top notch staff.

Subsection 5 on page two addresses the issue of individuals who have no money or assets. They do not qualify for BCAP/Medicaid, but they still require care and services. For those individuals there is no place to discharge too, because no one is paying the bill. This provision would allow a facility to get paid for 180 days (lifetime maximum). Prior to allowing this coverage the facility would need to go through all measures to determine the debt is uncollectible with no likelihood of future recovery.

Subsection 6 on page two allows for when a Basic Care resident needs hospitalization and then rehabilitation in a Nursing Facility or Swingbed, we believe they should be allowed 30 days for the rehabilitation. Today only 15 days are allowed, after that payment ceases to hold their bed. Basic Care residents need more rehab days.

1.4

When a Basic Care resident is hospitalized it is our goal to have them return to the facility, however sometimes they need short term rehab in a Nursing Facility or Swingbed before they can safely return to the Basic Care facility. Allowing 15 additional days is cost effective and will enable more individuals to remain in Basic Care, a more independent and less costly care setting. Last year we found 29 BCAP individuals exceeded the allowed 15 days. Together these individuals needed a total of 354 days of care (which is an average need of 12.21 additional days per individual). The cost to increase leave days to 30 is $24,780 annually.

In summary HB 1359 revamps and updates the Basic Care payment system. The current limits were set by rule in 1996, almost 20 years ago. There have been many changes throughout the years which has changed who facilities care for which in turn has impacted how facilities operate. Today 39% of basic care facilities have a limitation. Many facilities are also having occupancy issues, with 33 of 50 Basic Care below 90% occupancy (66%). All four features in HB 1359 are important and needed. Basic Care is unique and an important part of the Long Term care continuum. Thank you for your consideration of HB 1359. I would be happy to answer any questions.

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

4

July 1 2014 Actual DIRECT Rates

rank			Beds	DIRECT
1	Pembilier Nursing Center	Walhalla	8	16.61
2	Bethel 4 Acres Home	Jamestown	16	18.22
3	Good Samaritan Society Devils Lake - Lake Cou	Devils Lake	7	25.69
4	Good Samaritan Society - Fargo	Fargo	40	26.67
5	Sheridan Memorial Home	McClusky	16	26.71
6	Lutheran Home of the Good Shephard	New Rockford	6	26.74
7	Edgewood Minot Senior Living, LLC	Minot	31	28.48
8	Edgewood Fargo Senior Living, LLC	Fargo	10	28.54
9	Odd Fellows Home	Devils Lake	43	28.75
10	Good Samaritan Center Devils Lake	Devils Lake	13	28.76
11	Dakota Hill Housing	Elgin	34	30.22
12	Harold Haaland Home	Rugby	68	30.62
13	Good Samaritan Society - Bismarck	Bismarck	18	31.38
14	Evergreen	Dickinson	51	34.19
15	Borg Memorial Home	Mountain	43	34.87
16	Maddock Memorial Home	Maddock	25	35.82
17	Edmore Memorial Rest Home	Edmore	20	36.05
18	Bethel Lutheran	Williston	19	36.85
19	Tufte Manor	Grand Forks	53	37.18
20	St. Anne's Guest Home	Grand Forks	54	37.31
21	Evergreen Place	Ellendale	20	38.66
22	Parkwood Place Inn	Grand Forks	40	38.91
23	Prairie Villa	Arthur	25	39.10
24	Golden Manor	Steele	25	39.13
25	Manor St. Joseph	Edgeley	40	39.18
26	Edgewood Vista at Edgewood Village	Bismarck	41	39.59
27	Edgewood Bismarck Senior Living, LLC	Bismarck	20	39.83
28	Leach Home	Wahpeton	39	40.19
29	Rock of Ages	Jamestown	53	43.02
30	Bethany Homes	Fargo	53	44.12
31	Gackle Care Center	Gackle	41	44.68
32	Evergreens of Fargo - 1411	Fargo	18	45.18

Direct

33	Terrace	Bismarck	40	45.34	80th percentile bed
34	Osnabrock Community Living Center	Osnabrock	15	45.87	
35	Four Seasons Health Care	Forman	5	46.16	
36	Senior Suites at Sakakawea	Hazen	34	46.94	
37	Evergreens of Fargo - 1401	Fargo	18	49.28	
38	Lakeside Community Living Center	New Town	16	53.11	
39	Dunseith Community Nursing Home	Dunseith	5	53.55	
40	Sienna Court	Wahpeton	16	55.93	
41	Maple View of Kenmare	Kenmare	26	57.39	
42	Mott Good Samaritan Center	Mott	12	67.72	
43	Good Samaritan Society Park River	Park River	12	68.51	
44	Rolette Community Care Center	Rolette	10	72.59	
45	Parkside Lutheran Home	Lisbon	10	79.39	
46	Bottineau Good Samaritan Center	Bottineau	7	82.42	
47	McKenzie County Healthcare	Watford City	9	85.51	
48	Western Horizons Care Center	Hettinger	10	86.40	95th percentile facility
49	Northwood Deaconess Health Center	Northwood	5	93.94	
50	Towner County Medical Center	Cando	7	125.37	
			1247		

1.6

July 1 2014 Actual INDIRECT Rates

rank			beds	INDIRECT
1	Edgewood Minot Senior Living, LLC	Minot	31	22.22
2	Sheridan Memorial Home	McClusky	16	22.65
3	Borg Memorial Home	Mountain	43	23.28
4	Sienna Court	Wahpeton	16	23.64
5	Harold Haaland Home	Rugby	68	27.36
6	Edgewood Fargo Senior Living, LLC	Fargo	10	27.46
7	Edgewood Bismarck Senior Living, LLC	Bismarck	20	27.63
8	Odd Fellows Home	Devils Lake	43	27.67
9	Dakota Hill Housing	Elgin	34	28.77
10	Edmore Memorial Rest Home	Edmore	20	29.47
11	Pembilier Nursing Center	Walhalla	8	29.55
12	Parkwood Place Inn	Grand Forks	40	29.55
13	Evergreens of Fargo	Fargo	18	30.12
14	Rock of Ages	Jamestown	53	30.2
15	Evergreens of Fargo - 1411	Fargo	18	30.25
16	Edgewood Vista at Edgewood Village	Bismarck	41	30.97
17	Prairie Villa	Arthur	25	32.55
18	Good Samaritan Society - Fargo	Fargo	40	33.3
19	Tufte Manor	Grand Forks	53	34.13
20	Terrace	Bismarck	40	34.93
21	Maddock Memorial Home	Maddock	25	35.51
22	Bethany Homes	Fargo	53	35.74
23	Evergreen Place	Ellendale	20	35.78
24	Maple View of Kenmare	Kenmare	26	35.83
25	Evergreen	Dickinson	51	37.05
26	Leach Home	Wahpeton	39	37.31
27	Bethel 4 Acres Home	Jamestown	16	37.32
28	Gackle Care Center	Gackle	41	37.65
29	Manor St. Joseph	Edgeley	40	37.81
30	Good Samaritan Society Devils Lake - Lake	Devils Lake	7	37.85
31	Lutheran Home of the Good Shephard	New Rockford	6	38.15
32	Golden Manor	Steele	25	40.38

Indirect

33	Good Samaritan Society - Bismarck	Bismarck	18	42.52	80th percentile bed
34	Bethel Lutheran	Williston	19	42.75	
35	St. Anne's Guest Home	Grand Forks	54	43.36	
36	Northwood Deaconess Health Center	Northwood	5	43.36	
37	Good Samaritan Society Park River	Park River	12	44.09	
38	Mott Good Samaritan Center	Mott	12	44.16	
39	Western Horizons Care Center	Hettinger	10	44.79	
40	Four Seasons Health Care	Forman	5	45.04	
41	Good Samaritan Center Devils Lake	Devils Lake	13	45.39	
42	Parkside Lutheran Home	Lisbon	10	45.87	
43	Senior Suites at Sakakawea	Hazen	34	46.48	
44	Rolette Community Care Center	Rolette	10	49.07	
45	Bottineau Good Samaritan Center	Bottineau	7	51.08	90th percentile facility
46	Lakeside Community Living Center	New Town	16	62.16	
47	Dunseith Community Nursing Home	Dunseith	5	76.17	
48	McKenzie County Healthcare	Watford City	9	77.79	
49	Towner County Medical Center	Cando	7	104.21	
50	Osnabrock Community Living Center	Osnabrock	15	108.37	
			1247		

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2015 NORTH DAKOTA LONG TERM CARE FACTS & FIGURES

North Dakota Long Term Care Association

1.10

Table of Contents

Introduction

GREETINGS TO ALL

The North Dakota Long Term Care Association (NDLTCA) is pleased to bring to you the 2015 Facts & Figures booklet. This publication provides information about the long term care profession, the challenge of caring for aging North Dakotans, and issues facing long term care. This publication is designed to give legislators, association members, and the public an overview of long term care in North Dakota. The biggest challenge continues to be staffing, with occupancy the second area of concern.

The Census figures are bright for North Dakota. We are enjoying our highest recorded population and our economy is flourishing. North Dakota was recently recognized as the happiest state, with quality of life reigning supreme. North Dakota has a strong, diverse economy and North Dakotans are working hard to assure it continues.

We hope you find this publication helpful. North Dakota is a great place to grow old and we are proud of the outstanding care provided by the long term care facilities in our state.

Sincerely yours,

Shelly Peterson
PRESIDENT

Gregory Salwei
CHAIRMAN

1.52

Long Term Care Facts

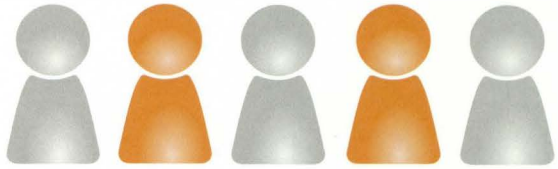
AGING IN AMERICA

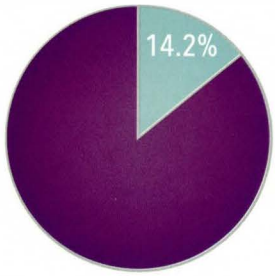
The aging of America, together with extended life expectancy, will result in **unprecedented demand** for long term care.

Long term care services are provided in a variety of settings, including **nursing facilities, basic care, assisted living, swing beds,** and **home and community based settings.**

The nation as a whole grew older as the oldest Baby Boomers became seniors. In 2013, the **nation's 65+** population surged to **44.7 million**, up 3.6% from 2012. By comparison, the population younger than 65 grew only 0.3%.

2 out of 5 North Dakotans
will need long term care sometime during their lives



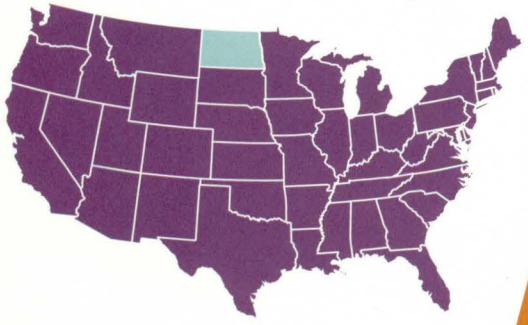


14.2%
of North Dakota's population is made up of individuals age 65+

44% projected growth in North Dakota's population of individuals age 65+ by 2025

Center for Social Research, NDSU

North Dakota ranks 7th in the nation in highest proportion of individuals age 85+



1.13

WHO WILL CARE

FOR NORTH DAKOTA'S AGING POPULATION?

Sufficient staffing is the number one concern facing long term care facilities

CNA turnover in nursing facilities is **56%**

The oldest caregiver in long term care is **91 years old**

14% of nursing facilities stopped admissions in 2014 because of insufficient staff

53 of 80 nursing facilities reported **741 open** positions in November 2014

One-third of caregivers in long term care are age **50 or older**

13% of the long term care workforce is at or over **retirement age of 60**

70% of nursing facilities used contract nursing agencies in 2014

WHO WILL NEED

LONG TERM CARE IN NORTH DAKOTA?

Long term care facilities provide care for over **19,000** North Dakotans annually

The need for personal assistance with everyday activities increases with age

The three top factors impacting the need for nursing home care are being a **woman**, being **80 or older**, and **living alone**

31,021 of North Dakota's older population (65+) live alone, which is 30% of that age group

The most common reasons given for nursing home placement are the need for assistance with **daily care** throughout the day and **complex medical needs**

1.14

Assisted Living Facilities

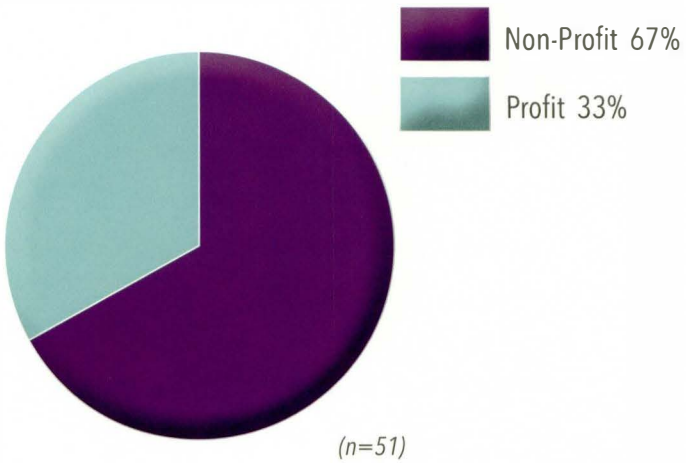
ASSISTED LIVING AT A GLANCE

72 licensed assisted living facilities

2,654 licensed units

2014 average occupancy was **95%**

Figure 1: Ownership of Assisted Living Facilities

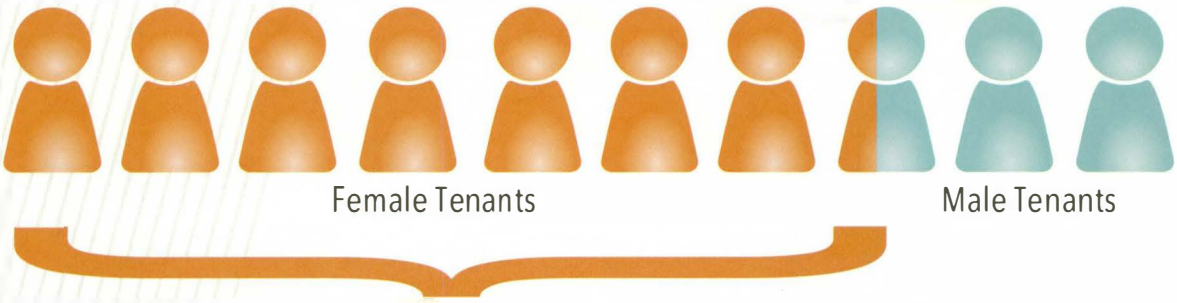


(n=51)

ASSISTED LIVING FACTS

- An assisted living facility is a congregate residential setting with **private apartments** and **contracted services**
- A la carte services are contracted based upon an agreed upon service plan
- A basic rental package generally includes **meals, housekeeping, activities, transportation,** and **laundry**
- Facilities provide a **full range of services** from bathing to medication management to hospice care
- Assistance with daily care and isolation are the top issues precipitating the desire to move into an assisted living facility
- Current tenants range in age from **51 to 104**, with the average age being 85

Figure 2: Gender of Assisted Living Tenants



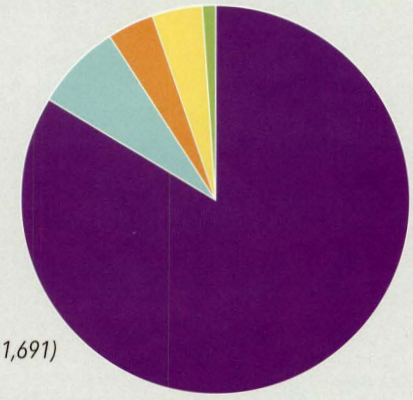
(n=1,785)

74% of tenants in North Dakota assisted living facilities are female

1.15

? WHEN INDIVIDUALS MOVE INTO AN ASSISTED LIVING FACILITY, WHERE DO THEY COME FROM?

