

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

BUDGET COMMITTEE ON LONG-TERM CARE

Friday, September 18, 1998
Harvest Room, State Capitol
Bismarck, North Dakota

Senator Aaron Krauter, Chairman, called the meeting to order at 8:05 a.m.

Members present: Senators Aaron Krauter, Evan E. Lips, Harvey Sand, Russell T. Thane; Representatives Grant C. Brown, Mike Callahan, Ron Carlisle, Jeff W. Delzer, Gereld F. Gerntholz, Shirley Meyer, Lynn J. Thompson

Members absent: Senator Bill L. Bowman; Representative James O. Coats

Others present: See attached appendix

Chairman Krauter read a prayer written by Representative Coats in remembrance of the late committee chairman Representative Bill Oban.

It was moved by Senator Thane, seconded by Representative Gerntholz, and carried on a voice vote that the minutes of the previous meeting be approved as distributed.

Ms. Barb Fischer, Department of Human Services, presented the committee with an update on the policies and procedures which have been implemented by the Department of Human Services to allow for payment of basic care services in nursing facilities. A copy of her presentation is on file in the Legislative Council office. She said the department was able to implement procedures for the payment of basic care services in a nursing facility without rule changes. Ms. Fischer said the department issued guidelines and procedures to nursing facilities on August 20, 1998. She said the guidelines and procedures issued to the nursing facilities outline the criteria which allow for the payment of basic care services in nursing facilities.

Ms. Fischer said the policies are intended to assist residents who have been residing in a nursing facility and no longer meet the level of care criteria necessary to have Medicaid pay for nursing facility services. She said the individuals are usually either private pay when they were first admitted to the facility or they experience an improvement in their health to the point where they no longer need nursing facility care. Ms. Fischer said the policies are not intended to allow nursing facilities to admit basic care individuals. She said that is why the department included the requirement that an individual must have been in the facility for at least six months before payment can be made under the basic care assistance program. She said there is no assurance that everyone in a nursing

facility will have a payment funding source because if an individual does not meet nursing facility care criteria, that individual must still meet the basic care eligibility criteria, and the facility must be willing to accept the basic care payment as payment in full. She said the policy does provide a means of paying for basic care in a nursing facility for most of the individuals who no longer meet nursing facility level of care criteria after having lived in the facility.

BASIC CARE RATE EQUALIZATION AND RATESETTING METHODS

Ms. Fischer presented information on the task force recommendations regarding basic care rate equalization and ratesetting methods. A copy of her presentation is on file in the Legislative Council office. She said the task force recommended that rate equalization for basic care facilities be repealed. Ms. Fischer said two additional recommendations from the task force, which do not require statutory changes, are for the implementation of a three percent operating margin on direct care costs and the inclusion of allowable property costs in their entirety rather than subjecting property costs to the 80th percentile limitations.

The Legislative Council staff presented a bill draft repealing basic care rate equalization. The bill draft also amends the definition of a private pay resident to include managed care entities as being exempt from rate equalization and provides that the rate charged by managed care organizations may not be less than the rate approved for medical assistance recipients in the same classification.

Ms. Shelly Peterson, North Dakota Long Term Care Association, Bismarck, testified in support of the bill draft to repeal basic care rate equalization and the two task force recommendations regarding an operating margin of three percent of direct care costs and the inclusion of property costs as passthrough costs.

Representative Delzer asked if the Department of Human Services agrees with the recommendations contained in the task force report. Ms. Fischer said the cost of implementing the recommendations of the task force have not been included in the department's budget or in the optional adjustments. She said the costs were excluded because it was not known if this

committee would formally support the recommendations contained in the task force report.

In response to a question from Senator Krauter, Ms. Fischer said the cost of the three percent operating margin is \$150,000. She said there is currently \$100,000 in the department's budget for a two percent operating margin which sunsets at the end of the biennium. Therefore, the incremental cost of going from a two percent operating margin to a three percent operating margin is \$50,000.

