

2019 SENATE HUMAN SERVICES COMMITTEE

SB 2247

2019 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

SB 2247
1/28/2019
Job # 31574

- Subcommittee
 Conference Committee

Committee Clerk Signature: Justin Velez

Explanation or reason for introduction of bill/resolution:

Relating to the developmental disabilities system reimbursement project; to provide a statement of legislative intent; to provide for a legislative management study; and to provide for a legislative management report.

Minutes:

Attachments #1-3

Madam Chair Lee: Opens the hearing on SB 2247

Senator Hogan Introduces SB 2247 and gives a brief description. Please see **Attachment #1** for testimony.

(02:40-12:40) Bruce Murry, Executive Director of the North Dakota Association of Community Providers. Testifying in favor of SB 2247. Please see **Attachment #2** for testimony.

Senator Hogan: all of these amendments have gone through your full board?

Bruce Murry: No, they have not. They have gone through our executive committee.

Senator Hogan: One of the comments from your testimony was the billing challenges. Could you explain?

Bruce Murry: The background of our billing and authorization especially for services provided during the day, there were two classes of services and the new payment system changes it to four classes of services. Unintended consequences this time was authorizations by the multi-disciplinary team then are approved by the department and their program administrator in the region, call for certain amounts of each of those services. These services are pre-locational, individual supports, small groups, and day supports that are not directly vocational and all these definitions are subject to clarification by the department but, people will go between those services in a logical day, whether they have been doing something or they are fully ready to work or if they are still working on what we call soft skills. If you are preauthorized into a fixed amount and you are starting to use up your authorization in one sub category more quickly it is lead to us, at least temporarily, not being paid for providing

the services the person actually needs throughout the day and the department has been good at going back and manually correcting that. Basically we are trapped in a system that is a little bit too tight perhaps of our own making and the department is helping fix that.

Senator Hogan: Are all the vocational 15-minute unit recording because that is also onerous in a new administrative burden that I don't think we anticipated when we started.

Bruce Murry: The recording doesn't necessarily have need to be charted each 15 minutes but when there is a change from one service to another it is our understanding that there needs to be recorded each time and not just at the end of the day for instance how much of each service was used and even better at the end of the week. We want to be honest and be subject to audit but we also want to be practical about the amount of documentation we do and I think the department gets it and has been working on it. This is a partnership, the partners on the other side are very strong and they assert their values strongly, we think that you need to do the same otherwise the DD division left in the middle will end up having to differ to CMS. We are asking you to strengthen your statements of our values to allow them to be back in the middle.

(21:00-30:25) Tina Bay, with the Department of Human Services Developmental Disabilities Division. Offering proposed amendments to the committee. Please see **Attachment # 3** for Christmas tree bill. Tina Bay goes over the bill line by line highlighting the amendments and language changes to SB 2247.

(23:50) Madam Chair Lee: Could you take a moment to explain what it means now that we would have those changes. What does that accomplish in number 2?

Tina Bay: What we are trying to do in this section is remove the language of the support intensity scale. We are putting in additional language in case that is something that the steering committee decides we don't want to use that assessment anymore. We want to make sure we aren't tied to language in the century code.

Madam Chair Lee: So we are sort of making it more open than just the sis (support intensity scale) scale to a state approved assessment.

Tina Bay: Correct.

Senator Hogan: In terms of what we are doing with clients under the age of 16, is it referenced somewhere else?

Tina Bay: No, it is not. That is why we are removing that age.

Senator Hogan: But we are not doing sis on children under the age of 16 and so if somebody is getting a developmental disability, what are you doing for re-imburement at that point?

Tina Bay: We are currently using the icap, which is a tool that other states use for resource allocation as well. When we started the developing, the language actually had in the law sis. However, when we were ready for our first round of implementation the child sis was not

ready it had not been normed and validated, so we had to find another tool for that population. We are using the icap right now.

Senator Hogan: Is there any intention of converting that child sis in the future and would your revisions allow that?

Tina Bay: That is what we believe, by removing some of that language. If the steering committee feels like we need to look at a different assessment if we aren't getting what we need from our current assessments, then this would give us that flexibility to make that change.

(26:09) Tina Bay continues overview of the bill and amendments.

(26:19) Madam Chair Lee: Your pretty much deleting all of number 3 I think is what it is.

Tina Bay: Correct.

Madam Chair Lee: Could you tell us why you did that? I think it's because that was designed for the beginning of the whole process talking about sampling and so forth. Would that be correct?

Tina Bay: Yes, that is correct.

Senator Hogan: The question is how are we evaluating the client impact on an ongoing basis because that was when we were doing sampling that was the evaluation component. Is there any evaluation component later on in your new proposals?

Tina Bay: Yes, there is.

(27:16) Tina Bay continues overview of the bill and amendments.

(32:01) Senator Hogan: The substituting of the legislative management study versus the agency directive and perhaps this is a Jonathan Alm question but can you talk about the differences between those two approaches?

(30:27) Jonathan Alm, Attorney with the Department of Human Services: Instead of just making it as a study for legislative management to consider and whether or not for the interim committee to look at, this is really a directive where we are going to report the information back out to legislative management.

Senator Hogan: Would you be comfortable modifying that it reports annually?

Jonathan Alm: It could be amended to that all well but right now its unlimited so we could report quarterly or biannually.

Senator Hogan: Whosever chair of the committee that gets assigned as agency directive then you can ask for it, so if you are hearing local concerns then you can bring it forward and say we would like a report on what is happening right now.

Senator K. Roers: So you don't want it to say a time frame, you want to give the flexibility to the chair of that committee.

Senator Hogan: Yes, but I wanted it in the record so we know why we are doing what we are doing this is a discussion we have had and I thought it was good for the whole committee to hear that discussion.

Jonathan Alm: This is a similar language that you have already passed out to the committee on the behavioral health bill as to agency directive.

Senator Hogan: So we are using agency directives as a new model

Madam Chair Lee: I think it needs to be flexible for all parties involved. As an interim chair over the years I like appreciate it when someone says we have something that we think we would like to bring to you.

Senator K. Roers: Mrs. Bay, as you were going through your amendments I was comparing to what we had already gotten and there was one small difference from the previous speaker so I just want to make sure you're ok with this. On the original bill it would have been page 2 line 5, "The department shall contract with" he has suggested an independent vendor and you just said a vendor. Is that a noticeable difference for you?

Tina Bay: By nature of the procurement rules, a vendor is an independent that is why we moved it.

Madam Chair Lee closes the hearing on SB 2247.

2019 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

SB 2247
1/29/2019
Job # 31719

- Subcommittee
 Conference Committee

Committee Clerk Signature: Justin Velez

Explanation or reason for introduction of bill/resolution:

Relating to the developmental disabilities system reimbursement project; to provide a statement of legislative intent; to provide for a legislative management study; and to provide for a legislative management report.

Minutes:

No Attachments

Senator K. Roers: I had asked Tina Bay and she said that by virtually being a vendor they are independent so they didn't need the word but it doesn't hurt anything.

Senator Hogan: There are significant numbers of amendments in the Christmas tree bill and because this was my bill I spent a fair amount of time working with them on this and I am totally okay with these amendments.

Madam Chair Lee: I had read them through and there is a lot more that's crossed off than there is inserted.