Most individuals were living in their own home prior to moving into an assisted living facility. The top four reasons for assisted living move-in:
1) Assistance with daily care, 2) Social isolation, 3) Confusion, 4) Need for supervision

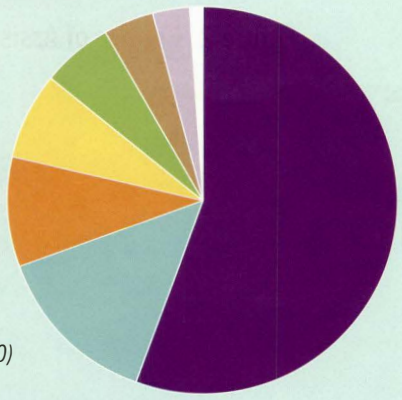


(n=1,691)

- Home 83%
- Nursing Facility 7%
- Hospital/Swing Bed 4%
- Other Assisted Living Facility 4%
- Other <1%

? WHEN INDIVIDUALS MOVE OUT, WHERE DO THEY GO?

Over half of tenants moving out of assisted living facilities are admitted to a skilled nursing facility. Advancing medical needs and growing cognition issues necessitate the move to a higher level of care.



(n=590)

- Nursing Facility 55%
- Death 14%
- Home 9%
- Other Assisted Living Facility 7%
- Hospital/Swing Bed 6%
- Family 4%
- Basic Care Facility 3%
- Other 1%

1:16

Assisted Living Facilities

CARE NEEDS OF ASSISTED LIVING TENANTS

(n=1,358)

- **1/3** of tenants have impaired mental status ranging from mild confusion or forgetfulness to a mental health diagnosis
- **42%** of tenants need full assistance with medication administration. These tenants on average take 9.4 over-the-counter and prescription medications daily
- **98%** of tenants are fully independent in eating, 97% independent with transferring, 96% with toileting, and 71% with dressing
- **57%** of tenants periodically use the assistance of a walker
- **60%** of tenants are ambulatory

Figure 5: Who Pays the Bill in Assisted Living Facilities

(n=1,737)

** of this amount, 25% of tenants have LTC insurance that helps pay for their care*

ASSISTED LIVING COST

In 2014, the average charge for rent in a one bedroom assisted living facility was **$2,084** per month, with a range of $800 to $3,875 per month

The cost for services in an assisted living facility varies dramatically, with an average service package of **$955**, with a range of $125 to $2,400 per month

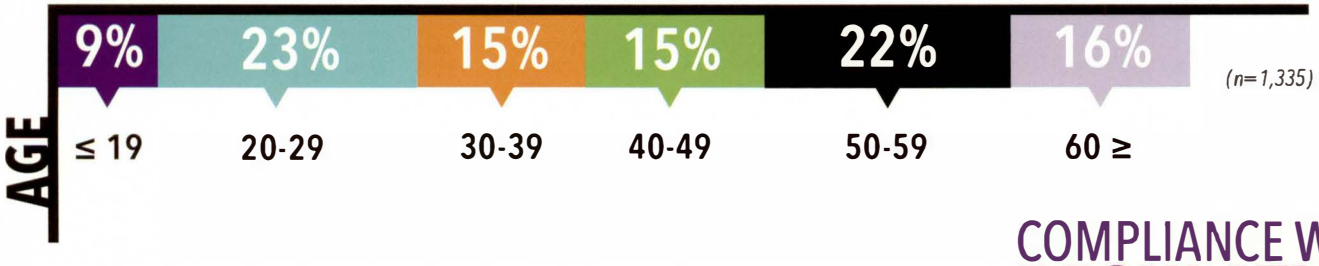
The cost of assisted living is highly dependent on the **size** of the living space, the **location** in North Dakota, and the **amenities** in the rental package

Most tenants pay for services from their own private funds, with long term care insurance assisting in **25%** of the cases

ASSISTED LIVING **WORKFORCE**

- The number one issue confronting assisted living facilities is **staff retention and recruitment**
- **1,484 individuals** are employed in 46 assisted living facilities
- As of November 1, 2014, 22 assisted living facilities reported **105 vacant positions**
- Four of 51 reporting assisted living facilities used contract nursing staff in 2014. Of those four, two reported spending **$43,000 annually**
- Over one-third (38%) of the workforce is **age 50 and older**, the oldest employee is 91

Figure 6: Age of Assisted Living Workforce



COMPLIANCE WITH **REGULATION**

In the 2009 legislative session, legislation was passed requiring administrator and staff training, comprehensive background check prior to employment in assisted living and completion of a consumer satisfaction survey every two years

- **45 of 51** reporting assisted living facilities indicated compliance with the training and pre-employment check
- **80%** of reporting assisted living facilities indicated they completed a consumer satisfaction survey in the past two years. Of those completing, 59% use an independent company for the completion of the survey

1:18

Assisted Living Facilities

ND Long Term Care Association Members - Assisted Living

City	Facility Name
Arthur	Prairie Villa
Bismarck	Edgewood Bismarck Senior Living
Bismarck	Edgewood Vista at Edgewood Village
Bismarck	Good Samaritan Society - Bismarck
Bismarck	Primrose Retirement Community
Bismarck	Touchmark on West Century
Bismarck	Valley View Heights
Bowman	Sunrise Village
Cooperstown	Park Place
Crosby	Northern Lights Villa
Devils Lake	Good Samaritan Society - Lake Country Manor
Devils Lake	Heartland Courts
Dickinson	Benedict Court
Dickinson	Evergreen
Dickinson	Hawks Point
Dickinson	Park Avenue Villa
Ellendale	Evergreen Place
Fargo	Bethany Gables
Fargo	Bethany Towers
Fargo	Edgewood Vista at Edgewood Village
Fargo	Good Samaritan Society - Fargo
Fargo	Pioneer House Assisted Living for Seniors
Fargo	Riverview Place
Fargo	Touchmark at Harwood Groves
Garrison	The Meadows
Grafton	Leisure Estates
Grand Forks	Grand View Assisted Living
Grand Forks	Parkwood Senior Living
Grand Forks	Tufte Manor
Grand Forks	Wheatland Terrace
Hatton	Hatton Prairie Village
Hettinger	Western Horizons Assisted Living

City	Facility Name
Hillsboro	Hillsboro Medical Center
Jamestown	Heritage Centre of Jamestown, Inc.
Lakota	Good Samaritan Society - Prairie Rose
LaMoure	Rosewood Court Assisted Living
Larimore	Good Samaritan Society - Larimore
Lisbon	Beverly Anne Assisted Living Center
Mandan	Edgewood Mandan
Mandan	Lakewood Landing
Mayville	Sun Centers
McVille	Nelson County Health System Care Center Assisted Living
Minot	Brentmoor Assisted Living Community
Minot	Edgewood Vista Minot Senior Living
Minot	Somerset Court
Minot	The View on Elk Drive
Minot	The Wellington
Napoleon	Napoleon Congregate/Assisted Living Apartments
New Rockford	Heritage House
New Salem	Elm Crest Assisted Living
New Town	Lakeside Community Living Center
Northwood	Northwood Deaconess Health Center
Oakes	Good Samaritan Society - Royal Oakes
Rolla	Park View Assisted Living
Rugby	Haaland Estates - Assisted Living
Valley City	The Legacy Place, LLC
Velva	Valley View Manor
Wahpeton	Siena Court
Wahpeton	St. Catherine's Living Center
Walhalla	North Border Estates
Watford City	Horizon
West Fargo	Eventide at Sheyenne Crossings
West Fargo	Kinder Care
Williston	Arbor House
Wishek	Prairie Hills Assisted Living

Basic Care Facilities

BASIC CARE AT A GLANCE

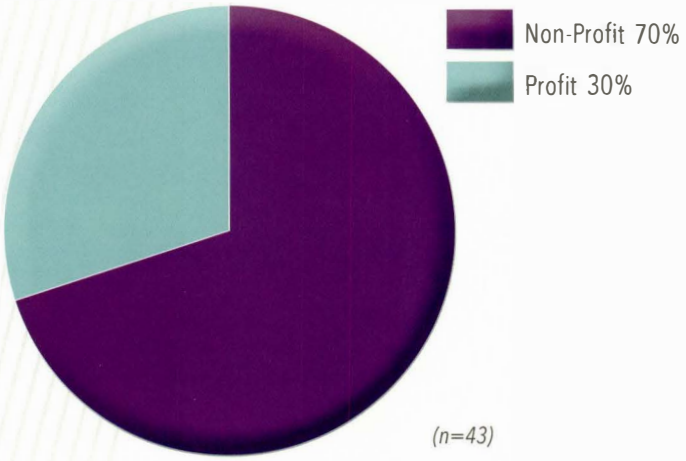
68 licensed basic care facilities

1,812 licensed beds

2014 average monthly rate was **$3,272**

2014 average occupancy was **85%**

Figure 7: Ownership of Basic Care Facilities



(n=43)

BASIC CARE FACTS

- A basic care facility is a congregate residential setting with **private rooms** and **semi-private rooms**, providing **24-hour supervision** with a comprehensive care plan
- Basic care provides an **all-inclusive rate** providing room, meals, personal care services, supervision, activities, transportation, medication administration, nursing assessment, and care planning
- Current residents range in age from **47 to 102 years old,** with the average age being 82

Figure 8: Gender of Basic Care Residents

(n= 1,246)

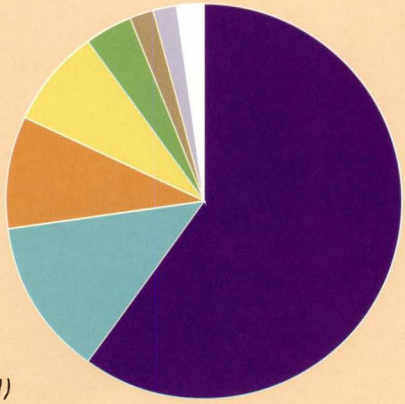
75% **of residents in North Dakota basic care facilities are female**

1.20

Basic Care Facilities

WHEN INDIVIDUALS MOVE INTO A BASIC CARE FACILITY, WHERE DO THEY COME FROM?

Top three reasons for basic care admission:
1) Needs assistance with daily care
2) Needs supervision
3) Confusion

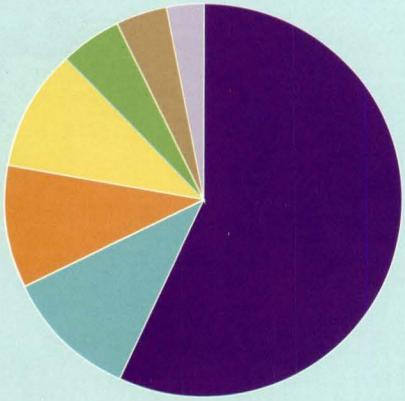


(n=1,231)

- Home 60%
- Nursing Facility 13%
- Assisted Living Facility 9%
- Hospital/Swing Bed 8%
- Another Basic Care Facility 4%
- State Hospital 2%
- Family 2%
- Other 2%

WHEN INDIVIDUALS MOVE OUT, WHERE DO THEY GO?

Over half of residents discharged from a basic care facility are admitted to a skilled nursing facility. Medical needs, physical limitations, and growing cognitive issues necessitate the admission. The average length of stay is 651 days.



(n=427)

- Nursing Facility 55%
- Home 11%
- Death 10%
- Hospital/Swing Bed 10%
- Other Basic Care Facility 5%
- Assisted Living Facility 4%
- Other 3%

1.21

CARE NEEDS OF BASIC CARE RESIDENTS

- **68%** of residents have impaired mental status, ranging from early stage dementia to significant mental health issues
- **96%** of residents need full assistance with medication administration
- **43%** of residents are receiving psychoactive drugs
- **12** the number of medications the average basic care resident takes
- **59%** of residents are independent in dressing, with less than 10% requiring extensive assistance (8.3%)
- **48%** of residents are ambulatory and do not need any staff assistance, 55% use a walker or cane and very few use a wheelchair (7%)
- **92%** of residents are independent in transferring, 88% independent in eating, and 80% with toileting
- **68%** of residents need assistance in bathing

Figure 11: Payment Source for Basic Care Bills

(n=1,021)

** 12% of residents have LTC insurance that helps pay for their care*

BASIC CARE COST

More than half (59%) of the residents living in basic care **need assistance to pay** for their care.
The average monthly cost of basic care was reported at **$3,523**. The cost ranged from $2,300 to $5,100 per month.