LONG-TERM CARE FINANCING AND INCENTIVES, ALTERNATIVE SERVICES, CASE MANAGEMENT, MORATORIUM ON NURSING FACILITY AND BASIC CARE BEDS, AND SWING-BED FACILITIES

Ms. Fischer presented information regarding the task force recommendations relating to financing incentives to reduce the number of long-term care beds and the development of alternative services. A copy of her presentation is on file in the Legislative Council office. She said the task force made seven recommendations relating to the creation of incentives and disincentives, and the encouragement for facilities to reduce occupancy or licensed capacity or develop alternative home and community-based services for individuals at risk of institutionalization. She said three of the seven recommendations require action by the Legislative Assembly. Ms. Fischer reviewed the recommendations as follows:

Recommendations Requiring Action by the Legislative Assembly

- Change the definition of a private pay resident to exclude managed care organizations as an entity subject to rate equalization, thereby allowing managed care organizations to negotiate rates higher than the established rate.
- Study various incentive packages which could be used to assist rural communities and nursing facilities to close or reduce licensed capacity and provide alternative services.
- Study the use and effectiveness of the senior mill levy match funds to determine if the program should be expanded as a means of enhancing alternative services.

Recommendations Not Requiring Legislative Action

- Create a disincentive for facilities with a low case mix average and an incentive for facilities with a high case mix average by decreasing or increasing rates two and one-half percent.
- Provide an exception to the 90 percent occupancy limitation which would provide an incentive for a facility to delicense beds without having its rates negatively impacted by application of the limitation.

- Provide an incentive of a one to three percent increase in the daily rates for facilities that have an annual average length of stay below 200 days.
- Discontinue the study of managed care in the long-term care industry until North Dakota has gained experience with managed care in other health care environments, a case management system is developed, and alternatives to nursing facility care are developed or expanded.

The Legislative Council staff reviewed a bill draft presented earlier providing for a change in the definition of private pay resident to include a managed care organization as being exempt from rate equalization. The bill draft also provides that rates charged by managed care organizations may not be less than the rate approved for a medical assistance recipient in the same classification.

The Legislative Council staff presented a resolution draft providing for the study of the possibility of creating an incentive package to assist rural communities and nursing facilities in closing or significantly reducing bed capacity and providing alternative long-term care services and a resolution draft providing for the study of the mill levy match program for senior citizens to determine if the program could be expanded to enhance home and community-based service availability.

In response to a question from Senator Sand, Ms. Linda Wright, Department of Human Services, said the mill levy match was originally intended to be a dollar-for-dollar match. She said it is currently matching approximately 40 cents on the dollar.

Mr. Brian Arett, Fargo Senior Commission, Inc., testified in support of the resolution draft providing for the study of the mill levy match program for senior citizens. He said this funding goes to support in-home services.

Mr. David Giessinger, Pemblier Nursing Center, Walhalla, testified in support of the bill and resolution drafts before the committee. He said no matter how good the reimbursement system is, if a facility does not have sufficient occupancy to maintain itself, it will be in financial trouble. He said his facility has gone from 60 skilled care beds to 41 skilled care beds in the past few years. Mr. Giessinger said the facility further reduced its number of beds by six in 1995. He said in 1996 the facility purchased 13 basic care beds from a facility which had closed and reduced its number of skilled care beds by 13 in order to create a basic care unit. He said more recently the facility has added a 16-unit congregate care unit.

Mr. Giessinger said what the Pemblier Nursing Center is attempting to do is retain people who will someday need skilled care. He said without offering these alternative services, individuals in need of lower levels of care leave the community in order to obtain the proper level of care and then as their care needs

progress the individuals do not return to the community.

Mr. Dave Zentner, Department of Human Services, presented information regarding the task force recommendations relating to the development of alternative services, case management, the continuation of the moratorium on nursing facility and basic care bed expansion, and the need to further study the swing-bed process. A copy of his presentation is on file in the Legislative Council office. He said the task force recommended that changes be made to repeal current service definitions and licensing standards for assisted living and basic care. He said, in addition, new definitions, licensing requirements, and payment policies would be developed to ensure that the elderly and disabled in need of long-term care services have an opportunity to remain in their homes or communities, if that is their choice, and appropriate care can be provided. He said because of the extensiveness of these changes and the amount of time needed to develop the rules, procedures, and policies necessary to implement the recommendations, it is recommended that the legislation allow for a two-year transition period for the implementation of the changes.