Senator Hogan: And it was housekeeping as well. We decided to do all the housekeeping on this section because it's been around for a long time.

Madam Chair Lee: Let's just take a moment and go through the amendments.

Senator Hogan: I think you should be aware that there were some members of the association that was originally listed in the bill but when we moved it to community providers the association was not happy about that decision. They liked being named in the bill but I said we need to be open to all community providers because about 75% of the agency providers are members of the association and the 25% percent feel like they aren't being represented and so by doing that I think this is broader so I agree with the department on this one.

Madam Chair Lee: And we learned that the sis is not done on those under 16 but icap is used for children because of the need for a different assessment.

Senator Anderson: Did you want to put the independent in there or did you throw that idea out?

Senator K. Roers: I don't have a preference I just wanted to make sure because that was the one word that I noticed seemed to stand out as different between the two sets of proposed amendments.

Madam Chair Lee: Then we have a couple legislative intent paragraphs.

Senator Anderson: I just want to point out there when they drafted this on section 2 on page 2 the amendments, considerate is misspelled there.

Madam Chair Lee: We will fix that.

Madam Chair Lee goes over the proposed amendments with the committee.

(04:58) Senator K. Roers: I move to **ADOPT AMENDMENT.**
Seconded by Senator Hogan

ROLL CALL VOTE TAKEN
6 YEA, 0 NAY, 0 ABSENT
MOTION CARRIES TO ADOPT AMENDMENT

Senator Hogan: I move a **DO PASS, AS AMENDED**
Seconded by Senator Clemens

ROLL CALL VOTE TAKEN
5 YEA, 1 NAY, 0 ABSENT
MOTION CARRIES A DO PASS, AS AMENDED.
Senator Hogan will carry SB 2247 to the floor.

Madam Chair Lee closes the discussion on SB 2247

January 29, 2019

PROPOSED AMENDMENTS TO SENATE BILL NO. 2247

- Page 1, line 3, remove "to provide for a legislative management study;"
- Page 1, line 9, overstrike "service" and insert immediately thereafter "community"
- Page 1, line 10, overstrike "develop" and insert immediately thereafter "maintain"
- Page 1, line 10, overstrike "or related"
- Page 1, line 10, overstrike "with an independent rate"
- Page 1, line 11, overstrike "model utilizing the support intensity scale" and insert immediately thereafter "based on a state-approved assessment"
- Page 1, line 12, overstrike "establish" and insert immediately thereafter "maintain"
- Page 1, line 13, overstrike "The steering committee"
- Page 1, overstrike lines 14 through 16
- Page 1, line 19, overstrike "support intensity"
- Page 1, line 20, overstrike "scale assessed needs of clients"
- Page 1, line 21, after "of" insert "the state approved assessment"
- Page 1, line 21, remove ". For"
- Page 1, line 21, overstrike "clients younger than sixteen years of age"
- Page 1, line 21, remove the underscored comma
- Page 1, line 22, remove "department may tie funding to a"
- Page 1, overstrike lines 23 and 24
- Page 2, overstrike line 1
- Page 2, line 2, overstrike "need, and service provision data. The"
- Page 2, line 2, remove "steering committee"
- Page 2, line 2, overstrike "shall provide the"
- Page 2, overstrike lines 3 and 4
- Page 2, line 5, overstrike "4." and insert immediately thereafter "3."
- Page 2, line 5, overstrike "team of support intensity scale assessors"
- Page 2, line 7, after "2" insert "vendor to complete assessments based on the state-approved assessment"
- Page 2, line 8, overstrike "5."
- Page 2, line 8, after "data" insert "4."

202

Page 2, line 9, overstrike "make" and insert immediately thereafter "recommend to the department"

Page 2, line 9, overstrike "needed"

Page 2, line 10, after "assumptions" insert ", including the state-approved assessment"

Page 2, line 11, overstrike "6."

Page 2, line 11, after "the" insert "5."

Page 2, line 16, remove ", within the limits of legislative appropriations,"

Page 2, line 17, remove "the North Dakota association of"

Page 2, line 18, replace "revise" with "consider revising"

Page 2, line 18, remove "and regulatory"

Page 2, line 21, after "**CAPACITY**" insert " - **INTELLECTUAL DISABILITY SYSTEM**"

Page 2, line 22, remove the comma

Page 2, line 23, remove "within the limits of legislative appropriations,"

Page 2, line 24, remove "the North Dakota Association of"

Page 2, line 24, remove "create"

Page 2, line 24, replace "improving" with "improve"

Page 2, line 25, remove "with elevated medical, behavioral, and other needs"

Page 2, line 26, replace "Biannually, the" with "The"

Page 2, line 28, after the period insert "The department shall also provide a report to the legislative management regarding the system of services for individuals with an intellectual or developmental disability, including a review of the existing service system, funding, and unmet needs."

Page 2, remove lines 29 through 31

Page 3, remove lines 1 through 3

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2247: Human Services Committee (Sen. J. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). SB 2247 was placed on the Sixth order on the calendar.

Page 1, line 3, remove "to provide for a legislative management study;"

Page 1, line 9, overstrike "service" and insert immediately thereafter "community"

Page 1, line 10, overstrike "develop" and insert immediately thereafter "maintain"

Page 1, line 10, overstrike "or related"

Page 1, line 10, overstrike "with an independent rate"

Page 1, line 11, overstrike "model utilizing the support intensity scale" and insert immediately thereafter "based on a state-approved assessment"

Page 1, line 12, overstrike "establish" and insert immediately thereafter "maintain"

Page 1, line 13, overstrike "The steering committee"

Page 1, overstrike lines 14 through 16

Page 1, line 19, overstrike "support intensity"

Page 1, line 20, overstrike "scale assessed needs of clients"

Page 1, line 21, after "of" insert "the state approved assessment"

Page 1, line 21, remove ". For"

Page 1, line 21, overstrike "clients younger than sixteen years of age"

Page 1, line 21, remove the underscored comma

Page 1, line 22, remove "department may tie funding to a"

Page 1, overstrike lines 23 and 24

Page 2, overstrike line 1

Page 2, line 2, overstrike "need, and service provision data. The"

Page 2, line 2, remove "steering committee"

Page 2, line 2, overstrike "shall provide the"

Page 2, overstrike lines 3 and 4

Page 2, line 5, overstrike "4." and insert immediately thereafter "3."

Page 2, line 5, overstrike "team of support intensity scale assessors"

Page 2, line 7, after "2" insert "vendor to complete assessments based on the state-approved assessment"

Page 2, line 8, overstrike "5."

Page 2, line 8, after "data" insert "4."

Page 2, line 9, overstrike "make" and insert immediately thereafter "recommend to the department"

Page 2, line 9, overstrike "needed"

Page 2, line 10, after "assumptions" insert ", including the state-approved assessment"

Page 2, line 11, overstrike "6."

Page 2, line 11, after "the" insert "5."