Cost of a Private Room:
One-third of reporting basic care facilities charge extra for a private room
The average daily cost for a private room is **$10.75 per day**, with a range of $2.00 to $30.00 per day

Rate Equalization in Basic Care:
It is allowable to charge private pay residents more than basic care assistance rates
Almost two out of five reporting basic care facilities (39%) charge private pay individuals extra

Basic Care Bad Debt/Collection Issues:
On November 1, 2014, basic care facilities were carrying **$194,779** in resident accounts more than 60 days past due from 71 residents, and it is estimated that $80,020 is uncollectible

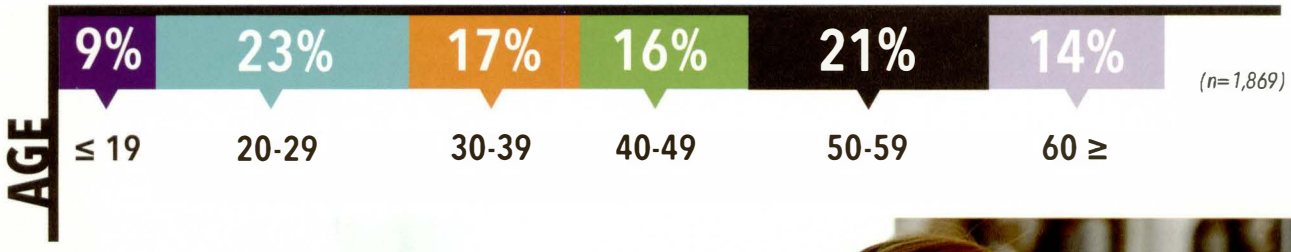
On average, **one out of every 25** residents in a basic care facility has a payment issue associated with their account. This can range from chronic lateness in paying account, children or responsible party refusing to pay the bill or Medicaid denying eligibility and resources do not exist to pay the bill.

Basic Care Facilities

BASIC CARE WORKFORCE

- The top issue facing basic care facilities is **staffing**, followed by **declining occupancy**
- **1,863 individuals** are employed in 43 basic care facilities
- In 2014, the average wage increase provided was **3.67%**, while most tried to maintain health insurance with co-pays increasing just under 10%
- Seven of the reporting basic care facilities used contract nursing staff in their facilities in 2014, spending **$195,185** on contract staff
- 36% of the workforce is **age 50 or older**, with the oldest employee being **81**

Figure 12: Age of Basic Care Workforce



1.23

ND Long Term Care Association Members – Basic Care

City	Facility Name
Arthur	Prairie Villa
Bismarck	Baptist Home, Inc.
Bismarck	Edgewood Bismarck Senior Living
Bismarck	Edgewood Vista at Edgewood Village
Bismarck	Good Samaritan Society – Bismarck
Bismarck	Maple View East
Bismarck	Maple View North
Bismarck	The Terrace
Bismarck	Touchmark on West Century
Bottineau	Good Samaritan Society – Bottineau
Cando	St. Francis Residence
Crosby	St. Luke's Sunrise Center
Devils Lake	Good Samaritan Society – Devils Lake
Devils Lake	Good Samaritan Society – Lake Country Manor
Devils Lake	Odd Fellows Home
Dickinson	Dickinson Country House LLC
Dickinson	Evergreen
Dunseith	Dunseith Community Nursing Home
Edgeley	Manor St. Joseph
Edmore	Edmore Memorial Rest Home
Elgin	Dakota Hill Housing
Ellendale	Evergreen Place
Fargo	Bethany Towers
Fargo	Ecumen Evergreens of Fargo
Fargo	Edgewood Vista at Edgewood Village
Fargo	Good Samaritan Society – Fargo
Fargo	Maple View Memory Care - Fargo
Fargo	Touchmark at Harwood Groves
Forman	Four Seasons Healthcare Center Inc.
Gackle	Gackle Care Center
Grand Forks	Maple View Memory Care
Grand Forks	Parkwood Senior Living
Grand Forks	St. Anne's Guest Home
Grand Forks	Tufte Manor
Hazen	Senior Suites at Sakakawea
Hettinger	Western Horizons Care Center
Jamestown	Bethel 4 Acres Ltd
Jamestown	Rock of Ages, Inc.
Jamestown	Roseadele
Lisbon	North Dakota Veterans Home
Lisbon	Parkside Lutheran Home
Maddock	Maddock Memorial Home
Mandan	Dakota Pointe
Mandan	Lakewood Landing
McClusky	Sheridan Memorial Home
Minot	Edgewood Vista Minot Senior Living
Minot	Emerald Court
Minot	Maple View Memory Care - Minot
Mott	Good Samaritan Society – Mott
Mountain	Borg Pioneer Memorial Home
New Rockford	Lutheran Home of the Good Shepherd
New Town	Lakeside Community Living Center
Northwood	Northwood Deaconess Health Center
Osnabrock	Osnabrock Community Living Center
Park River	Good Samaritan Society – Park River
Rolette	Rolette Community Care Center
Rugby	Haaland Estates – Basic Care
Steele	Golden Manor Inc.
Valley City	HI Soaring Eagle Ranch
Wahpeton	St. Catherine's Living Center
Wahpeton	The Leach Home
Walhalla	Pembilier Nursing Center
Watford City	McKenzie County Healthcare Systems
West Fargo	Eventide at Sheyenne Crossings
Williston	Bethel Lutheran Nursing & Rehabilitation Center
Wilton	Redwood Village

1.24

Nursing Facilities

NURSING FACILITIES AT A GLANCE

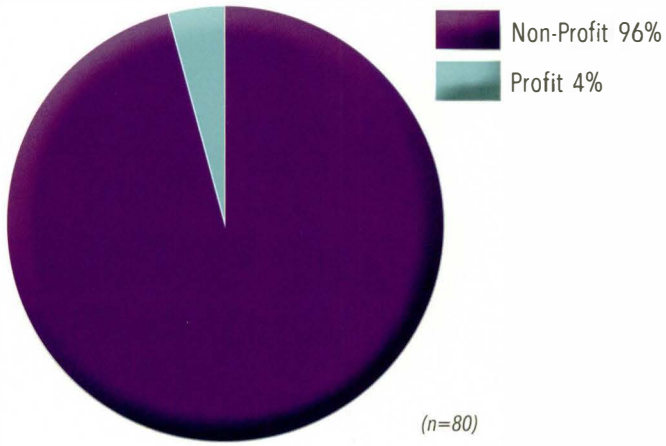
80 licensed nursing facilities

6,026 licensed beds

2015 average daily rate is **$249.70**

2014 average occupancy was **93.6%**

Figure 14: Ownership of Nursing Facilities



(n=80)

NURSING FACILITY FACTS

- Resident needs are complex and they are in need of **24-hour** nursing care and supervision
- Most residents are admitted after a hospital stay or directly from their home
- The most significant issue necessitating admission to a nursing facility is the **need for care throughout the day.** Residents are unable to meet their own needs for dressing, toileting, eating, and remaining safe. Most often their **medical needs are complex**, requiring continuous supervision
- Current residents range in age from **16 to 108** years old, with the average age being 84
- The average length of stay is **less than a year**
- According to CMS data, in 2014 ND nursing facilities had the **highest percentage** of residents age 95 and older, 9.11% of all residents, compared to the US average in this age category of 5.11%. ND nursing facilities also hold the record for the **85-94 age group** at 47.2%, compared to the US average of 35%

Figure 15: Gender of Nursing Facility Residents

(n=3,994)

67% **of residents in North Dakota nursing facilities are female**

WHY DO INDIVIDUALS MOVE INTO A NURSING FACILITY?

The top five reasons for nursing facility admission:
1) Assistance with daily care
2) Complex medical needs
3) Needs continuous supervision
4) Dementia
5) Incontinence

WHEN RESIDENTS ARE DISCHARGED FROM A SKILLED NURSING FACILITY, WHERE DO THEY GO?

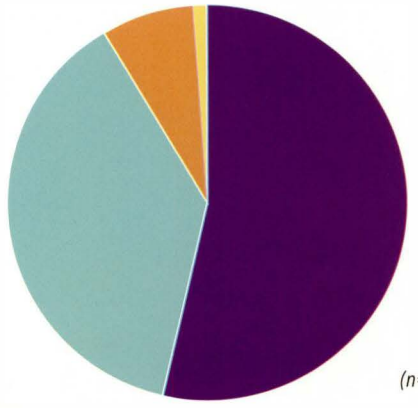
In the first three quarters of 2014, over 1,900 nursing home residents were discharged back home. According to CMS data, 48% of ND nursing home residents are discharged back home.

NURSING FACILITY PAYMENT

In 2015, the average cost for one day of nursing facility care is **$249.70**

Cost for a Private Room:
Nursing facilities are allowed to charge extra for a private room-- 90% of nursing facilities do. The average daily private room charge in 2014 was **$13.02**. The extra private room charge varies based upon **size** and **location** of the room. Private rooms are growing in number to meet the increased demand.

Figure 16: Payment Source for Nursing Facility Bills 2014 Cost Report



(n=4,254)

- Medicaid 53.9%
- Private Pay 37.7%
- Medicare 7.6%
- Other .9%

Nursing Facilities

NURSING FACILITY WORKFORCE

- The top issue facing nursing facilities is **staffing;** as of November 1, 2014, 53 nursing facilities reported **741 vacant positions**
- **8,577 individuals** are employed in 55 nursing facilities
- 14% (n=56) of reporting nursing facilities **stopped admissions** in 2014 because of lack of staff
- **70%** of nursing facilities (2 out of 3 facilities) used contract agency staff in 2014
- In 2014, the average salary increase provided was **3.1%.** Just to maintain health insurance long term facilities saw premiums increase over 13%
- Turnover and workforce age will create an unprecedented demand for employees in the next ten years
- One-third of the workforce is **age 50 or older**, with the oldest employee being **88**

Figure 17: Age of Nursing Facility Workforce

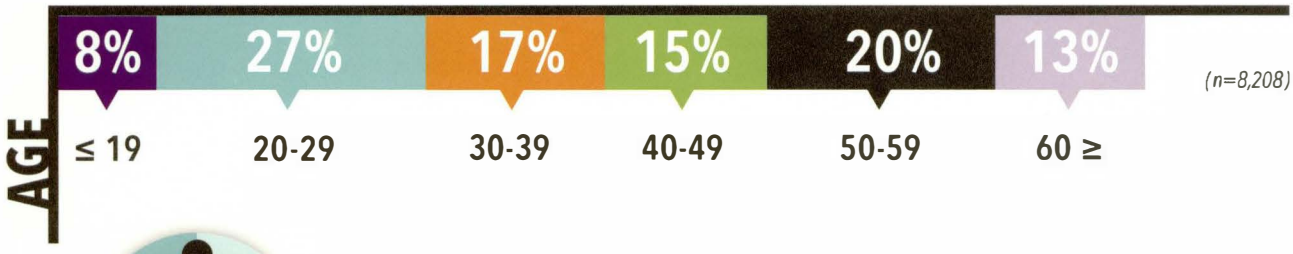
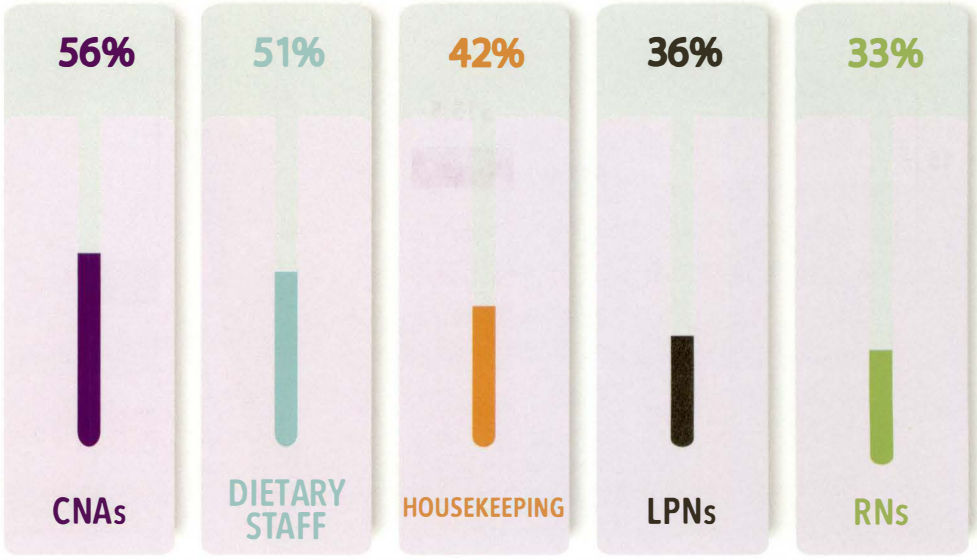


Figure 18: 2014 Nursing Facility Staff Turnover



HISTORY OF NURSING FACILITY

STAFF TURNOVER

2006-2014

Position	2006	2010	2012	2014
CNAs	53%	62%	58%	56%
LPNs	21%	33%	36%	36%
RNs	25%	40%	32%	33%
Dietary	44%	57%	45%	51%
Housekeeping	30%	34%	33%	42%

LONG TERM CARE SALARIES
AS OF NOVEMBER 2014

CNA Entry	$13.29
Cook Entry	$12.76
Housekeeping Entry	$11.35
Dietary Aide Entry	$11.10

CONTRACT NURSING
IN NURSING FACILITIES

When facilities face staffing shortages, one option is to use contract staff to provide daily resident care. In 2014, 56 of 80 nursing facilities or **70%** used contract nursing agencies.