Mr. Zentner said the task force also recommended that the targeted case management Medicaid service option be used to provide care management services to individuals at risk of placement in a nursing facility. He said the cost of this new program would be minimal because it is anticipated that Medicaid clients currently receiving service payments for elderly and disabled (SPED) or expanded SPED case management services, with 100 percent state funds, would qualify to receive approximately 70 percent federal funding through this optional service. He said, in addition, the task force recommended that individuals eligible for the Medicaid program be required to obtain a preadmission assessment prior to entering a nursing facility to ensure that all available service options are considered.

Mr. Zentner said the task force also recommended that the current moratorium on nursing facility and basic care bed capacity remain in effect, but with one exception. He said the exception would allow for the operation of a specialized basic care facility to meet the needs of the traumatic brain-injured (TBI) in western North Dakota.

Mr. Zentner said the task force also examined the use of swing-bed facilities in the delivery of long-term care services. He said the task force concluded that further study is necessary before any recommendations can be made regarding any changes to the current policies for the operation of swing beds in the hospitals in the state.

The Legislative Council staff presented a bill draft to remove basic care and assisted living from the North Dakota Century Code and to create an adult residential care facility definition. The bill draft also provides that the Department of Human Services may

pay for any service provided to an eligible beneficiary out of any source of funds available to the department unless expressly precluded from doing so by law. The bill draft provides that the repeal of basic care and assisted living and the creation of adult residential care facilities would be effective July 1, 2001.

The Legislative Council staff presented a bill draft providing that targeted case management services for disabled and elderly individuals at risk of entering nursing facilities or hospital swing-bed facilities be provided to assure that the individual's care alternatives are evaluated and considered. The bill draft also provides that each nursing facility and hospital swing-bed facility shall assure that each individual requiring an assessment receives that assessment before admission and that the assessment must be used to determine the type of services necessary to maintain each individual and to determine which long-term care alternatives, if any, can meet those needs. The bill draft provides that the assessment may not be used as a condition of admission to a long-term care facility.

The Legislative Council staff presented a bill draft to continue the current moratorium on nursing facility and basic care beds and to provide an exception to the basic care bed moratorium for the establishment of a TBI facility in the western part of North Dakota.

The Legislative Council staff presented a resolution draft providing for a Legislative Council study of the swing-bed process to determine if changes are necessary in the current requirements for providing services to swing-bed residents, including the need for a standard assessment process, and whether any limits, such as length of stay or number of available swing beds, should be implemented.

Mr. Murray Sagsveen, State Health Officer, State Department of Health, commented on the department's approval of a pilot project TBI facility in western North Dakota. He said based on a 1991 law (North Dakota Century Code (NDCC) Section 23-01-04.3), the State Health Council approved an alternative health care services pilot project for Housing Industry and Training (HIT), Inc., in Mandan, to provide a TBI facility in western North Dakota. He said the State Health Council followed the provisions of Section 23-01-04.3 and approved the application after the completion of a public hearing. He said the approval of the project will expire at the end of a five-year period or upon the Legislative Assembly passing the legislation being considered by this committee, relating to the exception to the basic care bed moratorium for a TBI facility in western North Dakota.

Mr. Kirk L. Greff, Administrator, Dacotah Alpha, Mandan, presented information regarding the task force recommendation for a TBI facility in western North Dakota. A copy of his presentation is on file in the Legislative Council office. He said HIT, Inc., has proposed to address the shortage of TBI designated beds by either locating or building an 8- to 12-bed

facility in the western portion of the state. He said the facility would meet, at a minimum, basic care programming, construction, and Life Safety Code requirements. Mr. Greff said unlike basic care facilities, the facility would specifically address the needs of the TBI population who are most commonly younger adults. He said this facility would help ensure that this special group would receive the necessary and appropriate services near their homes. He said a decision has not yet been made as to the location of the facility.

In response to a question from Senator Krauter, Mr. Greff said this type of facility provides the missing link in the care continuum for TBI individuals. He said currently TBI individuals are expected to go from a long-term care facility to independent living without an in-between transitional care step. He said the facility by Valley City is full and very difficult to get into. He said this would provide a similar facility in the western part of the state.