Page 2, line 16, remove ", within the limits of legislative appropriations,"

Page 2, line 17, remove "the North Dakota association of"

Page 2, line 18, replace "revise" with "consider revising"

Page 2, line 18, remove "and regulatory"

Page 2, line 21, after "**CAPACITY**" insert "**- INTELLECTUAL DISABILITY SYSTEM**"

Page 2, line 22, remove the comma

Page 2, line 23, remove "within the limits of legislative appropriations,"

Page 2, line 24, remove "the North Dakota Association of"

Page 2, line 24, remove "create"

Page 2, line 24, replace "improving" with "improve"

Page 2, line 25, remove "with elevated medical, behavioral, and other needs"

Page 2, line 26, replace "Biannually, the" with "The"

Page 2, line 28, after the period insert "The department shall also provide a report to the legislative management regarding the system of services for individuals with an intellectual or developmental disability, including a review of the existing service system, funding, and unmet needs."

Page 2, remove lines 29 through 31

Page 3, remove lines 1 through 3

Renumber accordingly

2019 HOUSE HUMAN SERVICES

SB 2247

2019 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

SB 2247
3/6/2019
33339

- Subcommittee
 Conference Committee

Committee Clerk: Nicole Klamann by Marjorie Conley

Explanation or reason for introduction of bill/resolution:

Relating to the developmental disabilities system reimbursement project; to provide a statement of legislative intent; and to provide for a legislative management report.

Minutes:

Attachment 1,2

Chairman Weisz: Opened hearing on SB 2247.

Senator Kathy Hogan: (Attachment 1)
0:03:38

Chairman Weisz: You changed the language. Does that mean that you are no longer using it or you have the flexibility to use it as it matters?

Senator Kathy Hogan: This was a recommendation from council that they don't like to put a specific instrument in code. They want a state approved code. There is no intention it will change the (inaudible). They don't like having a specific tool in code. It's almost more of a technical correction.

Chairman Weisz: Further testimony in support?

Bruce Murry, Executive Director of the ND association of Community Providers, NDACP : (Attachment 2)
(0:09:51)

Trevor Vanett: I receive services through the DD Division. I support this bill but I do have an amendment where it talks about who is on the committee. It doesn't have consumers and I think it should because we get the services and we should have a say in what goes on. I would appreciate that but I do support the bill in its current form.

Chairman Weisz: Anyone else here to testify in support? Opposition?

Jonathan Alm, Attorney Dept. of Human Services: The concern with adding consumer to that line if it is a requirement, we are not able to find a consumer. So maybe if you would make it permissive would be one suggestion.

Closed hearing.

2019 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

SB 2247
3/6/2019
33340

- Subcommittee
 Conference Committee

Committee Clerk: Nicole Klaman by Marjorie Conley

Explanation or reason for introduction of bill/resolution:

Relating to the developmental disabilities system reimbursement project; to provide a statement of legislative intent; and to provide for a legislative management report.

Minutes:

Chairman Weisz: Reopened SB 2247.

Rep. Schneider: Move an amendment to engrossed SB 2247 making changes on Line 13 after “interested providers putting a comma after providers, and removing the and” and leaving department representatives “putting a comma after department representatives and interested clients”.
(after interested providers, and adding clients, and department representatives)

Rep. Rohr: Second.

Rep Devlin: I am not quite sure how they add P&A because they are not a provider and I don’t have a problem with doing that because they should be at the table, but I don’t know that we have to add some language in there to allow that type of thing that we do with clients or just let them keep doing for as many years as they have done it.

Chairman Weisz: In the only defense of the amendment is that because it is not listed, the department doesn’t have to go out looking for a client.

Rep. Schneider: It doesn’t say we maintain a steering committee including instead of consisting of, so I assume that if P&A shows up they won’t get a vote unless the wording is changed. You could say instead of “consisting of you could say including representatives”, if you want them to vote. If they are not in there they cannot officially vote.

Chairman Weisz: We could complicate things. Let’s deal with the amendment that we have in front of us. We can consider further amending at the desire of the committee.

Voice Vote carried.

Chairman Weisz: Any further amendments?

Rep. Skroch: On line 18 Page 1, when we say continuously improve, are we trying to meet a standard there? How are we to continuously improve the payment system or should they be monitoring for improvement?

Chairman Weisz: It has continuously improved. I don't have a problem with the language. Any other suggested amendments?

Rep. Schneider: I would like to see P&A included and we could do it by changing Line 12 the last two words consisting of and put in including or we could just add them by name, or if you have a preference I would honor that.

Tina Baker, Dept of Human Services: It doesn't matter, if we think of where this bill came from, it was 2011, we were being directed from the legislative assembly, you must include this person and this person. As the committee has evolved as we have evolved over the years and the process has gone on, we made the decision to include P&A. We need to keep this group small because we know we need to accomplish the work. Over the years the committee meetings have been open, but the public does not have a vote when the steering committee was voting. P&A has been involved even though they are not here listed as a member.

Rep. Schneider: I would move to amend engrossed SB 2247 on line 13 there is a "period remove that period put a comma and add Protection and Advocacy".

Rep. Dobervich: Second.

Rep. Devlin: Is there someone besides P&A? Is there another non provider out there? If we specify just that group and then somebody else would it be better to use a generic term like a non provider or whatever the department uses for that language? We would hate to leave somebody out.

Tina Baker: There are no other categories right now, but there are other advocacy organizations that may at some point may want to be part of it.

Rep. Schneider: P&A is unique in that it is a state agency. I Don't think that would be another advocacy entity that is a state agency. Other advocacy groups could follow the interested providers of that sentence.

Voice vote carried.

Rep. Ruby: Made a motion to Do Pass on engrossed SB 2247 as amended.

Rep. Rohr: Second.

Roll Call Vote taken Yes 14 No 0 Absent 0 Rep. Schneider is the carrier.

19.1047.03001
Title.04000

Adopted by the House Human Services
Committee

March 6, 2019

DP 3/6/19

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2247

Page 1, line 13, overstrike "and" and insert immediately thereafter ", clients, the"

Page 1, line 13, overstrike the second "representatives" and insert immediately thereafter "and the North Dakota protection and advocacy project"

Renumber accordingly

Date: 3-6-19
 Roll Call Vote #: 1

**2019 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. _____**

House Human Services 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 Rep. Schneider Seconded By Rep. Rohr

Representatives	Yes	No	Representatives	Yes	No
Robin Weisz - Chairman			Gretchen Dobervich		
Karen M. Rohr – Vice Chairman			Mary Schneider		
Dick Anderson					
Chuck Damschen					
Bill Devlin					
Clayton Fegley					
Dwight Kiefert					
Todd Porter					
Matthew Ruby					
Bill Tveit					
Greg Westlind					
Kathy Skroch					

Vote

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent: *Amendment passed - line 13. after interested providers, removing and adding interested clients, and department representatives.*

Date: 3-6-19
 Roll Call Vote #: 2

**2019 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. SB 2247**

House Human Services Committee

Subcommittee

Amendment LC# or Description: on line 13 - Remove the period add comma and add P+A

Recommendation: Further Amend Protection + Advocacy.
 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 Schneider Seconded By Rep. Dobervich

Representatives	Yes	No	Representatives	Yes	No
Robin Weisz - Chairman			Gretchen Dobervich		
Karen M. Rohr - Vice Chairman			Mary Schneider		
Dick Anderson					
Chuck Damschen					
Bill Devlin					
Clayton Fegley					
Dwight Kiefert					
Todd Porter					
Matthew Ruby					
Bill Tveit					
Greg Westlind					
Kathy Skroch					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

→ P+A Carrier

Date: 3-6-19
 Roll Call Vote #: 3

**2019 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. SB 2247**

House Human Services Committee

Subcommittee

Amendment LC# or Description: 19.1041.03001

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 Ruby Seconded By Rep Rohr

Representatives	Yes	No	Representatives	Yes	No
Robin Weisz - Chairman	X		Gretchen Dobervich	X	
Karen M. Rohr - Vice Chairman	X		Mary Schneider	X	
Dick Anderson	X				
Chuck Damschen	X				
Bill Devlin	X				
Clayton Fegley	X				
Dwight Kiefert	X				
Todd Porter	X				
Matthew Ruby	X				
Bill Tveit	X				
Greg Westlind	X				
Kathy Skroch	X				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep Schneider

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

REPORT OF STANDING COMMITTEE

SB 2247, as engrossed: Human Services Committee (Rep. Weisz, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2247 was placed on the Sixth order on the calendar.