USE OF CONTRACT NURSING - DOLLARS

USE OF CONTRACT NURSING - HOURS

Nursing Facilities

ND Long Term Care Association Members – Nursing Facilities

City	Facility Name
Aneta	Aneta Parkview Health Center
Arthur	Good Samaritan Society – Arthur
Ashley	Ashley Medical Center and Nursing Home
Beulah	Knife River Care Center
Bismarck	Baptist Home, Inc.
Bismarck	Good Samaritan Society – Bismarck
Bismarck	Missouri Slope Lutheran Care Center
Bismarck	Sanford Health St. Vincent's Continuing Care Center
Bismarck	St. Alexius Medical Center – TCU
Bismarck	St. Gabriel's Community
Bottineau	Good Samaritan Society – Bottineau
Bowman	Southwest Healthcare Services
Cando	Towner County Living Center
Carrington	Golden Acres Manor
Cavalier	Wedgewood Manor
Cooperstown	Griggs County Care Center
Crosby	St. Luke's Sunrise Care Center
Devils Lake	Good Samaritan Society – Devils Lake
Devils Lake	Heartland Care Center
Dickinson	St. Benedict's Health Center
Dickinson	St. Luke's Home
Dunseith	Dunseith Community Nursing Home
Ellendale	Prince of Peace Care Center
Enderlin	Maryhill Manor
Fargo	Bethany on 42nd Skilled Care
Fargo	Bethany on University Skilled Care
Fargo	Elim Care – A Caring Community
Fargo	Manor Care of Fargo ND, LLC
Fargo	Rosewood On Broadway
Fargo	Villa Maria
Forman	Four Seasons Healthcare Center Inc.
Garrison	Benedictine Living Center of Garrison
Garrison	Garrison Memorial Hospital & Nursing Facility
Glen Ullin	Marian Manor HealthCare Center
Grafton	Lutheran Sunset Home
Grand Forks	Valley Eldercare Center
Grand Forks	Woodside Village
Hankinson	St. Gerard's Community of Care
Harvey	St. Aloisius Medical Center
Hatton	Hatton Prairie Village
Hettinger	Western Horizons Care Center
Hillsboro	Hillsboro Medical Center
Jamestown	Ave Maria Village
Jamestown	Eventide at Hi-Acres Manor
Killdeer	Hill Top Home of Comfort
Lakota	Good Samaritan Society – Lakota
LaMoure	St. Rose Care Center
Langdon	Maple Manor Care Center
Larimore	Good Samaritan Society – Larimore
Lisbon	North Dakota Veterans Home
Lisbon	Parkside Lutheran Home
Mandan	Dakota Alpha
Mandan	Sanford Health Mandan Care Center Off Collins
Mandan	Sanford Health Mandan Living Center
Mayville	Luther Memorial Home
McVille	Nelson County Health System Care Center
Minot	Manor Care of Minot ND, LLC
Minot	Trinity Homes
Mohall	Good Samaritan Society – Mohall
Mott	Good Samaritan Society – Mott
Napoleon	Napoleon Care Center
New Rockford	Lutheran Home of the Good Shepherd Nursing Home
New Salem	Elm Crest Manor
Northwood	Northwood Deaconess Health Center
Oakes	Good Samaritan Society – Oakes
Park River	Good Samaritan Society – Park River
Richardton	Richardton Health Center
Rolette	Rolette Community Care Center
Rugby	Heart Of America Medical Center
Stanley	Mountrail Bethel Home
Strasburg	Strasburg Care Center
Tioga	Tioga Medical Center Long Term Care
Valley City	Sheyenne Care Center
Velva	Souris Valley Care Center
Wahpeton	St. Catherine's Living Center
Walhalla	Pembilier Nursing Center
Watford City	McKenzie County Health Care Systems
West Fargo	Sheyenne Crossings Care Center/TCU
Williston	Bethel Lutheran Nursing & Rehabilitation Center
Wishek	Wishek Living Center

ABOUT THE NORTH DAKOTA LONG TERM CARE ASSOCIATION

The North Dakota Long Term Care Association (NDLTCA) is a **non-profit trade association** representing long term care facilities in North Dakota. Membership includes nursing facilities, basic care facilities, and assisted living facilities. NDLTCA began operating in **1977** and currently represents **211** nursing, basic care, and assisted living facilities. NDLTCA works closely with State and Federal government agencies along with other professional associations in its efforts to **advocate on behalf of long term care** and **promote sound legislative and regulatory policies**. NDLTCA is an affiliate of the American Health Care Association (AHCA) and the National Center for Assisted Living (NCAL). AHCA and NCAL, located in Washington, D.C., are the largest organizations of long term care facilities in the nation. NDLTCA is **governed by a 13-member Board** elected by the membership. Overall policy of the NDLTCA is the responsibility of the Board. NDLTCA is dedicated to serving our members who strive to maintain the **highest quality of care** for the elderly and disabled.

MISSION STATEMENT

The North Dakota Long Term Care Association is a professional association of long term care and community service providers who enhance the lives of people we serve through collaboration, education and advocacy.

VISION STATEMENT

The North Dakota Long Term Care Association is recognized as an innovative leader and pioneer in the continuum of care, which has a positive impact on the quality of life of those we serve.

CORE VALUES

- Competence
- Honesty
- Integrity
- Responsiveness
- Trust

RESOURCES

Most of the information provided in this publication was gathered from a comprehensive survey of assisted living, basic care and nursing facility members, completed in the Fall of 2014. Additional information was gathered from the 2013 American Community Survey, Center for Social Research, ND Compass, and US Census Bureau.

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HB 1359
2/3/2015
2.1

#2

Testimony
House Bill 1359 – Department of Human Services
House Human Services Committee
Representative Robin Weisz, Chairman
February 3, 2015

Chairman Weisz, members of the House Human Services Committee, I am LeeAnn Thiel, Administrator of Medicaid Payment and Reimbursement Services of the Medical Services Division for the Department of Human Services (Department). I am here today to provide information for House Bill 1359 on the section of North Dakota Century Code (NDCC) this bill proposes to amend.

There are two parts of a facility's basic care payment, the personal care rate and the room and board rate. Federal Medicaid participation is available only for the personal care rate. The room and board rate is funded with all general fund. Federal medical assistance percentage (FMAP) is only available for room and board costs for individuals residing in an institution. An institution is a hospital, nursing facility, intermediate care facility for individuals with intellectual disabilities, or a psychiatric residential treatment facility.

Century Code Section

This bill adds a new section relating to basic care rate setting to NDCC 50-24.4, which is titled 'Nursing Home Rates.' There are several definitions and sections in this chapter that do not apply to basic care.

NDCC 50-24.5-02 is the chapter and section that gives the Department authority to determine rates for basic care. Adding language relating to

basic care rate setting to NDCC 50-24.4 may create complications and result in unforeseen changes to basic care rate setting.

Some of the definitions in NDCC 50-24.4 are in conflict with definitions in North Dakota administrative code (NDAC) 75-02-07.1 for basic care rate setting. Following is a chart with examples of definitions which are conflicting:

	NDCC 50-24.4 Nursing Facility Definition	NDAC 75-02-07.1 Basic Care Definition
Direct Care Costs	Allowable nursing and therapy costs	Allowable resident care, **activities, social services and laundry costs**
Food and Plant Costs	Not defined	**Allowable food, utilities, and maintenance and repair costs**
Other Direct Costs	**Allowable activities, social services, laundry and food costs**	Not defined
Rate Year	January 1 to December 31	July 1 to June 30

Fiscal Impact

The fiscal impact to the Medicaid program for the changes proposed in House Bill 1359 for the 2015-2017 biennium is estimated to be $1,452,108 for twelve months of which $1,134,689 is general fund. The fiscal impact to the Medicaid program for the 2017-2019 biennium is estimated to be $3,116,836 for 24 months of which $2,433,698 is general fund.

Today, there are 51 facilities enrolled as basic care assistance providers. The lowest daily rate is $62.39 and the highest daily rate is $165.74.

7.3

There are five components of the basic care rate: direct care, indirect care, room and board, property and operating margin. Basic care rates have limits in two separate areas, direct care and indirect care. A provider could be limited in one of these categories but not in the other.

As drafted, proposed subsections 1 and 2 do not have a fiscal impact.

As drafted, proposed subsection 3 would establish the direct care and indirect care limits as follows for all providers participating in the basic care assistance program:

	Proposed	Current
Direct Care	95th Percentile Bed	80th Percentile Bed
Indirect Care	90th Percentile Bed	80th Percentile Bed

Using the 95th percentile instead of the 80th percentile for the direct care limit for July 1, 2014, would be an increase from $45.34 to $68.51. Using the 90th percentile instead of the 80th percentile for the indirect care limit for July 1, 2014, would be an increase from $42.52 to $45.39.

In July 2013, the Department contracted with Myers and Stauffer to conduct a study on various aspects of the long-term care continuum. One of the areas studied was how the limits for basic care are set. The final report discussed several methodologies that could be used for setting limits. The recommendation from the study is to use a cost-based methodology. This method would take into account all providers' costs. The analysis in the final report identified that a median plus methodology would be budget neutral and is the same methodology used in nursing

facility rate setting. Median plus means that the median cost of all providers is inflated by a percentage to calculate the limits.

Setting the limits based on percentile of beds does not take into account the range of providers' costs, rather it ranks the providers by their costs and sets the limit based on the costs of the one provider who has the bed at that percentile.

No matter the methodology chosen to establish the basic care limits, the Department needs legislative direction on whether to continue to rebase the limits each year or to use a base year and only increase the limits based on the legislatively approved inflationary increase. Under the current administrative code, the limits are "rebased" each year based on the current cost reports.

As drafted, proposed subsection 4 would allow the use of the nursing facility top management compensation limit for freestanding basic care facilities. Basic care facilities combined with a nursing facility or hospital already are allowed the nursing facility compensation limit. Over half of the basic care facilities are combined with a hospital or nursing facility. The 2015 compensation limit for nursing facilities is $233,453. The 2014 compensation limit used for freestanding basic care facilities is $68,627.

As drafted, proposed subsection 5 would allow up to 108 days of bad debt expense in the property cost category in the year it is determined to be uncollectible. Currently, bad debt is not an allowable expense in basic care rate setting. Allowing the bad debt expense in the property cost category means that it is a pass-through and not subject to any limit. The fiscal impact for this proposed change is all general fund.

2.5

As drafted, proposed subsection six would allow for an increase in the medical care leave days from 15 days to 30 days for a resident in a hospital, swing bed, nursing facility and who is expected to return to the basic care facility. Only the room and board rate is reimbursed for a medical care leave day. The fiscal impact for this proposed change is all general fund.

I would be happy to address any questions that you may have.

Feb 13, 2015

Referring to HB 1359
From Repr. Weisz
No Spoken testimony

July 1 2014 Actual DIRECT Rates

rank			Beds	DIRECT
1	Pembilier Nursing Center	Walhalla	8	16.61
2	Bethel 4 Acres Home	Jamestown	16	18.22
3	Good Samaritan Society Devils Lake - Lake Cou	Devils Lake	7	25.69
4	Good Samaritan Society - Fargo	Fargo	40	26.67
5	Sheridan Memorial Home	McClusky	16	26.71
6	Lutheran Home of the Good Shephard	New Rockford	6	26.74
7	Edgewood Minot Senior Living, LLC	Minot	31	28.48
8	Edgewood Fargo Senior Living, LLC	Fargo	10	28.54
9	Odd Fellows Home	Devils Lake	43	28.75
10	Good Samaritan Center Devils Lake	Devils Lake	13	28.76
11	Dakota Hill Housing	Elgin	34	30.22
12	Harold Haaland Home	Rugby	68	30.62
13	Good Samaritan Society - Bismarck	Bismarck	18	31.38
14	Evergreen	Dickinson	51	34.19
15	Borg Memorial Home	Mountain	43	34.87
16	Maddock Memorial Home	Maddock	25	35.82
17	Edmore Memorial Rest Home	Edmore	20	36.05
18	Bethel Lutheran	Williston	19	36.85
19	Tufte Manor	Grand Forks	53	37.18
20	St. Anne's Guest Home	Grand Forks	54	37.31
21	Evergreen Place	Ellendale	20	38.66
22	Parkwood Place Inn	Grand Forks	40	38.91
23	Prairie Villa	Arthur	25	39.10
24	Golden Manor	Steele	25	39.13
25	Manor St. Joseph	Edgeley	40	39.18
26	Edgewood Vista at Edgewood Village	Bismarck	41	39.59
27	Edgewood Bismarck Senior Living, LLC	Bismarck	20	39.83
28	Leach Home	Wahpeton	39	40.19
29	Rock of Ages	Jamestown	53	43.02
30	Bethany Homes	Fargo	53	44.12
31	Gackle Care Center	Gackle	41	44.68
32	Evergreens of Fargo - 1411	Fargo	18	45.18