Ms. Tamara Will, TBI survivor, Bismarck, testified in support of the bill providing an exception to the basic care bed moratorium for the establishment of a TBI facility in western North Dakota. A copy of her presentation is on file in the Legislative Council office. She expressed support for this type of residential facility so that TBI individuals have an alternative to living in nursing homes. She said most TBI individuals are not elderly and, therefore, should not be in nursing homes.

Mr. Jeff Mattern, TBI survivor, Bismarck, testified in support of the bill providing an exception to the basic care bed moratorium for the establishment of a TBI facility in western North Dakota. A copy of his presentation is on file in the Legislative Council office. He said a facility for TBI individuals is needed in order to provide help to TBI individuals, give them a better start at living independently, and provide them with the support and retraining needed to adjust to the effects of the brain injury.

Ms. Wilma A. Ellingson, parent of a TBI survivor, Bismarck, testified in support of the bill providing an exception to the basic care bed moratorium for the establishment of a TBI facility in western North Dakota. A copy of her presentation is on file in the Legislative Council office. She said a residential facility in western North Dakota for TBI individuals is long overdue. She said there are many TBI individuals living in apartments without any support or in skilled nursing homes or group homes. She said TBI individuals do not belong in nursing homes because they are generally much younger than the other residents. She said they also do not belong in group homes for people with developmental disabilities. She said TBI individuals are very different and require services and residential needs specific to their type of disability.

In response to a question from Senator Krauter, Mr. Sagsveen said the State Department of Health

had contacted the Attorney General's office regarding its approval of an alternative health care services pilot project. He said the response from the Attorney General's office was that the section relating to alternative health care services pilot projects was not in conflict with the basic care bed moratorium. He said based on the response of the Attorney General's office, the State Health Council went ahead and approved the request from HIT, Inc.

Senator Krauter asked how this type of facility could be considered an alternative health care service when there is already a facility providing this type of service within the state. Mr. Sagsveen said the section provides that anytime the health care needs of a city, township, or other geographic area are not being adequately met, any person may apply to the State Health Council for approval to conduct an alternative health care services pilot project. He said based on that, it was determined that although a facility exists near Valley City, it is not adequately serving the health care needs of the western portion of the state.

Ms. Peterson presented information regarding the task force's recommendations relating to financing incentives, alternative services, case management, the moratorium on the number of beds, and swing beds. A copy of her presentation is on file in the Legislative Council office. She said the North Dakota Long Term Care Association is embracing the task force recommendations of downsizing by aggressively working with its members to diminish nursing facility capacity by the end of the next biennium. She said the association supports the Department of Human Services application for federal funds available under intergovernmental transfer provisions. She said under such a provision, grants could be made available to nursing facilities willing to decrease their bed size and transition into other services. She said it is her understanding that the department is exploring this option and believes it holds potential.

Ms. Peterson said the North Dakota Long Term Care Association opposes the recommendation relating to penalizing low case mix nursing facilities. She said if it is determined that a person needs nursing facility placement but the individual is in a low case mix classification, the nursing facility should not be penalized. She said under the targeted case management system proposed by the task force, an individual will know all of their options. She said if other options are available and the case manager helps an individual access those options, the system should prevent low case mix individuals from entering nursing facilities. Ms. Peterson said the majority of low case mix individuals are people with Alzheimer's or some type of dementia. She said these individuals are low case mix because many of them can dress and feed themselves; nevertheless, they require 24-hour supervision, frequent staff intervention, and very close monitoring. She said many times these

individuals are the most difficult to care for even though they are not the residents with the highest medical needs.

Ms. Peterson said the North Dakota Long Term Care Association supports rebasing for nursing facilities. She said many facilities are struggling because of limits and occupancy problems. She said it is not feasible to plan for transition to alternative services if the facilities do not have the financial resources to do so. She said nursing facilities need to have their current costs recognized so they have the financial flexibility to look and plan for the future.

Mr. Darwin Lee, Administrator, Westhope Home, Westhope, and Chairman, North Dakota Long Term Care Association, presented information regarding nursing home rate rebasing. A copy of his presentation is on file in the Legislative Council office. He said the North Dakota Long Term Care Association supports the rebasing of the limits used to establish nursing home rates and the use of at least an average of the DRI/CPI inflation indexes in establishing inflators for nursing home rates.