Page 1, line 13, overstrike "and" and insert immediately thereafter ", clients, the"

Page 1, line 13, overstrike the second "representatives" and insert immediately thereafter "and the North Dakota protection and advocacy project"

Renumber accordingly

2019 CONFERENCE COMMITTEE

SB 2247

2019 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

SB 2247
4/8/2019
Job #34596

- Subcommittee
 Conference Committee

Committee Clerk: Justin Velez

Explanation or reason for introduction of bill/resolution:

Relating to the developmental disabilities system reimbursement project; to provide a statement of legislative intent; to provide for a legislative management study; and to provide for a legislative management report.

Minutes:

No Attachments

Madam Chair Lee opens the conference committee on SB 2247.

Madam Chair Lee: Representative Keifer if we might ask that just tell us about the changes, I think that would be very helpful.

Representative Keifer: We had a quite a bit of testimony and discussion mainly about, adding the one group North Dakota Protection Advocacy Project and the committee felt that would be a good add to this bill and that is the main concern.

Representative Dobervich: And then client, you mentioned that we put client in there with several people who receive these services who attended. There was a gentleman who spoke and had recommended clients and everyone on the committee agreed having clients on the steering committee was a good idea.

Madam Chair Lee: Did you have any discussion in the house committee about the size of the committee altogether or limiting the number of additions to a certain number? Just thinking if the committee gets too large, I think we may all have found you get less done with 20 then you do with 10. I was just wondering if you had any discussion about that?

Representative Keifer: I don't have any notes on that subject.

Representative Tveit: I don't have any notes on why we did this, I was questioning this morning and wasn't coming up with any specific answers.

Senator Hogan: Often times we don't use the terms clients now, we use consumers and I was wondering if you had any discussion on that.

Representative Dobervich: We did not and no one brought up updating the language of this bill.

Madam Chair Lee: I had visited with one of the representatives of consumers who had suggested that we might want to consider the possibility of one family member and two consumers or something similar to that or vice versa and also, how the size of the committee fits, just so that it isn't an open ended thing. I think it is a great idea to bring the clients or consumers into the mix here. I am open to any suggestions that somebody might have about that.

Representative Keifer: I know that Chairman Weisz was adamant about wanting to see them stay involved so we are just looking for a recommendation from you why they didn't like that amendment. I can report back to him and see how we can resolve that.

Madam Chair Lee: I think it is really important that Representative Weisz knows that, it isn't that we don't like it. Only because, it might be a good idea just to limit the number of people on the committee or representing the families as well as the consumers, and whether it is one consumer and two family members or one and one. Bruce, I know you and I had talked about it so, if you would be willing to share a thought there I would appreciate that.

Bruce Murry, Executive Director of North Dakota Association of Community Providers: On the telephone I have Trevor Vannett who is the self-advocate who asked for clients to be added to the bill, which I support. He and I talked a bit and we would recommend that we add in front of the words "clients" on line 13 "up to two, and up to one family member". That way if people don't apply, the department won't get dinged audit wise or otherwise. If you wanted to insert a total number for the steering committee I think Mrs. Bay from the division had recommended 20 as a cap and I think you talked about 16, either of those numbers would probably work.

Madam Chair Lee: I don't want to leave anybody out but I have spent a lot of my life on boards and committees and the more people you have, the less you get done. I want to make sure that we have appropriate representation.

Bruce Murry: I just consulted briefly with Mrs. Bay and subject to her correction we were thinking 18 would be good because there are currently 15 now and this could add three. If you want to limit the number, on line 13 before the word "representatives" you could just say "up to 18".

Madam Chair Lee: Any quick questions for Mr. Murry?

Bruce Murry: If anyone has any questions for Mr. Vannett, he would be happy to answer any questions.

Madam Chair Lee: Thank you. We do recognize that this isn't a hearing but it is a time saving thing for somebody to step up and give us some background that may be helpful to us. What would your thoughts be about leaving clients the same or changing it, and having up to two self-advocates and up to one family member.

Representative Tveit: In clarification, you are using self-advocate instead of client?

Madam Chair Lee: No, clients instead. We would be having up to two clients, and up to one family member. We would leave your clients in there, that is fine.

Senator O. Larsen: Are we accepting the house amendments and then further amending the bill.

Madam Chair Lee: We aren't going to make a decision today because I know the house members want to update their chair.

Representative Tveit: Adding the portion up to 18 in front of "representatives", I assume that is the first representatives or the only one on line 13?

Madam Chair Lee: There would be 18 all together on the committee and that would include up to two clients and one family member.

Representative Tveit: the reason I ask that question is because on line 14, the representatives were lined out, so I wasn't sure where we would place that up to 18.

Madam Chair Lee: The line on 14, that would be the Department of Human Services Representatives, the word representatives are crossed off and then PNA. That is the way I read it.

Representative Keifer: I think we had discussion about 20, so 18 is pretty close to that.

Madam Chair Lee: I think we can find some common ground on this whole thing. I wouldn't raise a big issue about 20 but I think if we could kind of keep it to 18. If they find that they are not having adequate representation, then we will back in two years and tell us that they need a couple more spots.

Representative Keifer: Could they provide us with a printout of what would be changing then?

Madam Chair Lee: Absolutely, our intern will be able to do that. Anything further about the bill?

Representative Tveit: So we are leaving the North Dakota Protection and Advocacy Project on that line?

Madam Chair Lee: Yes, I haven't heard anybody who resisted that, I think they are a fine addition.

Representative Dobervich: That was going to be my question because prior to this, Senator Hogan and I had talked about the changes and PNA being that neutral party, should they be included or should they not. If the senate feels that overall it's a good idea, we felt they should be at the table as well. I know she had expressed concern about this and how it would affect neutrality.

Madam Chair Lee: Since Senator Hogan had to step up would anyone from the department want to give us your point of view?

Tina Bay, Department of Human Services: PNA's are already a member.

Madam Chair Lee: Well, we don't even need them in there then.

Tina Bay: We added them I believe, two years ago.

Madam Chair Lee: So we can delete that piece or, if we take them out will be they be off the committee because we don't want to do that.

Tina Bay: I think it would be ok to leave it on.