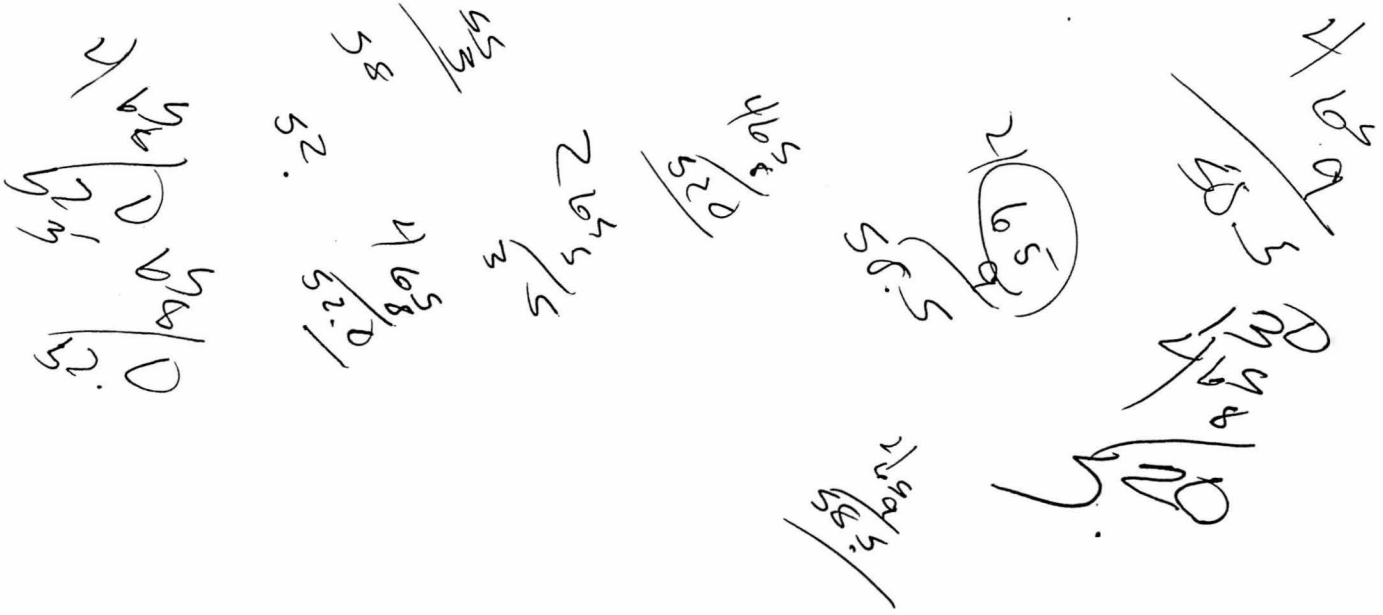
July 1 2014 Actual INDIRECT Rates

rank			beds	INDIRECT
1	Edgewood Minot Senior Living, LLC	Minot	31	22.22
2	Sheridan Memorial Home	McClusky	16	22.65
3	Borg Memorial Home	Mountain	43	23.28
4	Sienna Court	Wahpeton	16	23.64
5	Harold Haaland Home	Rugby	68	27.36
6	Edgewood Fargo Senior Living, LLC	Fargo	10	27.46
7	Edgewood Bismarck Senior Living, LLC	Bismarck	20	27.63
8	Odd Fellows Home	Devils Lake	43	27.67
9	Dakota Hill Housing	Elgin	34	28.77
10	Edmore Memorial Rest Home	Edmore	20	29.47
11	Pembilier Nursing Center	Walhalla	8	29.55
12	Parkwood Place Inn	Grand Forks	40	29.55
13	Evergreens of Fargo	Fargo	18	30.12
14	Rock of Ages	Jamestown	53	30.2
15	Evergreens of Fargo - 1411	Fargo	18	30.25
16	Edgewood Vista at Edgewood Village	Bismarck	41	30.97
17	Prairie Villa	Arthur	25	32.55
18	Good Samaritan Society - Fargo	Fargo	40	33.3
19	Tufte Manor	Grand Forks	53	34.13
20	Terrace	Bismarck	40	34.93
21	Maddock Memorial Home	Maddock	25	35.51
22	Bethany Homes	Fargo	53	35.74
23	Evergreen Place	Ellendale	20	35.78
24	Maple View of Kenmare	Kenmare	26	35.83
25	Evergreen	Dickinson	51	37.05
26	Leach Home	Wahpeton	39	37.31
27	Bethel 4 Acres Home	Jamestown	16	37.32
28	Gackle Care Center	Gackle	41	37.65
29	Manor St. Joseph	Edgeley	40	37.81
30	Good Samaritan Society Devils Lake - Lake	Devils Lake	7	37.85
31	Lutheran Home of the Good Shephard	New Rockford	6	38.15
32	Golden Manor	Steele	25	40.38

130
651

Indirect

33	Good Samaritan Society - Bismarck	Bismarck	18	42.52	80th percentile bed
34	Bethel Lutheran	Williston	19	42.75	
35	St. Anne's Guest Home	Grand Forks	54	43.36	
36	Northwood Deaconess Health Center	Northwood	5	43.36	
37	Good Samaritan Society Park River	Park River	12	44.09	
38	Mott Good Samaritan Center	Mott	12	44.16	
39	Western Horizons Care Center	Hettinger	10	44.79	
40	Four Seasons Health Care	Forman	5	45.04	
41	Good Samaritan Center Devils Lake	Devil's Lake	13	45.39	
42	Parkside Lutheran Home	Lisbon	10	45.87	
43	Senior Suites at Sakakawea	Hazen	34	46.48	
44	Rolette Community Care Center	Rolette	10	49.07	
45	Bottineau Good Samaritan Center	Bottineau	7	51.08	90th percentile facility
46	Lakeside Community Living Center	New Town	16	62.16	
47	Dunseith Community Nursing Home	Dunseith	5	76.17	
48	McKenzie County Healthcare	Watford City	9	77.79	
49	Towner County Medical Center	Cando	7	104.21	
50	Osnabrock Community Living Center	Osnabrock	15	108.37	
			1247		



Direct

33	Terrace	Bismarck	40	45.34	80th percentile bed
34	Osnabrock Community Living Center	Osnabrock	15	45.87	
35	Four Seasons Health Care	Forman	5	46.16	
36	Senior Suites at Sakakawea	Hazen	34	46.94	
37	Evergreens of Fargo - 1401	Fargo	18	49.28	
38	Lakeside Community Living Center	New Town	16	53.11	
39	Dunseith Community Nursing Home	Dunseith	5	53.55	
40	Sienna Court	Wahpeton	16	55.93	
41	Maple View of Kenmare	Kenmare	26	57.39	
42	Mott Good Samaritan Center	Mott	12	67.72	
43	Good Samaritan Society Park River	Park River	12	68.51	
44	Rolette Community Care Center	Rolette	10	72.59	
45	Parkside Lutheran Home	Lisbon	10	79.39	
46	Bottineau Good Samaritan Center	Bottineau	7	82.42	
47	McKenzie County Healthcare	Watford City	9	85.51	
48	Western Horizons Care Center	Hettinger	10	86.40	95th percentile facility
49	Northwood Deaconess Health Center	Northwood	5	93.94	
50	Towner County Medical Center	Cando	7	125.37	
			1247		

15.0696.02001
Title.03000

Prepared by the Legislative Council staff for
Representative Kreidt
February 19, 2015

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1359

Page 1, line 18, remove "The limits may not fall below the direct care"

Page 1, remove line 19

Page 1, line 20, remove "established for the ninetieth percentile facility."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment removes language for basic care payment rates which would have provided that the limits for the actual allowable historical operating cost per diem, based on cost reports of allowable operating costs, may not fall below the direct care rate established for the 95th percentile facility and the indirect care rate established for the 90th percentile facility.

(1)

Feb 23, 2015

15.0696.02000

FISCAL NOTE

Requested by Legislative Council
02/13/2015

Amendment to: HB 1359

1 A. **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.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				$18,944		$40,315
Expenditures			$788,836	$18,944	$1,700,745	$40,315
Appropriations			$488,836	$18,944	$1,700,745	$40,315

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

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties			
Cities			
School Districts			
Townships			

2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

SB1359 requires the department establish procedures for determining rates of basic care facilities that qualify as vendors of an aged, blind, and disabled persons program and for implementing direct and indirect care rate limits and provides for payment of rates for 20 days of leave per occurrence.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Subsection 3 states the limits may not fall below the direct care rate established for the ninety-fifth percentile facility and the indirect care rate established for the ninetieth percentile facility. Subsection 3 also states the direct care rate limit will be established using the highest and lowest rates, multiplying the average by 85%. The Bill further states the indirect care limit will be established using the highest and lowest rates, multiplying the average by 80%. The limits calculated using the percentile facility are higher than the limits calculated using the highest and lowest rates multiplied by a percentage. Therefore, the fiscal estimate is based on the 95th percentile facility for direct care and the 90th percentile facility for indirect care.

Subsection 4 increases the current number of leave days for a basic care resident, who is in a licensed health care facility and is expected to return, to 20 days. Current administrative code allows for 15 leave days.

These changes increase expenditures for the 15-17 biennium by $807,780 of which $788,836 are General Fund and $18,944 are Federal Funds. In the 17-19 biennium, estimated expenditures would be $1,741,060 of which, $1,700,745 is General Fund and $40,315 is Federal Funds.

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.*

   The increase in Revenue represents the Federal Funds the Department will be able to access due to the increased costs reported for Basic Care as a result of changing the rate setting structure. Increasing revenue for the 15-17 biennium by $18,944 in Federal Funds. In the 17-19 biennium, estimated revenue would increase $40,315 in Federal Funds.

   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.*

   With rates effective July 1, 2016, estimated expenditures under the Medicaid grants line item for the 15-17 biennium would increase $807,780 of which $788,836 are General Fund and $18,944 are Federal Funds. In the 17-19 biennium, estimated expenditures would increase $1,741,060 of which, $1,700,745 is General Fund and $40,315 is Federal Funds.

   C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

   In addition to the General Fund appropriation of $300,000 included in Section 2 of the Bill the Department will need additional appropriation of $507,780, of which $488,836 are General Fund and $18,944 are Federal Funds for the 15-17 biennium. The Department will need an appropriation increase for the 17-19 biennium of $1,741,060 of which, $1,700,745 is General Fund and $40,315 is Federal Funds.

Name: Debra McDermott

Agency: Department of Human Services

Telephone: 701 328-3695

Date Prepared: 02/26/2015

Attach #1
HB1359
03/10/15
J#24548

Testimony on HB 1359
Senate Human Services Committee
March 10, 2015

Good Morning Chairman Lee and members of the Senate Human Services Committee. My name is Shelly Peterson, President of the North Dakota Long Term Care Association. We represent 211 Basic Care, Assisted Living, and Nursing Facility members. I am here today in support of HB 1359 and ask for your support.

Basis Care is unique to North Dakota. It is a congregate residential setting with private and semi-private rooms. They have staff available 24/7 and residents range in age from 47 to 102 years old. The average cost in 2015 for one day of care in basic care is $117.43. This is an all-inclusive rate that includes all care and services.

Today fifty-one of the sixty-eight licensed Basic Care facilities participate in the basic care assistance program. Another ten Basic Care facilities are funded under the Medicaid Waiver Program, and they provide specialized care to those with dementia. Both programs allow North Dakota providers to provide cost effective 24 hour care and admission to a skilled nursing home is prevented or delayed. Each facility gets one rate and this amount is charged to each Medicaid resident. It is not acuity adjusted, so those with high care needs and those with low care needs pay the same rate. Facilities do not have equalization of rates, so they are allowed to charge private pay more if they choose too. Today less than 40% charge the private pay more. Those that do, indicate they must do so to cover operating over limits, having higher acuity residents, low occupancy or uncollectible resident accounts.

We have been advocating with the Department to change key features of the payment system, so today that request is before you. Originally HB 1359 contained four important provisions. I will first address the two issues that remain in the bill and then share with you information regarding the two features of the bill deleted by the House.

Reengrossed HB 1359 creates a new chapter to the century code as today everything is in rule. This new chapter gives the Department of Human Services rule making authority, but specifies how the system would work.

1. Limits

We have been studying and reviewing the different payment methodologies for the past 18 months. Subsection 3 on page 1 establishes how limits for direct costs and indirect costs will be established. Today limits in these two cost categories are based upon the 80th percentile bed. We request the methodology in how Limits be set go back to the method outlined in the original bill. The one adopted by the House could potentially result in limits decreasing, this is what has been occurring in the current methodology, so we feel it needs to be changed.

The chart below shows what has occurred with the Basic Care limits in the past five years.

Basic Care Limitations- 80th Percentile Bed

Rate Year	Direct Limit	Indirect Limit
2010	$38.61	$39.24
2011	$40.62 ↑	$36.82 ↓
2012	$44.07 ↑	$38.92 ↑
2013	$42.23 ↓	$39.98 ↑
2014	$45.34 ↑	$42.52 ↑

Before I explain the methodology we believe is best, I would like to explain what the House did. The direct care limit, which includes caregiver salaries, routine care supplies, laundry supplies and staff, social service and activity staff, is established by averaging the highest rate and lowest rate and then multiplying the averaged amount by seventy percent. To best illustrate how this works and the impact let's look at the Direct Care costs from 2014.

Review the charts showing the Direct & Indirect Facility costs.

House Human Services worked very hard to increase the Limits, in fact they used the average cost multiplied by the 85th percentile for direct and 80th percentile for

indirect. Thus the direct care limit increased by $15 per day and the indirect cost increased by $9.72 per day. We were so appreciative of House Human Services and their support in increasing the limits. The higher limits cost $574,449 in State General Funds, so House Appropriations amended the bill to get it to an appropriation level they could support. We were very happy the bill was still alive and achieved some appropriation so we would have the discussion in the Senate.

The good news is the Senate (SB 2012) supported the need to improve the Basic Care Program and provided an additional $623,735 in funding to help address the four priorities originally requested in HB 1359.

We are very grateful for what House Humans Services did to address the limits issues. The only reason we are requesting you to change the methodology is because it is based on "outliers" and limits could actually go down as illustrated should the most expensive facility close.

Today limits are based upon the 80th percentile bed. We propose to keep the percentile system but increase it and base it upon the facility at a certain percentile not the bed count.

Basic Care Limit System

Rate	Current	NDLTCA Proposed	House
Direct	80th percentile bed	90th percentile facility	High & Low averaged by 70%
Indirect	80th percentile bed	90th percentile facility	High & Low averaged by 70%

Keeping the percentile system we believe is the best, however using the facility for the ranking rather than the bed, will decrease the volatility in rates when total beds decrease or facilities close.

Our recommendation regarding how limits should be established is different from the Department of Human Services Long Term Care study by Myers & Stauffer. We had some concerns with some of the accuracy of the data used to reach conclusions in the study. We were also frustrated with the conclusion of making

the recommendations budget neutral. Today 39% of the basic care providers are limited and some will close if relief is not provided. We were pleased with one statement in the study related to basic care:

> *The Department should develop solutions and strategies to overcome obstacles to basic care utilization.*

Basic care is a great option for individuals that need assistance dressing, shaving, bathing, cooking, taking medication, etc. They don't need a nurse 24/7, as in skilled nursing facilities, they just need caregivers to help them, support them and be available 24/7 for supervision. It is an excellent system of care that is unique to ND and developed many years ago.

We are most grateful to the Department for action they took last year so Basic Care Limits didn't decrease last July 1st.

In 2014 the Department of Human Services through rule making changed the way Basic Care limits were set. They took this action because the current process resulted in rate inequities. They indicated in their Notice of Intent (Appendix A) that this was pending further revision of this section on the rate limitations. Basic Care needs a new system of establishing limits. We appreciate what the department did in 2014 to try to eliminate the rate inequities, as we found limits decreased in 2013 and that was very detrimental to a number of facilities. The fix helped in 2014 but we need a new methodology for setting rates. Last year we hired a former Department of Human Services Employee, who administered the Nursing Facility, Hospital and Basic Care rate setting program. With her guidance we studied the various accepted options of setting limits. Based upon that study we recommended limits be set based upon a percentile system.