Mr. Lee said the limits for three of the four cost categories were established based on 1992 costs. He said the direct care cost limit was established at the 99th percentile, the other direct care cost limit was established at the 85th percentile, and the indirect care cost limit was established at the 75th percentile. He said property costs basically have no limit.

Mr. Lee said when the system was created, it was recommended by the department, consumers, and providers that inflation for expenses be properly recognized and funded. He said if the inflators were accurate, then the number of nursing homes getting their costs back should have stayed in line with the percentile limits or increased if the facilities were able to increase the efficiency of their operations. He said the inflators used the past four or five years have not kept up with actual increases in costs and because of that, the rates for 1998 reflect the following:

- In the direct care category, 16 percent or 13 nursing facilities are not recovering their costs.
- In the other direct care category, 26 percent or 32 nursing facilities are not recovering their costs.
- In the indirect cost category, 51 percent or 42 nursing facilities are not recovering their costs.

Mr. Lee said the North Dakota Long Term Care Association encourages the Department of Human Services to request funding within its 1999-2001 biennium budget for rebasing the cost limits and using an average of the DRI/CPI inflation indexes. He said the Department of Human Services has estimated the cost of rebasing at approximately \$7 million. He said since this figure represents only 56 percent of the occupancy, the shortage to nursing homes is \$12 million to \$13 million. Mr. Lee said since federal dollars cover approximately \$4.9 million of the

\$7 million, the cost to the state general fund would be \$2.1 million for the next biennium.

Mr. Lee said the estimated cost to maintain the average of the DRI/CPI inflation indexes is approximately \$1.5 million. He said overall the impact to nursing homes is \$2.7 million. He said the \$2.7 million is comprised of \$450,000 of state general fund moneys, \$1,050,000 in federal funds, and \$1.2 million generated by the private pay individuals.

Senator Krauter expressed concern regarding earlier comments relating to the banking of beds. He said he is concerned that the State Department of Health has interpreted the law passed by the 1997 Legislative Assembly as allowing for "bed banking." Ms. Peterson said the North Dakota Long Term Care Association interprets the law the same as the Legislative Assembly had intended which would not allow bed banking. Mr. Zentner said the Department of Human Services also interpreted the law to not allow bed banking. He said he reviewed his testimony from the prior session and nowhere in his testimony did he refer to bed banking. Mr. Zentner said because the State Department of Health is interpreting the law differently, the Department of Human Services has requested a formal Attorney General's opinion on this subject to determine if bed banking is allowed.

In response to a question from Senator Krauter, Mr. Zentner said there is no provision in law requiring the Department of Human Services to rebase the cost reimbursement system. He said during the last few years is when there has been a significant increase in the number of facilities reaching the limits. He said funding for rebasing has not been included in the 95 percent budget or the optional adjustment request for the 1999-2001 biennium.

It was moved by Senator Thane, seconded by Senator Lips, and carried that the bill draft to repeal basic care rate equalization and change the definition of private pay resident be approved and recommended to the Legislative Council. Voting "aye" were Senators Krauter, Lips, Sand, and Thane and Representatives Brown, Callahan, Carlisle, Delzer, Gerntholz, Meyer, and Thompson. No negative votes were cast.

It was moved by Senator Lips, seconded by Senator Thane, and carried that the bill and resolution drafts providing for the removal of basic care and assisted living and the creation of an adult residential care facility, the continuation of the nursing facility and basic care bed moratoriums and the exception to the basic care bed moratorium for a TBI facility, the study of the swing-bed process, the study of an incentive package to assist rural communities and nursing facilities in closing or significantly reducing bed capacity and providing alternative long-term care services, and the study of the senior citizens mill levy match be approved and recommended to the Legislative Council. Voting "aye" were Senators

Krauter, Lips, Sand, and Thane and Representatives Brown, Callahan, Carlisle, Delzer, Gerntholz, Meyer, and Thompson. No negative votes were cast.

It was moved by Senator Lips, seconded by Representative Callahan, and carried that the bill draft providing for the implementation of targeted case management be approved and recommended to the Legislative Council. Voting "aye" were Senators Krauter, Lips, Sand, and Thane and Representatives Callahan, Carlisle, Gerntholz, and Thompson. Voting "nay" were Representatives Brown, Delzer, and Meyer.