Madam Chair Lee: Might as well, better twice than not at all. Any further questions? We have clarified the PNA part, suggesting you all discuss with leadership about the 20 to 18, and the two additions that we mentioned. Is there anything further for the good of the order? If not, we will adjourn.

Madam Chair Lee closes the conference committee on SB 2247.

2019 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

SB 2247
4/10/2019
Job # 34657

- Subcommittee
 Conference Committee

Committee Clerk: Justin Velez

Explanation or reason for introduction of bill/resolution:

Relating to the developmental disabilities system reimbursement project; to provide a statement of legislative intent; to provide for a legislative management study; and to provide for a legislative management report.

Minutes:

Attachment #1

Madam Chair Lee opens the conference committee on SB 2247. The committee was provided with a Christmas tree bill of 2247 which includes the proposed amendment from the Senate. (Attachment #1)

Madam Chair Lee: We have also folks in the room from the Department of Human Services and I will be interested to hear from Mrs. Bay or whoever would like to talk to us about how we are going to move this forward but first, I want to hear if someone from the house would be willing to share with us the amendments you have added.

Representative Keifert: I visited with Rep. Weisz and we didn't have any problems with adding the additional amendment but one thing we wanted was, in case someone on the floor should ask; tell me how you feel this way. If you could give us a one-line explanation on why you feel we should add this.

Madam Chair Lee: I think it would be fair to say that there was a client that was served who asked about having representation from the people who are served by this program and there are family members also who are engaged with the people who are served. It seemed to the folks who were putting this all together that it was a good idea to include those individuals who are served by the system as well as other folks who are providers and so forth.

Representative Keifert: As far as leaving it to 18, is there more clients that want to get on that? Is that a problem where we have too many?

Madam Chair Lee: I can't tell that there would or wouldn't be but I am currently involved with one of the facilities and there are often people who are looking forward to volunteering so there has to be some limit. It seems right to start with the limitations that we have in there and if we find a reason for additional slots to open up but the thoughts of the committee is

that the larger the committee gets the more cumbersome it gets with trying to get your work done. The idea of adding some people from the service side of it and then still trying to keep the size of the group to 18 which is still big as far as I'm concerned. Let's start there and if we find we are missing out on somebody, we will see you in two years and talk about it again. Just an inclusion of the folks who are served as well.

Representative Keifert: You don't see that being a problem, if there are 20 people you are going to have to exclude a few people and who is going to decide who is going to come on? Do you foresee that being a problem?

Senator Hogan: This working group has been about 15, this is an existing group since 2011. The additions that the house added we thought, we will just grow that a little because the house added the clients and family members so, we are just supporting the house amendment.

Representative Keifert: The house has no problem with adding this.

Madam Chair Lee: Any further comments from the committee members?

Senator O. Larsen: It did show that on the last bill here there wasn't a cap but I do remember somebody asked if an individual is represented and then there was someone who stood up and said; well we have been there now for two years. I don't think there is going to be a feeling that anybody is left out. If the cap is restrictive it can be lifted as well.

Senator Hogan: I move the **SENATE ACCEDE TO THE HOUSE AMENDMENTS AND FURTHER AMEND.**

Seconded by Representative Tveit

Madam Chair Lee: Any further discussion? If not, please call the roll.

ROLL CALL VOTE TAKEN

6 YEA, 0 NAY, 0 ABSENT

MOTION CARRIES SENATE ACCEDED TO THE HOUSE AMENDMENTS AND FURTHER AMEND.

Senator Hogan and Representative Keifert will carry SB 2247 to the floor in their respective chambers.

Madam Chair Lee closes the conference committee on SB 2247.

***Please note, Legislative Council has changed the motion from Senate accedes and further amend to House recedes and further amends due to the adopted amendment changing the intent of the amendment.**

19.1047.03002
Title.05000

Adopted by the Conference Committee

April 10, 2019

SK
10/1
4/10

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2247

That the House recede from its amendments as printed on page 963 of the Senate Journal and page 1145 of the House Journal and that Engrossed Senate Bill No. 2247 be amended as follows:

Page 1, line 12, after "of" insert "no more than eighteen"

Page 1, line 13, overstrike "and" and insert immediately thereafter "which must include no more than two clients, no more than one family member of a client, a representative of the"

Page 1, line 13, overstrike the second "representatives" and insert immediately thereafter ", and a representative of the North Dakota protection and advocacy project"

Re-number accordingly

**2019 SENATE CONFERENCE COMMITTEE
 ROLL CALL VOTES**

BILL/RESOLUTION NO. SB 2247 as (re) engrossed

Senate "Enter committee name" Committee

- Action Taken
- SENATE accede to House Amendments
 - SENATE accede to House Amendments and further amend
 - HOUSE recede from House amendments
 - HOUSE recede from House amendments and amend as follows
 - Unable to agree, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Senator Hogan Seconded by: Representative Tveit

Senators				Yes	No	Representatives				Yes	No
Sen. J. Lee				X		Rep. Keifert				X	
Sen. O. Larsen				X		Rep. Tveit				X	
Sen. Hogan				X		Rep. Dobervich				X	
Total Senate Vote				3		Total Rep. Vote				3	

Vote Count Yes: 6 No: 0 Absent: 0

Senate Carrier Senator Hogan House Carrier Representative Keifert

LC Number 19.1047 . 03002 of amendment

LC Number _____ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

Change the number of people allowed on the steering committee from 20 to 18. Add the North Dakota Protection and Advocacy Project to the steering committee. Adding up to two clients and up to one family member on the steering committee.

Insert LC: 19.1047.03002
Senate Carrier: Hogan
House Carrier: Kiefert

REPORT OF CONFERENCE COMMITTEE

SB 2247, as engrossed: Your conference committee (Sens. J. Lee, O. Larsen, Hogan and Reps. Kiefert, Tveit, Dobervich) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ page 963, adopt amendments as follows, and place SB 2247 on the Seventh order:

That the House recede from its amendments as printed on page 963 of the Senate Journal and page 1145 of the House Journal and that Engrossed Senate Bill No. 2247 be amended as follows:

Page 1, line 12, after "of" insert "no more than eighteen"

Page 1, line 13, overstrike "and" and insert immediately thereafter "which must include no more than two clients, no more than one family member of a client, a representative of the"

Page 1, line 13, overstrike the second "representatives" and insert immediately thereafter ", and a representative of the North Dakota protection and advocacy project"

Renumber accordingly

Engrossed SB 2247 was placed on the Seventh order of business on the calendar.

2019 TESTIMONY

SB 2247

SB 2247
1/28/19
#1 pg. 1

TESTIMONY

Senate Human Services Committee SB 2247

January 28, 2019

Senator Kathy Hogan

Chairman Lee and members of the Human Services Committee, my name is Kathy Hogan. I represent District 21.

SB 2247 is a bill in response to a request from several community providers. Over the last six years, ND has been studying and implementing a new reimbursement structure for services for individuals with intellectual disabilities. The original goals were to simplify the reimbursement system and to improve consistency across the state using a state-approved assessment. Everyone agrees with the goals of these efforts. Implementation has been rocky at times.