The current methodology (80th percentile bed) is resulting in 39% of all BCAP (Basic Care Assistance Program) providers being limited. There is not a case mix adjustment, so facilities with higher need residents are negatively impacted. Smaller facilities or those connected to a nursing home, who are required to do specific allocations, find it very difficult to operate under the current limits. Costs in the Direct Care category include resident caregiver salaries, routine care supplies, laundry supplies and staff, social service & activity staff. To not cover

costs in this category means to cut back on staff caring for residents. This directly impacts the resident's quality of care.

Thus we be believe the Direct Care limit needs to cover the costs of more facilities, closer to the dollar amount supported by House Human Services and Senate Appropriation.

The Indirect Rate includes the following types of costs: Administration, Chaplain, Housekeeping and Dietary Salaries, Supplies, Utilities and Plant Operations. We believe this limit should be set at the 90th percentile facility.

2. Hospital Leave Days

Subsection 4 on page two allows for when a Basic Care resident needs hospitalization and then rehabilitation in a Nursing Facility or Swingbed, we believe they should be allowed 30 days. Today only 15 days are allowed for the hospitalization and the rehabilitation. During this period of time facilities are paid a much reduced room and board rate, but it helps and is important.

When a Basic Care resident is hospitalized it is our goal to have them return to the facility, however sometimes they need short term rehab in Nursing Facility or Swingbed before they can safely return to the Basic Care facility. Allowing 15 additional days is cost effective and will enable more individuals to remain in Basic Care, a more independent and less costly care setting. Last year we found 29 BCAP individuals exceeded the allowed 15 days. Together these individuals needed a total of 354 days of care (which is an average need of 12.21 additional days per individual). The Department of Human Services estimated cost to increase leave days to 30 is $30,798 annually. (House funded 5 additional days). The House added 5 hospital leave days, at an approximate cost of $10,334 annually. We request that you add an additional 10 days.

I would like to briefly cover two issues that were eliminated by the House, for your consideration.

Uncompensated Care:

This issue addresses the concern when individuals are receiving Basic Care Services, however they are not paying the bill. Many times these individuals are without income or assets, don't qualify for Medicaid but they still require care and services. Basic Care facilities are allowed to discharge these individuals but often there is no place to discharge them too. Today Nursing Facilities are allowed this coverage (360 days per individual) after the facility employs all measures of collection, including liens and suing to determine the debt is uncollectible with no likelihood of recovery.

Today Basic Care facilities try to manage very carefully non-payment and uncompensated care. The annual estimate to cover this is $63,965.

Salary Limitation:

The last issue has been a frustrating one. It is the issue of the Department of Human Services establishing a compensation limit for Basic Care providers. Nursing Homes and Basic Care are the only providers in North Dakota where the Department of Human Services establishes a limit on a cost that will be allowed in the rate. No one else is subjected to this type of limitation. At least with Nursing Facilities the limit for total compensation ($233,453) is set high enough that very few if any exceed it. The Basic Care limit for free-standing Basic Care facilities is $68,627. If your Basic Care facility happens to be connected to a Hospital or Nursing Facility, you get the higher limitation. We are trying to correct what is seen as an inequity amongst basic care facilities, all facilities should have the higher Nursing Facility limit.

Basic Care Top Management Compensation

	Basic Care Facility (Connected to a Nursing Facility)	Basic Care Facility (Connected to a Hospital)	Basic Care Facility (free-standing)
Top Management Compensation	$233,453	$233,453	$68,627

Please note, Basic Care has two limits on salary. It is an expense coded as an indirect care expenditure so you must also be under the indirect limit, as well as the salary limit.

In the 2013 Legislative Session the House and Senate passed legislation removing the Basic Care salary Limitation, only to have it vetoed by the Governor. In the veto message the Governor indicated the veto was because the enhanced salary was not funded in the budget for the Department of Humans Services. He went on to say the Legislation was reasonable, considering the difficulty of recruiting good management in our current economy. Please see the attached complete veto message.

In the end the top priorities of Basic Care (in order of priority) are:

1. Increasing the Direct and Indirect Care limits to the 90th Percentile Facility System ($492,870).
2. Increasing the Hospital leave days to 30 for Basic Care residents ($20,532).
3. Allowing uncompensated care at 180 days per qualified individual ($63,965).
4. Increasing the Salary Cap.

The Senate approved $623,735 to further enhance Basic Care funding. It is our recommendation that HB 1359 be amended to direct how this funding be used. We also request a statement be added to HB 1359 to be in agreement with an Administrative rule adopted by Department of Human Services last year to prevent any decrease of the limits from the previous year.

I've marked up Reengrossed HB 1359 with our suggested changes to best illustrate our recommendations for your consideration.

In summary, HB 1359 revamps and updates the Basic Care payment system. The current limits were set by rule in 1996, almost 20 years ago. There have been many changes throughout the years which have changed who facilities care for which in turn have impacted how facilities operate. Today 39% of basic care facilities have a limitation. Many facilities are also having occupancy issues, with 33 of 50 Basic Care below 90% occupancy (66%). All four features in HB 1359 are important with our priorities in order being: increase in limits and change in methodology, increase hospital leave days, allow uncompensated care and lastly increase the salary limitation. Basic Care is unique and an important part of the Long Term care continuum. Thank you for your consideration of HB 1359. I would be happy to answer any questions.

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

July 1 2014 DIRECT Rates

Rank			Beds	Direct Rate	
1	Pembilier Nursing Center	Walhalla	8	16.61	
2	Bethel 4 Acres Home	Jamestown	16	18.22	
3	Good Samaritan Society Devils Lake - Lake Country Manor	Devils Lake	7	25.69	
4	Good Samaritan Society - Fargo	Fargo	40	26.67	
5	Sheridan Memorial Home	McClusky	16	26.71	
6	Lutheran Home of the Good Shephard	New Rockford	6	26.74	
7	Edgewood Minot Senior Living, LLC	Minot	31	28.48	
8	Edgewood Fargo Senior Living, LLC	Fargo	10	28.54	
9	Odd Fellows Home	Devils Lake	43	28.75	
10	Good Samaritan Center Devils Lake	Devils Lake	13	28.76	
11	Dakota Hill Housing	Elgin	34	30.22	
12	Harold Haaland Home	Rugby	68	30.62	
13	Good Samaritan Society - Bismarck	Bismarck	18	31.38	
14	Evergreen	Dickinson	51	34.19	
15	Borg Memorial Home	Mountain	43	34.87	
16	Maddock Memorial Home	Maddock	25	35.82	
17	Edmore Memorial Rest Home	Edmore	20	36.05	
18	Bethel Lutheran	Williston	19	36.85	
19	Tufte Manor	Grand Forks	53	37.18	
20	St. Anne's Guest Home	Grand Forks	54	37.31	
21	Evergreen Place	Ellendale	20	38.66	← *$38.70 Scenario 2*
22	Parkwood Place Inn	Grand Forks	40	38.91	
23	Prairie Villa	Arthur	25	39.10	
24	Golden Manor	Steele	25	39.13	
25	Manor St. Joseph	Edgeley	40	39.18	
26	Edgewood Vista at Edgewood Village	Bismarck	41	39.59	
27	Edgewood Bismarck Senior Living, LLC	Bismarck	20	39.83	
28	Leach Home	Wahpeton	39	40.19	
29	Rock of Ages	Jamestown	53	43.02	
30	Bethany Homes	Fargo	53	44.12	
31	Gackle Care Center	Gackle	41	44.68	
32	Evergreens of Fargo - 1411	Fargo	18	45.18	

Rank			Beds	Direct Rate		
					80th	
33	Terrace	Bismarck	40	45.34	percentile	
34	Osnabrock Community Living Center	Osnabrock	15	45.87		
35	Four Seasons Health Care	Forman	5	46.16		
36	Senior Suites at Sakakawea	Hazen	34	46.94		
37	Evergreens of Fargo - 1401	Fargo	18	49.28	←	*$49.69 Averaged 70th percentile (House Appropriations)*
38	Lakeside Community Living Center	New Town	16	53.11		
39	Dunseith Community Nursing Home	Dunseith	5	53.55		
40	Sienna Court	Wahpeton	16	55.93		
41	Maple View of Kenmare	Kenmare	26	57.39	←	$60.34 Averaged 80th percentile (House Human Services)
42	Mott Good Samaritan Center	Mott	12	67.72		
43	Good Samaritan Society Park River	Park River	12	68.51		
44	Rolette Community Care Center	Rolette	10	72.59		
					90th	
45	Parkside Lutheran Home	Lisbon	10	79.39	percentile	
46	Bottineau Good Samaritan Center	Bottineau	7	82.42		
47	McKenzie County Healthcare	Watford City	9	85.51		
					95th	
48	Western Horizons Care Center	Hettinger	10	86.40	percentile	
49	Northwood Deaconess Health Center	Northwood	5	93.94		
50	Towner County Medical Center	Cando	7	125.37		
			1247			

Scenario 1:
Average lowest rate and highest rate and multiply by 70%

16.61
125.37
141.98 /2 = 70.99 X 70% = $49.69

Scenario 2:
Average lowest rate and 2nd highest rate and multiply by 70%

16.61
93.94
110.55 /2 = 55.28 X 70% = $38.70

9.10

July 1 2014 INDIRECT Rates

Rank			Beds	Indirect Rate
1	Edgewood Minot Senior Living, LLC	Minot	31	22.22
2	Sheridan Memorial Home	McClusky	16	22.65
3	Borg Memorial Home	Mountain	43	23.28
4	Sienna Court	Wahpeton	16	23.64
5	Harold Haaland Home	Rugby	68	27.36
6	Edgewood Fargo Senior Living, LLC	Fargo	10	27.46
7	Edgewood Bismarck Senior Living, LLC	Bismarck	20	27.63
8	Odd Fellows Home	Devils Lake	43	27.67
9	Dakota Hill Housing	Elgin	34	28.77
10	Edmore Memorial Rest Home	Edmore	20	29.47
11	Pembilier Nursing Center	Walhalla	8	29.55
12	Parkwood Place Inn	Grand Forks	40	29.55
13	Evergreens of Fargo	Fargo	18	30.12
14	Rock of Ages	Jamestown	53	30.20
15	Evergreens of Fargo - 1411	Fargo	18	30.25
16	Edgewood Vista at Edgewood Village	Bismarck	41	30.97
17	Prairie Villa	Arthur	25	32.55
18	Good Samaritan Society - Fargo	Fargo	40	33.30
19	Tufte Manor	Grand Forks	53	34.13
20	Terrace	Bismarck	40	34.93
21	Maddock Memorial Home	Maddock	25	35.51
22	Bethany Homes	Fargo	53	35.74
23	Evergreen Place	Ellendale	20	35.78
24	Maple View of Kenmare	Kenmare	26	35.83
25	Evergreen	Dickinson	51	37.05
26	Leach Home	Wahpeton	39	37.31
27	Bethel 4 Acres Home	Jamestown	16	37.32
28	Gackle Care Center	Gackle	41	37.65
29	Manor St. Joseph	Edgeley	40	37.81
30	Good Samaritan Society Devils Lake - Lake Country Manor	Devils Lake	7	37.85
31	Lutheran Home of the Good Shephard	New Rockford	6	38.15
32	Golden Manor	Steele	25	40.38

Rank			Beds	Indirect Rate	
				80th	
33	Good Samaritan Society - Bismarck	Bismarck	18	42.52	percentile bed
34	Bethel Lutheran	Williston	19	42.75	
35	St. Anne's Guest Home	Grand Forks	54	43.36	
36	Northwood Deaconess Health Center	Northwood	5	43.36	
37	Good Samaritan Society Park River	Park River	12	44.09	
38	Mott Good Samaritan Center	Mott	12	44.16	*$44.25 Scenario 2*
39	Western Horizons Care Center	Hettinger	10	44.79	
40	Four Seasons Health Care	Forman	5	45.04	
41	Good Samaritan Center Devils Lake	Devils Lake	13	45.39	*$45.71 Averaged 70th percentile*
42	Parkside Lutheran Home	Lisbon	10	45.87	*(House Appropriations)*
43	Senior Suites at Sakakawea	Hazen	34	46.48	
44	Rolette Community Care Center	Rolette	10	49.07	
				90th percentile	
45	Bottineau Good Samaritan Center	Bottineau	7	51.08	facility
46	Lakeside Community Living Center	New Town	16	62.16	
47	Dunseith Community Nursing Home	Dunseith	5	76.17	$52.24 Averaged 80th percentile
48	McKenzie County Healthcare	Watford City	9	77.79	(House Human Services)
49	Towner County Medical Center	Cando	7	104.21	
50	Osnabrock Community Living Center	Osnabrock	15	108.37	
			1247		

Scenario 1:
Average lowest rate and highest rate and multiply by 70%

22.22
108.37
130.59 /2 = 65.30 X 70% = $45.71

Scenario 2:
Average lowest rate and 2nd highest rate and multiply by 70%

22.22
104.21
126.43 /2 = 63.22 X 70% = $44.25

1.12

1.13

north dakota department of human services

Legal Advisory Unit

(701) 328-2311
Fax (701) 328-2173
Toll Free (800) 472-2622
ND Relay TTY (800) 366-6888

Jack Dalrymple, Governor
Maggie D. Anderson, Executive Director

NOTICE OF INTENT TO AMEND ADMINISTRATIVE RULES RELATING TO N.D.A.C. CHAPTER 75-02-07.1 RATESETTING FOR BASIC CARE FACILITIES

TAKE NOTICE that the North Dakota Department of Human Services will hold a public hearing to address proposed amendments to N.D. Admin. Code chapter 75-02-07.1 at 10:00 a.m. on Wednesday, April 2, 2014, in Bismarck, N.D. in Room 212, located on the second floor of the Judicial Wing of the State Capitol.

The proposed changes are as follows:

Section 75-02-07.1-01 is amended to update language in the definition of "depreciation guidelines," to correct a typographical error in the definition of "property costs," and to amend the definition of "specialized facility for individuals with mental disease" to reflect that they do not provide diagnoses.

Section 75-02-07.1-22 is amended to remove language that resulted in rate inequities and to set the direct care and indirect care limit rates beginning July 1, 2014, pending further revision of this section on rate limitations.

Section 75-02-07.1-23 is amended to allow notification of facilities by electronic mail on adjustments made based on a desk review.