The committee recessed for lunch at 11:50 a.m. and reconvened at 12:55 p.m.

ALZHEIMER'S AND RELATED DEMENTIA POPULATION PILOT PROJECT AND THE DELIVERY OF ALTERNATIVE SERVICES

Mr. Zentner presented information on the task force recommendations regarding the pilot projects for Alzheimer's and related dementia populations. A copy of his presentation is on file in the Legislative Council office. He said due to delays in the start of the pilot projects, it will not be possible to fully evaluate the effectiveness of the projects during the current biennium. He said the task force concluded that the projects need to be extended beyond the current biennium in order to determine if this concept is financially viable and is an appropriate setting for the delivery of services.

Mr. Zentner said the task force recommended that the Department of Human Services be authorized to continue the Alzheimer's and related dementia population pilot projects into the 1999-2001 biennium and that the department be required to monitor the progress of the projects and prepare a report for the Legislative Assembly that provides conclusions and recommendations regarding the future of the pilot projects. He said in addition, the task force had two recommendations which do not require action by the Legislative Assembly. He said these recommendations were that the Department of Human Services allow other entities the opportunity to develop alternative residential services for Alzheimer's and related dementia populations that meet quality and financial standards established by the department. He said the other recommendation is that the projects be funded from existing appropriations for the Medicaid home and community-based services waiver or the expanded SPED program.

The Legislative Council staff presented a bill draft providing for the continuation of the pilot projects and for the Department of Human Services to monitor the projects and report to the Legislative Council by June 30, 2000.

It was moved by Senator Lips, seconded by Representative Gerntholz, and carried that the bill draft providing for the continuation of the Alzheimer's and related dementia population pilot

projects be approved and recommended to the Legislative Council. Voting "aye" were Senators Krauter, Lips, Sand, and Thane and Representatives Brown, Callahan, Carlisle, Delzer, Gerntholz, Meyer, and Thompson. No negative votes were cast.

GEROPSYCHIATRIC SERVICES, HOME AND COMMUNITY-BASED SERVICES AVAILABILITY, AND TRAINING OF IN-HOME CARE PROVIDERS

Mr. Fred Larson, State Department of Health, presented information on the task force recommendations relating to geropsychiatric services. A copy of his presentation is on file in the Legislative Council office. He said the task force made two recommendations requiring legislative action. He said the first recommendation is for a study of the expansion of psychiatric and geropsychiatric training for general practice and family practice physicians at the University of North Dakota School of Medicine and Health Sciences. He said the second recommendation is for an exception to the case mix system of nursing home reimbursement to allow for the establishment of a 14-bed geropsychiatric nursing unit to serve clients who are elderly or physically disabled and severely mentally ill.

Mr. Larson said in addition to the task force recommendations which require legislative action, the task force also recommended that the State Department of Health and the Department of Human Services expand the continuing education opportunities in psychiatric and geropsychiatric care for rural North Dakota primary care providers, in cooperation with the state's medical, psychiatric, and nursing associations. He said the task force also recommended the expansion of networking models for the provision of services to the elderly, including geropsychiatric services to all human service centers and the integration of the human service centers and the State Hospital into telemedicine networks to enhance access in rural North Dakota to psychiatric and geropsychiatric services. Mr. Larson said the task force also recommended that the Department of Human Services contract with an existing nursing facility for the establishment of a 14-bed geropsychiatric nursing unit.

The Legislative Council staff presented a resolution draft providing for a study of the expansion of psychiatric and geropsychiatric training for general practice and family practice physicians at the University of North Dakota School of Medicine and Health Sciences. The Legislative Council staff also presented a bill draft providing for an exception to the case mix system for a geropsychiatric unit to be located within a nursing facility.

In response to a question from Representative Delzer, Mr. Larson said the State Hospital intends on closing its geropsychiatric unit if this bill is passed and a separate unit is established in a nursing facility.

In response to a question from Representative Delzer, Mr. Larson said it would not be a problem to add language regarding the closing of the unit at the State Hospital. He said the budget submitted by the State Hospital for the 1999-2001 biennium is based on the unit being closed and the services being provided elsewhere.

It was moved by Representative Delzer, seconded by Senator Sand, and carried on a voice vote that the bill draft providing for an exception to the case mix system for a geropsychiatric unit be amended to include language relating to the State Hospital at Jamestown no longer maintaining a geropsychiatric unit.