These efforts have been coordinated with a collaborative process between an independent contractor, the community providers and the ND Department of Human Services. Because the challenges expressed by many community providers in the new reimbursement structure, it was suggested that we continue to monitor the implementation of this process by formalizing this collaborative effort. I recognize that the ND Department of Human Services has ultimate authority on individual cases, but the overall structure and system needs to work for all parties assure that all persons with intellectual disabilities received the appropriate level of service in the least restrictive environment.

Thank you, Madam Chair, I would be more than willing to answer any questions.

SB 2247
1/28/19
#2 pg.1

SENATE HUMAN SERVICES COMMITTEE
SENATOR J. LEE, CHAIRMAN
SENATE BILL 2247
TESTIMONY OF BRUCE MURRY
JANUARY 28, 2019

Chairman Lee, and members of the Senate Human Services Committee, I am Bruce Murry, Executive Director of the North Dakota Association of Community Providers. NDACP is a membership organization of 32 licensed developmental disability (DD) service providers throughout North Dakota.

Human service funding is a calling or obligation to bring dignity, meaning, and opportunity to people who might otherwise be denied those fundamental liberties. I genuinely believe there is a sacred trust by the taxpayer, who sacrifices the sweat of her brow for another to have a better life, to use the investment wisely.

NDACP offered some of the ideas behind this bill to give the Legislative Assembly a chance express the will of North Dakota's People. In this bill NDACP hopes you will assert your choices to implement the values of the people of North Dakota. We believe these choices should place the highest value on the services that actually reach the person served, according to the goals and needs of their lives. Tools and measures such as training, quality assurance, program integrity, fiscal soundness, and efficiency should all be balanced to maximize the ultimate goal of most and best direct services available for the money. No tool or measure should be come a goal unto itself, except the final outcome (opportunity) for the person served.

Medicaid is a partnership between the state government and the federal government. However any partnership can get out of balance. Whether we look at it as shouldering our load or standing up for ourselves, North Dakota needs to be a full partner. In the context of Medicaid, North Dakota is usually represented by the executive branch of our government, especially the Developmental Disabilities Division. I'm confident the Division feels the weight of this responsibility. I'm less confident they know the Legislative Assembly and the People of North Dakota stand behind them. As

38 2247
1/29/19
#2 pg. 2

you craft these and other policy statements, please express that our expectation that they engage CMS as a full partner is something for which we will have their back. I hope you will support the DD Division to stand up to the Center for Medicaid Services (CMS) when North Dakota's values and choices are at stake.

It is an axiom that individual goals and policy should drive services and audits, not the reverse. Therefore we are glad to see the DD Division determining how audits should guide and support proper operations, and not weigh them down.

Both the substance and the timing of training requirements are important. The division worked very cooperative play with us to revise proposed changes in the substance of our training to address issues with administrative burden. The next training issue we should tackle is the timing of training. Over 50% of new employees leave within six months of hire, at which time turnover drops off, leading to an average of 40-44%. Our employees are expensive to train — between \$5000-6000 for advertising no, hiring, backgrounds, and training. We need to ensure that all employees to receive what they absolutely need to start delivering high quality, safe supports, but delay any other training until after the key six-month point. This will be a challenging balancing act for the Division and NDACP.

We appreciate the division announcing its regulatory plans to NDACP in advance. This is a best practice they have embraced. They've done so as recently as a month ago, and this allows us to warn them of unintended consequences.

Proper billing with integrity is important. We recommend that billing units and authorizations be adjusted to maximize outcomes for individuals. This means avoiding undue barriers and burdens on the thousands of direct support professionals. We need to find ways for the Executive, provider management, and technology to bear the brunt of this burden. DD Division has begun work with CMS and the programmers of our billing and documentation systems to do this. We ask you to ask them to continue to prioritize this effort.

We also ask that they use special care implementing Electronic Visit Verification — probably an Congressional overreaction to theft of services by some out of state providers — to ensure it does not reduce services authorized or delivered.

SB 2247
1/28/19
#2 PG.3

We also appreciate the role of North Dakota's Executive Branch, and some of the language of the bill might not acknowledge that role. We understand that DD Providers would be conflicted if they alone determined their own reimbursement. Therefore we propose the changes at the end of this testimony to preserve the role of the Executive.

Thank you for your consideration, and I would be happy to answer any questions, now or later.



Bruce Murry
Executive Director

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North Dakota Association of Community Providers

SB 2247
1/28/19
#2 pg. 4

NORTH DAKOTA ASSOCIATION OF COMMUNITY PROVIDERS
RECOMMENDED AMENDMENTS TO SB 2247:

On page 1 line 12, after “department shall” place an overstrike on the word “establish” and insert the word “maintain”.

On page 1 line 14 after “development of the” place an over strike on the word “new”.

On page 1 line 14 after the words “and evaluate” place an over strike on the word “new” and insert the word “the”.

On page 1, line 23, place an overstrike on the words “After the prospective or related payment system rates are developed, t”; insert “T” and after “he” place an overstrike on the word “new”.

On page 2, line 5 after the words “contract with” place an overstrike on the words “a team of support intensity scale assessors” and replace them with “an independent vendor to complete the assessments”.

On page 2, line 9, after the words “steering committee shall”, overstrike and replace the word “make” with “recommend”.

On page 2, line 18, after “providers to” replace the word “revise” with “consider revising”.

On page 2, line 26, after the words “appropriate setting.” remove the words “Biannually, t” and insert “T”.

Renumber accordingly.

SB 2247
1/28/19
#3 pg. 1

Senate Bill No. 2247 Amendment Markup
Department of Human Services

A BILL for an Act to amend and reenact section 50-06-37 of the North Dakota Century Code, relating to the developmental disabilities system reimbursement project; to provide a statement of legislative intent; ~~to provide for a legislative management study;~~ and to provide for a ~~legislative management report~~an agency directive.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-06-37 of the North Dakota Century Code is amended and reenacted as follows:

50-06-37. Developmental disabilities system reimbursement project.

The department of human services, in conjunction with developmental disabilities ~~service~~communitny providers, shall ~~develop~~maintain a prospective ~~or related~~ payment system ~~with an independent rate model utilizing the support intensity scale~~based on a state-approved assessment.

1. The department shall ~~establish~~maintain a steering committee consisting of representatives from all interested providers and department representatives. ~~The steering committee shall guide the development of the new payment system including assisting a consultant to conceptualize, develop, design, implement, and evaluate a new payment system.~~
2. The department shall ~~may~~ contract with a consultant by September 1, 2011, to ~~develop~~continuously improve, in collaboration with the steering committee, the payment system and the resource allocation model tying funding to ~~support intensity scale assessed needs of clients~~ aged sixteen and older and to ~~a the state-approved assessment that assesses needs of. For clients younger than sixteen years of age, the department may tie funding to a state approved assessment.~~the state-approved assessment
3. ~~After the prospective or related payment system rates are developed, the new rates must be tested on a sampling of clients and providers, the sample to be determined by the steering committee, allowing sufficient time to capture provider cost, client realized need, and service provision data. The consultant steering committee shall provide the appropriate sampling number to sufficiently test the rates, types of services, and needs of clients with the intent to include as many providers as fiscally feasible.~~
4. The department shall contract with a ~~team of support intensity scale assessors~~ by September 1, 2011. The team shall begin assessing immediately the identified client pilot group identified by the consultant contracted in subsection 2 ~~vendor to complete assessments based on the state-approved assessment.~~to complete assessments based on the state-approved assessment.
- 5.4. Once testing is complete, the ~~data~~Data must be analyzed by the ~~consultant steering committee~~, and the ~~consultant steering committee~~ shall ~~make~~recommend to the department any ~~needed~~ rate adjustments, resource

allocation modifications, or process assumptions, including the state-approved assessment.