Section 75-02-07.1-26 is amended to remove obsolete language and to address one-time adjustments for cost increases.

The proposed amendments are not anticipated to have an impact on the regulated community in excess of $50,000. No taking of real property is involved in this rulemaking action.

Copies of the proposed rules are available for review at county social services offices and at human service centers. Copies of the proposed rules and the regulatory analysis relating to these rules may be requested by telephoning (701) 328-2311. Written or oral data, views, or arguments may be entered at the hearing or sent to: Rules Administrator, North Dakota Department of Human Services, State Capitol - Judicial Wing, 600 E. Boulevard Ave., Dept. 325, Bismarck, ND 58505-0250. Written data, views, or arguments on the proposed rules must be received no later than 5:00 p.m. on Monday, April 14, 2014.

1.14

State of
North Dakota
Office of the Governor

Jack Dalrymple
Governor

April 11, 2013

The Honorable Bill Devlin
Speaker of the House
House Chambers
State Capitol
Bismarck ND 58505

Dear Speaker Devlin:

Pursuant to Article V, Section 9, of the North Dakota Constitution, I have vetoed House Bill 1209 and returned it to the House.

I hereby veto House Bill 1209 because the enhanced salary reimbursement proposed in the measure is not currently funded in the budget for the Department of Human Services, and there is no indication that it will be funded by either the House or the Senate. The proposal itself, which would allow reimbursement for higher compensation for top management personnel of a basic care facility, is a reasonable proposal, considering the difficulty of retaining good managers in our current economy. However, it is essential that any spending proposal have an identified source of funds. There is still time during this legislative session to amend the necessary language and the required funding of $435,481 in the budget bill for the Department of Human Services. That decision remains with the legislature.

Therefore, I am vetoing House Bill 1209.

Sincerely,

Jack Dalrymple

Jack Dalrymple
Governor

37:74:58

Received by: _____ Date: 4/11/13 Time: 4:43pm

600 E Boulevard Ave. • Bismarck, ND 58505-0001 • Phone: 701.328.2200 • Fax: 701.328.2205 • www.governor.nd.gov

1.15

Date of Action: April 19, 2013

Honorable Alvin A. Jaeger
Secretary of State
Bismarck, North Dakota

I certify this Act, House Bill No. 1209, together with the objections of Governor Jack Dalrymple, was returned to the House, being the body in which it originated, on April 11, 2013, at 4:43 p.m.; that the objections of the Governor were read at length on April 12, 2013, and entered upon the Journal; that the Bill was taken up for reconsideration; that the motion for reconsideration prevailed on April 19, 2013; and the roll was called and the Bill failed to pass, with less than two-thirds of the members-elect voting in the affirmative.

Vote:	Yeas	61
	Nays	31
	Absent and not voting	2

Bill Devlin
Speaker of the House

Bill J. Peterson
Chief Clerk of the House

1.16

15.0696.04000

Sixty-fourth
Legislative Assembly
of North Dakota

SECOND ENGROSSMENT

REENGROSSED HOUSE BILL NO. 1359

Introduced by

Representatives Kreidt, Hofstad, Kempenich, J. Nelson

Senator Unruh

A BILL for an Act to create and enact section 50-24.5-02 of the North Dakota Century Code, relating to basic care payment rates.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 50-24.5-02 of the North Dakota Century Code is created and enacted as follows:

50-24.5-02. Basic care payment rates.

1. The department shall establish, by rule, procedures for determining rates for the care of residents of basic care facilities that qualify as vendors of an aged, blind, and disabled persons program and for implementing provisions of this chapter. The procedures must be based on methods and standards that the department finds are adequate to recognize the costs that must be incurred for the care of residents in efficiently and economically operated basic care facilities.
2. The department shall identify costs that are recognized for establishing payment rates.
3. The department shall establish limits on actual allowable historical operating cost per diem based on cost reports of allowable operating costs. For the rate year beginning July 1, 2016, the department annually shall establish limits for cost categories using the costs reports submitted by all participating basic care providers for the report year preceding the rate year. ~~The department shall establish the direct care rate limit by taking the highest rate and lowest rate from the cost reports submitted for the report year preceding the rate year, and multiplying the averaged amount by seventy percent. The department shall establish the indirect care rate limit by taking the highest rate and lowest rate from the cost reports submitted for the report year preceding the rate year, and multiplying the averaged amount by seventy percent.~~

The Limits may not FALL beLow the direct care and indirect rates estAbLished For the 90th percentile FaciLity.

5. The department shall provide, by rule, for payment of rates paid by the aged, blind, and disabled persons program for a maximum of ~~twenty~~ 30 days per occurrence for leave days for a resident who is in a licensed health care facility when the resident is expected to return to the facility. ($20,532)

4. After the annual calculation of limits, the limit shall be the greater of the calculation or the previous years limit plus any legislatively approved inflationary adjustments.

6. The Department shall include an uncompensated care expense in an amount of one hundred eighty days in the aggregate for any one individual. ($63,965)

7. The annual compensation limit for top management personnel shall be established at $100,000 on 7-1-16 plus any legislatively approved inflationary adjustments.

2014 Fiscal Impact of Limits on Facilities

	Direct		Indirect	
	Direct Limited by	Cost to Increase Direct from current limit	Indirect Limited by	Cost to Increase Indirect from current limit
2014 Limit	$430,676		$151,821	
90th Percentile	$26,681	$403,995	$62,946	$88,875
95th Percentile	$5,836	$424,840		

Attach #2
HB 1359
03/10/15
#24548

Testimony
Engrossed House Bill 1359 – Department of Human Services
Senate Human Services Committee
Senator Judy Lee, Chairman
March 10, 2015

Chairman Lee, members of the Senate Human Services Committee, I am LeeAnn Thiel, Administrator of Medicaid Payment and Reimbursement Services of the Medical Services Division for the Department of Human Services. I am here today to provide information on the fiscal note for Engrossed House Bill 1359.

There are two parts of a facility's basic care payment, the personal care rate and the room and board rate. Federal Medicaid participation is available only for the personal care rate. The room and board rate is funded with all general fund. Federal Medicaid participation is only available for room and board costs for individuals residing in an institution. An institution is a hospital, nursing facility, intermediate care facility for individuals with intellectual disabilities, or a psychiatric residential treatment facility.

Fiscal Impact

The fiscal impact to the Medicaid program for the changes proposed in Engrossed House Bill 1359 for the 2015-2017 biennium is $267,683 for twelve months of which $262,950 is general funds. The fiscal impact to the Medicaid program for the 2017-2019 biennium is estimated to be $578,767 for 24 months of which $568,096 is general fund.

Today, there are 51 facilities enrolled as basic care assistance providers. The lowest daily rate is $62.39 and the highest daily rate is $165.74.

There are five components of the basic care rate: direct care, indirect care, room and board, property, and operating margin. Basic care rates have limits in two areas; direct care and indirect care. A provider could be limited in one of these categories but not in the other.

Proposed subsections 1 and 2 of Engrossed HB 1359 do not have a fiscal impact.

Proposed subsection 3 of Engrossed HB 1359 would establish the direct care and indirect care limits as follows for all providers participating in the basic care assistance program:

	Proposed	Current
Direct Care	Average of highest and lowest rate multiplied by 70%	80th Percentile Bed
Indirect Care	Average of highest and lowest rate multiplied by 70%	80th Percentile Bed

Proposed subsection 3 would require the Department to "rebase" the limits each year based on the current year's cost reports.

In July 2013, the Department contracted with Myers and Stauffer to do a study on various aspects of the long-term care continuum. One of the areas studied was how the limits for basic care are set. The final report discussed several methodologies that could be used for setting limits. The recommendation from the study is to use a cost-based methodology for setting basic care rates. This recommended method would take into account all providers' costs. The analysis in the final report identified that a median plus methodology would be budget neutral and is the same methodology used in nursing facility rate setting. Median plus means that

the median cost of all providers is inflated by a percentage to calculate the limits.

Proposed subsection 4 of Engrossed HB 1359 would allow for an increase in the medical care leave days from 15 days to 20 days for a resident in a hospital, swing bed, nursing facility and who is expected to return to the basic care facility. Only the room and board portion of the rate is reimbursed for a medical care leave day. The fiscal impact for this proposed change is all general fund.

I would be happy to address any questions that you may have.

Attach #1
HB 1359
03/17/15
25018

REENGROSSED HOUSE BILL NO. **1359**

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 50-24.5-02.3 of the North Dakota Century Code is created and enacted as follows:

50-24.5-02. Basic care payment rates.

1. The department shall establish, by rule, procedures for determining rates for the care of residents of basic care facilities that qualify as vendors of an aged, blind, and disabled persons program and for implementing provisions of this chapter. The procedures must be based on methods and standards that the department finds are adequate to recognize the costs that must be incurred for the care of residents in efficiently and economically operated basic care facilities.

2. The department shall identify costs that are recognized for establishing payment rates.

3. The department shall establish limits on actual allowable historical operating cost per diem based on cost reports of allowable operating costs. For the rate year beginning July 1, 2016, the department annually shall establish limits for cost categories using the costs reports submitted by all participating basic care providers for the report year preceding the rate year. ~~The department shall establish the direct care rate limit by taking the highest rate and lowest rate from the cost reports submitted for the report year preceding the rate year, and multiplying the averaged amount by seventy percent. The department shall establish the indirect care rate limit by taking the highest rate and lowest rate from the cost reports submitted for the report year preceding the rate year, and multiplying the averaged amount by seventy~~. The department shall work with stakeholders to determine

the methodology to be used to establish the annual limits required under this subsection within the limits of legislative appropriation.

4. The department shall provide, by rule and within the limits of legislative appropriation, for payment of rates paid by the aged, blind, and disabled persons program for a maximum of ~~twenty~~ thirty days per occurrence for leave days for a resident who is in a licensed health care facility when the resident is expected to return to the facility.

5. Within the limits of legislative appropriation, the department shall establish an uncompensated care expense of one hundred eighty days, and shall abolish the annual compensation cap for top management of basic care facilities.

3-31-15
#1
HB 1359

Testimony on HB 1359
Senate Appropriations Committee
March 31, 2015

Good Afternoon Chairman Holmberg and members of the Senate Appropriations Committee. My name is Shelly Peterson, President of the North Dakota Long Term Care Association. We represent 211 Basic Care, Assisted Living, and Nursing Facility members. I am here today in support of HB 1359 and ask for your support.

We need more funding in Basic Care and that is why we are here today:

Basic Care Funding

	Dollars	Days Per Month
2013-2015	$38.8 Million	18,706
2015-2017	$35.1 Million	19,767

Today 39% of the basic care providers are limited and some will close if relief is not provided. HB 1359 will provide potential for rate relief in July 2016 and into the future. We think working jointly with the Department on this issue is a good approach. The current system of setting limits has resulted in rate inequities, is nineteen years old and needs changes.

We have been advocating with the Department to change key features of the payment system, so today that request is before you. Reengrossed HB 1359 contains four important provisions.

1. Limits:

We have been studying and reviewing the different payment methodologies for the past 18 months.

The chart below shows what has occurred with the Basic Care limits in the past five years.

Basic Care Limitations- 80th Percentile Bed

Rate Year	Direct Limit	Indirect Limit
2010	$38.61	$39.24
2011	$40.62 ↑	$36.82 ↓
2012	$44.07 ↑	$38.92 ↑
2013	$42.23 ↓	$39.98 ↑
2014	$45.34 ↑	$42.52 ↑

The direct care limit includes caregiver salaries, routine care supplies, laundry supplies and staff, social service and activity staff. Today the direct care limit is $45.34 per day, and many facilities are exceeding this limit. To not cover costs in this category means to cut back on staff caring for residents. This directly impacts the resident's quality of care. See the attachment on Basic Care Facilities and how the limits impact them.

The good news is the Senate (SB 2012) supported the need to improve the Basic Care Program and provided an additional $623,735 in funding to help address the four priorities originally requested in HB 1359.

There has been a lot of discussion regarding how limits should be set. Subsection three requires the Department Human Services to work with stakeholders to determine the best methodology for setting limits and that it must be within legislative appropriations.

2. Hospital Leave Days

Subsection 4 on page two allows for when a Basic Care resident needs hospitalization and then rehabilitation in a Nursing Facility or Swingbed, we believe they should be allowed 30 days. Today only 15 days are allowed for the hospitalization and the rehabilitation. During this period of time facilities are paid a much reduced room and board rate, but it helps and is important. The Department of Human Services estimated cost to increase leave days to 30 is $30,798 annually.

3. Uncompensated Care

This issue addresses the concern when individuals are receiving Basic Care Services, however they are not paying the bill. Many times these individuals are without income or assets, don't qualify for Medicaid but they still require care and services. Basic Care facilities are allowed to discharge these individuals but often there is no place to discharge them too. Today Nursing Facilities are allowed this coverage (360 days per individual) after the facility employs all measures of collection, including liens and suing to determine the debt is uncollectible with no likelihood of recovery. Reengrossed HB 1359 provides for 180 days per individual. Today Basic Care facilities try to manage very carefully non-payment and uncompensated care. The annual estimate to cover this is $63,965.

4. Salary Limitation

Nursing Homes and Basic Care are the only providers in North Dakota where the Department of Human Services establishes a limit regarding salaries of top management. No one else is subjected to this type of limitation. At least with Nursing Facilities the limit for total compensation ($233,453) is set high enough that very few if any exceed it. The Basic Care limit for free-standing Basic Care facilities is $68,627. If your Basic Care facility happens to be connected to a Hospital or Nursing Facility, you get the higher limitation. We are trying to correct what is seen as an inequity amongst basic care facilities.

Basic Care Top Management Compensation

	Basic Care Facility (Connected to a Nursing Facility)	**Basic Care Facility (Connected to a Hospital)**	**Basic Care Facility (free-standing)**
Top Management Compensation	$233,453	$233,453	$68,627

If you eliminate the Salary Limitation, a limitation will still remain. Basic Care has two limits on salary. It is an expense coded as an indirect care expenditure so you are subjected to the indirect limit, just the specific limitation on salary will be removed.

In the 2013 Legislative Session the House and Senate passed legislation removing the Basic Care salary Limitation, only to have it vetoed by the Governor. In the veto message the Governor indicated the veto was because the enhanced salary was not funded in the budget for the Department of Humans Services. He went on to say the Legislation was reasonable, considering the difficulty of recruiting good management in

our current economy. Please see the attached complete veto message. Senate Human Services felt the salary limitation should be removed and we support that position.