It was moved by Representative Delzer, seconded by Representative Brown, and carried that the bill draft, as amended, providing for an exception to the case mix system for a geropsychiatric unit and the resolution draft providing for a study of the expansion of psychiatric and geropsychiatric training for general practice and family practice physicians be approved and recommended to the Legislative Council. Voting "aye" were Senators Krauter, Lips, Sand, and Thane and Representatives Brown, Callahan, Carlisle, Delzer, Gerntholz, Meyer, and Thompson. No negative votes were cast.

Mr. Chester E. Nelson, Jr., Legislative Budget Analyst and Auditor, Legislative Council, said the additional language to be added to the bill draft would be a sentence at the end of the second section stating that the State Hospital may no longer offer these services once the beds are occupied.

Ms. Mary Evanson, Task Force on Long-Term Care Planning, presented information on the task force's recommendations on home and community-based services availability and qualified service provider training. A copy of her presentation is on file in the Legislative Council office. She said in regard to the service availability portion of the task force report, the recommendation is for the Aging Services Division of the Department of Human Services to contract for an assessment of home and community-based services to determine the extent of the current and future service delivery systems needs for persons aged 60 and older and for persons with physical disabilities ages 18 through 59.

Ms. Evanson said the task force recommendations relating to the training of in-home care providers are as follows:

- That the Department of Human Services coordinate with the State Board for Vocational and Technical Education for the establishment of a statewide model curriculum for in-home care certification and competency.
- That the Task Force on Long-Term Care Planning investigate the impact of a formalized in-home care training program on service availability and quality service delivery.

- That competitive reimbursement rates be developed in order to retain in-home care providers and that a market analysis be done in order to determine the financial resources needed to support the in-home care provider system.

ADULT PROTECTIVE SERVICES

Ms. Wright presented information on the task force recommendation on adult protective services. A copy of her presentation is on file in the Legislative Council office. She said the recommendation of the task force is that NDCC Chapter 50-25.2 be amended to require implementation of the vulnerable adult protective services statute. She said the recommendation also provides that the legislation should permit assignment within the existing administrative structure with clear direction for cooperation and collaboration with existing programs which serve adults in North Dakota.

Ms. Wright said the Aging Services Division of the Department of Human Services has submitted a budget request for adult protective services for the 1999-2001 biennium totaling \$572,400 of general fund moneys. She said the changes to the vulnerable adult statute as contained in the bill draft being considered by this committee will create a very difficult situation in regard to the implementation of the statute unless the financial resources are provided for the 1999-2001 biennium and future bienniums. She said the legal advisory unit of the Department of Human Services has informed her that the repeal of Section 50-25.2-14 without the necessary funding to provide the program would expose the staff of the department and the county social service boards to possible liability for civil money damages.

The Legislative Council staff presented a bill draft relating to the implementation of the vulnerable adult protective services statutes.

Representative Delzer said he does not support the bill draft because it forces future Legislative Assemblies into funding this program or removing the program from the statutes. He said the best alternative is to not change the statutes because if funding is provided, the current statute does not hinder the implementation of the program, and if funding is not provided, it does not put the department or county social service agencies at jeopardy of lawsuits.

Mr. Clarence Daniel, Director, Stutsman County Social Service Board, and Cochair of the Adult Services Committee of the North Dakota Association of Social Service Directors, Jamestown, presented information on adult protective services. A copy of his presentation is on file in the Legislative Council office. He said the county social service directors support the implementation of the adult protective services statutes, and most would intend that their staff be involved in the provision of some of those services. Mr. Daniel said he does not support the bill draft in its current form. He said the language in the statute

relating to the subject of legislative appropriations should be left in the statute in order to protect the Department of Human Services and county social service boards from possible lawsuits.

Chairman Krauter said this bill draft follows the direction of the study conducted by the committee throughout the interim. He said the bill draft should be approved by this committee and recommended to the Legislative Council and from there to the Legislative Assembly so the issue can be decided by the entire Legislative Assembly.