- 6.5. Beginning in June 2012, ~~the~~The department and the steering committee shall report development activities and status information to an interim legislative committee.
7. Implementation of any system developed under this chapter may not occur before the implementation of the department's new Medicaid management information system.

SECTION 2. LEGISLATIVE INTENT - ONGOING IMPROVEMENTS. It is the intent of the sixty-sixth Legislative Assembly that, ~~within the limits of legislative appropriations,~~ the department of human services continue to work with ~~the North Dakota association of~~ community providers to ~~revise~~consider revising administrative ~~and regulatory~~ requirements regarding developmental disability service providers to minimize disruption and maximize effectiveness of direct services to clients.

SECTION 3. LEGISLATIVE INTENT - COMMUNITY PROVIDER CAPACITY – REPORT TO LEGISLATIVE MANAGEMENT. It is the intent of the sixty-sixth legislative assembly that, ~~within the limits of legislative appropriations,~~ the department of human services continue to work with the ~~North Dakota Association of~~ community providers to ~~create~~ continuously ~~improving~~improve community provider capacity to serve clients ~~with elevated medical, behavioral, and other needs~~ in the least restrictive appropriate setting. ~~Biannually,~~ ~~the~~The department shall provide the legislative management a status report on the ongoing work of the department to improve community provider capacity, together with any barriers encountered.

~~**SECTION 4. LEGISLATIVE MANAGEMENT STUDY – INTELLECTUAL DISABILITY SYSTEM.** During the 2019-20 interim, the legislative management shall consider studying the system of services for individuals with an intellectual disability, including review of the current service system, funding, and unmet needs. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-seventh legislative assembly.~~

SECTION 4. AGENCY DIRECTIVE. The department of human services shall update legislative management regarding the system of services for individuals with an intellectual or developmental disability, including review of the current service system, funding, and unmet needs.

SB 2247
1/28/19
#3 pg. 3

PROPOSED AMENDMENTS TO SENATE BILL NO. 2247

- Page 1, line 3, remove “to provide for a legislative management study;”
- Page 1, line 3, remove “a”
- Page 1, line 4, replace “legislative management report” with “an agency directive”
- Page 1, line 9, overstrike “service” and insert immediately thereafter “community”
- Page 1, line 10, overstrike “develop” and insert immediately thereafter “maintain”
- Page 1, line 10, overstrike “or related”
- Page 1, line 10, overstrike “with an independent rate”
- Page 1, line 11, overstrike “model utilizing the support intensity scale” and insert immediately thereafter “based on a state-approved assessment”
- Page 1, line 12, overstrike “establish” and insert immediately thereafter “maintain”
- Page 1, line 13, overstrike “The steering committee”
- Page 1, overstrike lines 14 through 16
- Page 1, line 19, overstrike “support intensity”
- Page 1, line 20, overstrike “scale assessed needs of clients”
- Page 1, line 20, after “a” insert “the”
- Page 1, line 20, remove the overstrike over ~~“state-approved”~~
- Page 1, line 21, remove the overstrike over ~~“assessment”~~
- Page 1, line 21, remove “. For”
- Page 1, line 21, overstrike “clients younger than sixteen years of age”
- Page 1, line 21, remove “, the”
- Page 1, line 22, remove “department may tie funding to a state-approved assessment”
- Page 1, line 23, overstrike “After the prospective or related payment system rates are developed, the new rates”
- Page 1, overstrike line 24
- Page 2, overstrike line 1
- Page 2, line 2, overstrike “need, and service provision data. The”
- Page 2, line 2, remove “steering committee”
- Page 2, line 2, overstrike “shall provide the”
- Page 2, overstrike lines 3 and 4
- Page 2, line 5, overstrike “4.”

SB 2247
~/28/19
#3 ps. 4

Page 2, line 5, overstrike "team of support intensity scale assessors"

Page 2, line 7 after "2" insert "vendor to complete assessments based on the state-approved assessment"

Page 2, line 8, overstrike "5." and insert immediately thereafter "4."

Page 2, line 9, overstrike "make" and insert immediately thereafter "recommend to the department"

Page 2, line 9, overstrike "needed"

Page 2, line 10, after "assumptions" insert ", including the state-approved assessment"

Page 2, line 11, overstrike "6." and insert immediately thereafter "5."

Page 2, line 16, remove ", within the limits of legislative appropriations,"

Page 2, line 17, remove "the North Dakota association of"

Page 2, line 18, replace "revise" with "consider revising"

Page 2, line 18, remove "and regulatory"

Page 2, line 22, remove the comma

Page 2, line 23, remove "within the limits of legislative appropriations,"

Page 2, line 24, remove "North Dakota Association of"

Page 2, line 24, remove "create"

Page 2, line 24, replace "improving" with "improve"

Page 2, line 25, remove "with elevated medical, behavioral, and other needs"

Page 2, line 26, replace "Biannually, the" with "The"

Page 2, after line 28, replace the remainder of the bill with:

"SECTION 4. AGENCY DIRECTIVE. The department of human services shall update legislative management regarding the system of services for individuals with an intellectual or developmental disability, including review of the current service system, funding, and unmet needs."

Renumber accordingly

House Human Services Committee
Senate Bill 2247
March 6
Senator Kathy Hogan

#1
SB 2247
3/6/19
pg. 1

Chairman Weisz and members of the House Human Services Committee, my name is Kathy Hogan, and I represent District 21 the heart of Fargo.

Over the last six years, ND has been studying and implementing a new reimbursement structure for services for individuals with intellectual disabilities.

SB 2247 continues the collaboration between local providers of services for persons with intellectual disabilities and the Department on issues related to the new reimbursement system. The new system has had some bumpy moments since it's implementation last April and a collaborative team is addressing them as they arise.

This bill cleans up irrelevant language, formalize the process for collaboration and it would require a report to legislative management on the status of the new reimbursement system.

There was no opposition to this bill. Please vote green.

SENATE BILL 2247
HOUSE HUMAN SERVICES COMMITTEE
HON. ROBIN WEISZ, CHAIRMAN
NDACP TESTIMONY
MARCH 6, 2019

#2
SB 2247
3-6-19
Pg 1

Chairman Weisz, and members of the House Human Services Committee, I am Bruce Murry, Executive Director of the North Dakota Association of Community Providers. NDACP is a membership organization of 32 licensed developmental disability (DD) service providers throughout North Dakota.

Human service funding is a calling or obligation to bring dignity, meaning, and opportunity to people who might otherwise be denied those fundamental liberties. I genuinely believe there is a sacred trust by the taxpayer, who sacrifices the sweat of her brow for another to have a better life, to use that investment wisely.