In the end the top priorities of Basic Care (in order of priority) are:

1. Increasing the Direct and Indirect Care limits ($798,302)
2. Increasing the Hospital leave days to 30 for Basic Care residents ($20,532).
3. Allowing uncompensated care at 180 days per qualified individual ($63,965).
4. Increasing the Salary Cap ($566,000).

The Senate approved $623,735 to correct these issues in Basic Care. We request that you continue to support correcting the inequity in basic care funding.

In summary, HB 1359 allows for the Department of Human Services and Stakeholders to update the Basic Care payment system. The current limits were set by rule in 1996, almost 20 years ago. There have been many changes throughout the years which have changed who facilities care for which in turn have impacted how facilities operate. Today 39% of basic care facilities have a limitation. All four features in HB 1359 are important with our priorities in order being: increase in limits, increase hospital leave days, allow uncompensated care and lastly eliminate the salary limitation. Basic Care is unique and an important part of the Long Term care continuum. Thank you for your consideration of HB 1359. I would be happy to answer any questions.

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

July 1 2014 DIRECT Rates

Rank			Beds	Direct Rate
1	Pembilier Nursing Center	Walhalla	8	16.61
2	Bethel 4 Acres Home	Jamestown	16	18.22
3	Good Samaritan Society Devils Lake - Lake Country Manor	Devils Lake	7	25.69
4	Good Samaritan Society - Fargo	Fargo	40	26.67
5	Sheridan Memorial Home	McClusky	16	26.71
6	Lutheran Home of the Good Shephard	New Rockford	6	26.74
7	Edgewood Minot Senior Living, LLC	Minot	31	28.48
8	Edgewood Fargo Senior Living, LLC	Fargo	10	28.54
9	Odd Fellows Home	Devils Lake	43	28.75
10	Good Samaritan Center Devils Lake	Devils Lake	13	28.76
11	Dakota Hill Housing	Elgin	34	30.22
12	Harold Haaland Home	Rugby	68	30.62
13	Good Samaritan Society - Bismarck	Bismarck	18	31.38
14	Evergreen	Dickinson	51	34.19
15	Borg Memorial Home	Mountain	43	34.87
16	Maddock Memorial Home	Maddock	25	35.82
17	Edmore Memorial Rest Home	Edmore	20	36.05
18	Bethel Lutheran	Williston	19	36.85
19	Tufte Manor	Grand Forks	53	37.18
20	St. Anne's Guest Home	Grand Forks	54	37.31
21	Evergreen Place	Ellendale	20	38.66
22	Parkwood Place Inn	Grand Forks	40	38.91
23	Prairie Villa	Arthur	25	39.10
24	Golden Manor	Steele	25	39.13
25	Manor St. Joseph	Edgeley	40	39.18
26	Edgewood Vista at Edgewood Village	Bismarck	41	39.59
27	Edgewood Bismarck Senior Living, LLC	Bismarck	20	39.83
28	Leach Home	Wahpeton	39	40.19
29	Rock of Ages	Jamestown	53	43.02
30	Bethany Homes	Fargo	53	44.12
31	Gackle Care Center	Gackle	41	44.68
32	Evergreens of Fargo - 1411	Fargo	18	45.18

Rank	*July 1 2014 DIRECT Rates page 2*		Beds	Direct Rate	
33	Terrace	Bismarck	40	45.34	80th percentile bed
34	Osnabrock Community Living Center	Osnabrock	15	45.87	
35	Four Seasons Health Care	Forman	5	46.16	
36	Senior Suites at Sakakawea	Hazen	34	46.94	
37	Evergreens of Fargo - 1401	Fargo	18	49.28	
38	Lakeside Community Living Center	New Town	16	53.11	
39	Dunseith Community Nursing Home	Dunseith	5	53.55	
40	Sienna Court	Wahpeton	16	55.93	
41	Maple View of Kenmare	Kenmare	26	57.39	
42	Mott Good Samaritan Center	Mott	12	67.72	
43	Good Samaritan Society Park River	Park River	12	68.51	
44	Rolette Community Care Center	Rolette	10	72.59	
45	Parkside Lutheran Home	Lisbon	10	79.39	90th percentile facility
46	Bottineau Good Samaritan Center	Bottineau	7	82.42	
47	McKenzie County Healthcare	Watford City	9	85.51	
48	Western Horizons Care Center	Hettinger	10	86.40	
49	Northwood Deaconess Health Center	Northwood	5	93.94	
50	Towner County Medical Center	Cando	7	125.37	
			1247		

July 1 2014 INDIRECT Rates

Rank			Beds	Indirect Rate
1	Edgewood Minot Senior Living, LLC	Minot	31	22.22
2	Sheridan Memorial Home	McClusky	16	22.65
3	Borg Memorial Home	Mountain	43	23.28
4	Sienna Court	Wahpeton	16	23.64
5	Harold Haaland Home	Rugby	68	27.36
6	Edgewood Fargo Senior Living, LLC	Fargo	10	27.46
7	Edgewood Bismarck Senior Living, LLC	Bismarck	20	27.63
8	Odd Fellows Home	Devils Lake	43	27.67
9	Dakota Hill Housing	Elgin	34	28.77
10	Edmore Memorial Rest Home	Edmore	20	29.47
11	Pembilier Nursing Center	Walhalla	8	29.55
12	Parkwood Place Inn	Grand Forks	40	29.55
13	Evergreens of Fargo	Fargo	18	30.12
14	Rock of Ages	Jamestown	53	30.20
15	Evergreens of Fargo - 1411	Fargo	18	30.25
16	Edgewood Vista at Edgewood Village	Bismarck	41	30.97
17	Prairie Villa	Arthur	25	32.55
18	Good Samaritan Society - Fargo	Fargo	40	33.30
19	Tufte Manor	Grand Forks	53	34.13
20	Terrace	Bismarck	40	34.93
21	Maddock Memorial Home	Maddock	25	35.51
22	Bethany Homes	Fargo	53	35.74
23	Evergreen Place	Ellendale	20	35.78
24	Maple View of Kenmare	Kenmare	26	35.83
25	Evergreen	Dickinson	51	37.05
26	Leach Home	Wahpeton	39	37.31
27	Bethel 4 Acres Home	Jamestown	16	37.32
28	Gackle Care Center	Gackle	41	37.65
29	Manor St. Joseph	Edgeley	40	37.81
30	Good Samaritan Society Devils Lake - Lake Country Manor	Devils Lake	7	37.85
31	Lutheran Home of the Good Shephard	New Rockford	6	38.15
32	Golden Manor	Steele	25	40.38

Rank	*July 1 2014 INDIRECT Rates page 2*		Beds	Indirect Rate	
33	Good Samaritan Society - Bismarck	Bismarck	18	42.52	80th percentile bed
34	Bethel Lutheran	Williston	19	42.75	
35	St. Anne's Guest Home	Grand Forks	54	43.36	
36	Northwood Deaconess Health Center	Northwood	5	43.36	
37	Good Samaritan Society Park River	Park River	12	44.09	
38	Mott Good Samaritan Center	Mott	12	44.16	
39	Western Horizons Care Center	Hettinger	10	44.79	
40	Four Seasons Health Care	Forman	5	45.04	
41	Good Samaritan Center Devils Lake	Devils Lake	13	45.39	
42	Parkside Lutheran Home	Lisbon	10	45.87	
43	Senior Suites at Sakakawea	Hazen	34	46.48	
44	Rolette Community Care Center	Rolette	10	49.07	
45	Bottineau Good Samaritan Center	Bottineau	7	51.08	90th percentile facility
46	Lakeside Community Living Center	New Town	16	62.16	
47	Dunseith Community Nursing Home	Dunseith	5	76.17	
48	McKenzie County Healthcare	Watford City	9	77.79	
49	Towner County Medical Center	Cando	7	104.21	
50	Osnabrock Community Living Center	Osnabrock	15	108.37	
			1247		

North Dakota Department of Human Services
Comparison of Senate Amendments in SB 2012 to
Fiscal Estimate for NF and BC Rate Setting Bills
as of March 13, 2015

HB 1234

Nursing Facility Per Bed Property Limits [1]

	July 1, 2014	Proposed Amendment
Single	188,141	245,148
Double	125,426	163,430

	Total	General	Federal
Fiscal Estimate for Proposed Limits	314,825	157,408	157,417
Appropriation in SB 2012	600,000	300,000	300,000

HB 1359

Changes to Basic Care Rate Setting

	Total	General	Federal
Change Basic Care Limit Methodology	798,302	779,358	18,944
Increase Medical Care Leave Days from 15 to 30	30,798	30,798	-
Allow 180 Days of Bad Debt in Basic Care Rate Setting	63,965	63,965	-
Remove Top Management Limitation	566,157	267,683	298,474
Total Fiscal Estimate [2]	1,606,079	1,287,470	318,609
Appropriation in SB 2012	623,735	500,000	123,735

[1] The information for future construction projects was provided by the ND Long Term Care Assocation.

[2] The combination of the individual fiscal estimates is less than the Total Fiscal Estimate due to the application of the direct and indirect care limits.

#1

North Dakota Department of Human Services
HB 1359 Top Management Scenarios
as of April 15, 2015

All Scenarios based on July 1, 2016 Start Date

	2015-2017			2017-2019		
	Total	General	Federal	Total	General	Federal
No Top Management Limit with Current Limits	566,157	267,683	298,474	1,216,847	574,033	642,814
Top Management Limit of $97,116 with Current Limits	165,817	118,446	47,371	358,177	256,177	102,000

4-20-15 #1

PROPOSED AMENDMENTS TO REENGROSSED HB1359 (4000 Version)

Page 2, after line 4 insert

5. The department may issue a provisional license to a ~~basic care~~ assisted living facility, valid for no longer than ninety days, when there are one or more deficiencies related to rate of care or compliance with department rules. A provisional license may be renewed once for no longer than an additional ninety days. If the deficiencies have not been corrected upon the expiration of a provisional license, the department may deny the assisted living facility's application or revoke its license.

6. A tenant in need of hospice services, and exceeding tenancy criteria as determined by the facility may remain in the facility only if the tenant contracts with a third party, such as a hospice agency and/or utilizes family support to meet those needs.

15.0696.04002
Title.

Prepared by the Legislative Council staff for #1
Representative Weisz
April 20, 2015

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1359

That the Senate recede from its amendments as printed on pages 1303 and 1304 of the House Journal and page 909 of the Senate Journal and that Reengrossed House Bill No. 1359 be amended as follows:

Page 1, line 2, after "rates" insert "; and to amend and reenact sections 50-32-02 and 50-32-04 of the North Dakota Century Code, relating to assisted living facilities"

Page 2, after line 4, insert:

"**SECTION 2. AMENDMENT.** Section 50-32-02 of the North Dakota Century Code is amended and reenacted as follows:

50-32-02. Licensing of assisted living facilities - Penalty.

1. An entity may not keep, operate, conduct, manage, or maintain an assisted living facility or use the term "assisted living" in its advertising unless it is licensed by the department.

2. An assisted living facility shall pay to the department an annual license fee of seventy-five dollars for each facility. License fees collected under this section must be deposited in the department's operating fund in the state treasury. An expenditure from the fund is subject to appropriation by the legislative assembly.

3. An assisted living facility shall apply annually to the department for a license. After the fifty-ninth day following the notification of noncompliance with annual licensing, the department may assess a fine of up to fifty dollars per day against an entity that provides assisted living services or uses the term assisted living in its marketing without a license approved by the department. Fines collected under this section must be deposited in the department's operating fund in the state treasury. An expenditure from the fund is subject to appropriation by the legislative assembly.

4. If there are one or more deficiencies or a pattern of deficiencies related to quality of care or compliance with licensing requirements, the department may issue a provisional license. A provisional license may not be valid for more than ninety days. A provisional license may be renewed once for no longer than an additional ninety days. If the deficiencies have not been corrected upon the expiration of a provisional license, the department may deny the assisted living facility's application or revoke its license.

5. Religious orders providing individualized support services to vowed members residing in the order's retirement housing are not subject to this chapter.

~~5.~~6. No more than two people may occupy one bedroom of each living unit of an assisted living facility.

SECTION 3. AMENDMENT. Section 50-32-04 of the North Dakota Century Code is amended and reenacted as follows:

50-32-04. Assisted living facility health services - Limitations on hospice services.

1. An entity may provide health services to individuals residing in an assisted living facility owned or operated by that entity. For purposes of this ~~section~~subsection, health services means services provided to an individual for the purpose of preventing disease and promoting, maintaining, or restoring health or minimizing the effects of illness or disability.

2. A tenant of an assisted living facility who is in need of hospice services and who exceeds tenancy criteria, as determined by the facility, may remain in the facility only if the tenant contracts with a third party, such as a hospice agency, or utilizes family support, or both, to meet those needs."

Renumber accordingly

#1

15.0696.04004
Title.

Prepared by the Legislative Council staff for
Representative Weisz
April 20, 2015 4-21-15

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1359

That the Senate recede from its amendments as printed on pages 1303 and 1304 of the House Journal and page 909 of the Senate Journal and that Reengrossed House Bill No. 1359 be amended as follows:

Page 1, line 1, replace "50-24.5-02" with "50-24.5-02.3"

Page 1, line 4, replace "50-24.5-02" with "50-24.5-02.3"

Page 1, line 6, replace "**50-24.5-02**" with "**50-24.5-02.3**"

Page 1, line 14, remove "The department shall establish limits on actual allowable historical operating cost"

Page 1, replace lines 15 through 24 with "For the rate year beginning July 1, 2016, the department shall establish the limits by using the average of the highest and lowest rates from the 2014 rate year. The direct care limit must be ninety-five percent of the average and the indirect care limit must be ninety percent of the average. Beginning with the July 1, 2017, rate year, the department shall adjust the limits by using the cost percentage change from the prior two rate years, within the limits of legislative appropriations."

Page 2, line 1, after the second underscored comma insert "within the limits of legislative appropriations,"

Page 2, line 2, replace "twenty" with "thirty"

Page 2, after line 4, insert:

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

Renumber accordingly