It was moved by Representative Meyer, seconded by Senator Thane, and failed that the bill draft to implement the vulnerable adult protective services statutes be approved and recommended to the Legislative Council. Voting "aye" were Senators Krauter, Lips, and Thane and Representatives Callahan and Meyer. Voting "nay" were Senator Sand and Representatives Brown, Carlisle, Delzer, Gerntholz, and Thompson.

AMERICAN INDIAN LONG-TERM CARE NEEDS

Mr. Larson presented information regarding the task force recommendation relating to American Indian long-term care needs. A copy of his presentation is on file in the Legislative Council office. He said because the task force was unable to establish a committee comprised of representatives of each reservation and non-American Indians to study these issues, a different approach is needed. He said the task force is recommending the study be continued and that a working group be established on each reservation to carry out the study during the next interim.

The Legislative Council staff presented a resolution draft calling for a Legislative Council study of American Indian long-term care and case management needs, access to appropriate services, and the functional relationship between state service units and the North Dakota American Indian reservation service systems.

It was moved by Senator Lips, seconded by Senator Thane, and carried that the resolution draft for a Legislative Council study of American Indian long-term care and case management needs be approved and recommended to the Legislative Council. Voting "aye" were Senators Krauter, Lips, Sand, and Thane and Representatives Brown, Callahan, Delzer, Gerntholz, and Thompson. No negative votes were cast.

Chairman Krauter said the committee needs to make a decision regarding the task force report. He said he would intend that the committee would accept the report of the Task Force on Long-Term Care Planning without specifically addressing every nonstatutory recommendation contained in the report. He said if there is a recommendation the committee does not agree with or would like to modify, that

recommendation or recommendations should be specifically mentioned as not being accepted or specifically amended through a separate motion.

It was moved by Senator Thane, seconded by Representative Brown, and carried that the Budget Committee on Long-Term Care accept the June 1998 report of the Task Force on Long-Term Care Planning except for the recommendation relating to the Department of Human Services increasing limit rates by two and one-half percent for nursing facilities with high case mix averages and decreasing limit rates by two and one-half percent for nursing facilities with low case mix averages. Voting "aye" were Senators Krauter, Lips, Sand, and Thane and Representatives Brown, Callahan, Delzer, Gerntholz, and Thompson. No negative votes were cast.

Representative Gerntholz presented a bill draft relating to requirements for family foster homes for adults. He said the bill relates to an issue Representative Wentz brought to this committee at one of its earlier meetings.

It was moved by Representative Gerntholz, seconded by Representative Brown, and failed that the bill draft relating to the requirements for family foster homes for adults be approved and recommended to the Legislative Council. Voting "aye" was Representative Gerntholz. Voting "nay" were Senators Krauter, Lips, Sand, and Thane and Representatives Brown, Callahan, Delzer, Meyer, and Thompson.

It was moved by Senator Lips, seconded by Representative Brown, and carried on a voice vote that the chairman and the staff of the Legislative Council be requested to prepare a report and the bill and resolution drafts recommended by the committee and to present the report and the recommended bill and resolution drafts to the Legislative Council.

Chairman Krauter expressed his thanks and appreciation to the staff and committee members for the fine job done throughout the interim. He also thanked the Department of Human Services and the State Department of Health and the Task Force on Long-Term Care Planning members for the time and effort they put toward the studies and recommendations and for the preparation of the task force report. Chairman Krauter also recognized Senator Lips and expressed appreciation and congratulations to him on his long and distinguished career in the North Dakota Legislative Assembly and wished him well on his retirement from the North Dakota Senate.

It was moved by Representative Callahan, seconded by Representative Meyer, and carried that the Budget Committee on Long-Term Care include a recommendation in its report to the Legislative Council that the Department of Human Services is encouraged to rebase the long-term care payment reimbursement system and to

develop a regular rebasing schedule for the long-term care payment reimbursement system. Voting "aye" were Senators Krauter, Lips, Sand, and Thane and Representatives Brown, Callahan, Gerntholz, Meyer, and Thompson. Voting "nay" was Representative Delzer.

It was moved by Representative Brown, seconded by Senator Lips, and carried on a voice vote that the meeting be adjourned sine die. The meeting was adjourned at 2:35 p.m.

Paul R. Kramer
Senior Fiscal Analyst

Chester E. Nelson, Jr.
Legislative Budget Analyst and Auditor

ATTACH:1