NDACP offered some of the ideas behind this bill to give the Legislative Assembly a chance express the will of North Dakota's People. In this bill NDACP hopes you will assert your choices to implement the values of the people of North Dakota. We believe these choices should place the highest value on the services that actually reach the person served, according to the goals and needs of their lives. Tools and measures such as training, quality assurance, program integrity, fiscal soundness, and efficiency should all be balanced to maximize the ultimate goal of most and best direct services available for the money. No tool or measure should be come a goal unto itself, except the final outcome (opportunity) for the person served.

Medicaid is a partnership between the state government and the federal government. However any partnership can get out of balance. North Dakota needs to be a full partner. In the context of Medicaid, North Dakota is usually represented by the executive branch of our government, especially the Developmental Disabilities Division. I'm confident the Division feels the weight of this responsibility. I'm less confident they know the Legislative Assembly and the People of North Dakota stand behind them. As you craft these and other policy statements, please express that our expectation that they engage CMS as a full partner is something for which we will have their back.

In practice, CMS has an unfortunate tendency to impose its latest ideas and preferences upon state programs without providing additional funding. To some extent this is the federal executive branch doing its job. However, when the preferences are expensive to implement, and not backed by solid data, or when better alternatives exist for our state, North Dakota's Executive Branch should push back. We want to help them do so. Examples include mandating a one-size-fits-all, urban definition of what it is to be included in your community in our rural state, and micromanaging billing practices and electronic visit verification.

Both the substance and the timing of training requirements are important. As I've mentioned to the appropriations committees, each of our employees costs between \$5000

#2
SB2247
3-6-19
pg 2

and \$6000 to train. The division worked very cooperatively with us to revise the content of proposed training requirements last year. The next training issue we should tackle is the timing of training. Over 50% of new employees leave within six months of hire, at which time turnover drops off, leading to an average of 40-44%. We need to ensure that all employees to receive what they absolutely need to start providing safe, high-quality services. But it would be very wise to wait until after the key six-month point for concepts that are more broad or theoretical. This will be challenging but worthwhile.

We appreciate the division announcing its regulatory plans to us in advance. This is a best practice they have embraced. They've done so as recently as a two months ago, and this allows us to warn them of unintended consequences. They have reserved time to sit down with us to work through our ideas on background checks.

Section 3 of the bill acknowledges that the people we serve have more and more needs over time, and we need to grow to meet them. We wanted the Legislature to weigh in to support that the growth needs to happen around North Dakota, and not just in its institutions. This is very consistent with moves the Department is making to boost the ability of the LSTC's CARES Team to provide support to providers around the state to meet peoples' needs locally.

The bill also tunes up the Steering Committee on the DD Payment System to clarify its mission is to seek continuous improvement, and for the Department to report its work and status to Legislative Management. We appreciate the continued involvement and support of the Assembly in making sure our services are of high quality, effective, and fair.

Every person who touches on a set of services to a North Dakotan with disabilities has to understand their touch comes at a cost, and they need to add more value to the process than that cost. This is true for CMS, the Developmental Disabilities Division of NDDHS, provider management, accountants and nurses, auditors, P&A and many others. We are working to ensure that the effect on the person served is the primary viewpoint in defining quality services, including in our relationship with the Department. We think the moves the DD Division and Department executives have made in this direction are very healthy. We wanted to Legislative Assembly to weigh in on the subject to preserve that practice if we ever lose some of those very capable personnel.

Thank you for your consideration, and I would be happy to answer any questions, now or later.



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North Dakota Association of Community Providers

Sixty-sixth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2247

Introduced by

Senators Hogan, J. Lee, Luick

Representatives Rohr, Schneider, Westlind

1 A BILL for an Act to amend and reenact section 50-06-37 of the North Dakota Century Code,
2 relating to the developmental disabilities system reimbursement project; to provide a statement
3 of legislative intent; and to provide for a legislative management report.

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

5 **SECTION 1. AMENDMENT.** Section 50-06-37 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **50-06-37. Developmental disabilities system reimbursement project.**

8 The department of human services, in conjunction with developmental disabilities
9 ~~service~~community providers, shall ~~develop~~maintain a prospective ~~or related~~ payment system
10 with an independent rate model utilizing the support intensity scale based on a state-approved
11 assessment.

1 1. The department shall ~~establish~~maintain a steering committee consisting of up to eighteen
2 representatives from all interested providers ~~and, including up to two clients and up to one~~
3 family member, the department representatives, and the North Dakota protection and
4 advocacy project. The steering committee shall guide the development of the new payment
5 system including assisting a consultant to conceptualize, develop, design, implement, and
6 evaluate a new payment system.

12 2. The department shall ~~may~~ contract with a consultant by ~~September 1, 2011,~~ to
13 ~~develop~~continuously improve, in collaboration with the steering committee, the
14 payment system and the resource allocation model tying funding to support intensity
15 scale assessed needs of clients aged sixteen and older and to a state approved
16 assessment that assesses needs of clients younger than sixteen years of age the
17 state-approved assessment.

1 3. ~~After the prospective or related payment system rates are developed, the new rates~~
2 ~~must be tested on a sampling of clients and providers, the sample to be determined by~~
3 ~~the steering committee, allowing sufficient time to capture provider cost, client realized~~
4 ~~need, and service provision data. The consultant shall provide the appropriate~~
5 ~~sampling number to sufficiently test the rates, types of services, and needs of clients~~
6 ~~with the intent to include as many providers as fiscally feasible.~~

7 4.3. The department shall contract with a team of support intensity scale assessors by
8 September 1, 2011. The team shall begin assessing immediately the identified client
9 pilot group identified by the consultant contracted in subsection 2 vendor to complete
10 assessments based on the state-approved assessment.

11 5. ~~Once testing is complete, the data~~

12 4. Data must be analyzed by the consultant steering committee, and the
13 consultant steering committee shall make recommend to the department any needed
14 rate adjustments, resource allocation modifications, or process assumptions, including
15 the state-approved assessment.

16 6. ~~Beginning in June 2012, the~~

17 5. The department and the steering committee shall report development activities and
18 status information to an interim legislative committee.

19 7. ~~Implementation of any system developed under this chapter may not occur before the~~
20 ~~implementation of the department's new Medicaid management information system.~~

21 **SECTION 2. LEGISLATIVE INTENT - ONGOING IMPROVEMENTS.** It is the intent of the
22 sixty-sixth Legislative Assembly that the department of human services continue to work with
23 community providers to consider revising administrative requirements regarding developmental
24 disability service providers to minimize disruption and maximize effectiveness of direct services
25 to clients.

26 **SECTION 3. LEGISLATIVE INTENT - COMMUNITY PROVIDER CAPACITY -**

27 **INTELLECTUAL DISABILITY SYSTEM - REPORT TO LEGISLATIVE MANAGEMENT.** It is the
28 intent of the sixty-sixth legislative assembly that the department of human services continue to
29 work with community providers to continuously improve community provider capacity to serve
30 clients in the least restrictive appropriate setting. The department shall provide the legislative
31 management a status report on the ongoing work of the department to improve community

SB 2247
4/10/19
#1 pg. 3

Sixty-sixth
Legislative Assembly

- 1 provider capacity, together with any barriers encountered. The department shall also provide a
- 2 report to legislative management regarding the system of services for individuals with an
- 3 intellectual or developmental disability, including a review of the existing service system,
- 4 funding, and unmet needs.