

2019 SENATE GOVERNMENT AND VETERANS AFFAIRS

SCR 4018

2019 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Sheyenne River Room, State Capitol

SCR4018
2/28/2019
#32964

- Subcommittee
 Conference Committee

Committee Clerk: Pam Dever

Explanation or reason for introduction of bill/resolution:

Consider studying the feasibility & desirability of implementing a paid family leave program structured to be beneficial to both family & businesses, including an analysis of how to make the program financially sound; a review of the date on usage rates from other states that have programs, which state agency would be best suited to administer the program, & policies to ensure program success.

Minutes:

Att #1 – Sen Oban; Att #2 – Nick Archuleta; Att #3 – Jenna Herman; Att #4 – Mike Chaussee;

Vice Chair Meyer: We will open the hearing for SCR4018.

Sen. Erin Oban, Dist. 35, Bismarck: I am here to introduce this resolution. (see att #1) (3.29 end)

Vice Chair Meyer: Have you studied any states that have implemented this?

Sen. Erin Oban: We have reviewed them. We need to take the time to study them. Some are crafted after the Federal FMLA.

Sen. Shawn Vedaa: My spouse is in the business of selling this type of insurance to employers for employees. (4.57) Why would a business allow this to be purchased in their business since they will be contributing to this. If this is passed, then maybe they would say they don't need the private insurance if the government provides it?

Sen. Erin Oban: I don't see this as the government providing something. The government would be the administration of it. We could air this question in a study. We can talk to private businesses. How does it compete with them?

Sen. Shawn Vedaa: There is a bill in the House that will get here. It increases the percentages of unemployment insurance. Couldn't this get to a point that we are raising the percentages up and requiring more because there will not be enough money in this account to fund it? (7.05) Good intentions don't always work.

Sen. Erin Oban: We could look in to that in other states. FMLA is for broader things. There are different why the programs exist.

Nick Archuleta, N.D. United: We support SCR4018. (see att #2)

Sen. Kristin Roers: I have a challenge with the fact that a hospital is not going to get higher reimbursement because N.D. decided to implement this program. This is a study but what will get hurt when putting money into this pool?

Nick: Look at public education and many districts have sick leave benefits across the state. They can donate days to someone else. With the recent government shutdown, we had federal employees going to food banks. I do think it is worthy of a study, at least. (11.32)

Jenna Herman, FNP, N.D. Nurse Practitioner Assoc: I am here in support. (see att #3) We encourage a DO PASS. Any questions?

Mike Chaussee, AARP of N.D.: We are here to provide support for SCR4015. (see att #4) We are all in to support family care providers. This bill hits home.

Chairman Davison: Any more in favor? Any against? We will close the hearing. (18.30)

2019 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Sheyenne River Room, State Capitol

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2/28/2019
32986

- Subcommittee
 Conference Committee

Committee Clerk: Pam Dever

Explanation or reason for introduction of bill/resolution:

Study the feasibility & desirability of implementing a paid family leave program. Analyze and review data on usage rates from other states that have programs.

Minutes:

Chairman Davison: Take a look at SCR4018 again. What are the committee wishes?

Sen. Richard Marcellais: I move a DO PASS on SCR4018. **Sen. Erin Oban:** I second.

Chairman Davison: Any discussion?

Sen. Kristin Roers: I don't think it hurts anything to study it. I just don't see it going anywhere past the study. (1.13) Working in health care, we have a finite reimbursement rate. If this portion has to go to this pool, it will effect wages. It becomes a benefit but does it become a negative, also.

Sen. Shawn Vedaa: I agree with Sen. Roers. When oil came here, N.D. changed a lot. Benefits and wages went up lots. Wages have doubled since the oil boom. This may hurt a small town business, I feel. In study, you can turn that rock over. I just don't see it going anywhere. I will vote no. (2.43)

Sen. Erin Oban: There are hospitals in states that have this who also fund their hospitals on reimbursements rates. They make it work. These state have rural communities with small businesses, also. If they are negatively impacted, we will hear about that. What if it is positive? When you look at the mean average of N.D. citizen. I challenge anyone to work at that low level.

Sen. Shawn Vedaa: This always ends back on the consumer. It trickles down. If there are taxes or whatever, it ends on the consumer. We have Go Fund me accounts all the time in my town. You give and give, more and more. (5.32)

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Chairman Davison: We study things to get more educated and get both sides of the issue. I am in favor of the study. It is important to greater understand this subject. There are criteria around FMLA. I want to learn more about what states are doing.

Chairman Davison: Take the roll: **YES -- 5 NO -- 2 -0-absent PASSED**
Sen. Erin Oban will carry the bill.

Adjourned (6.02)

2-28-19

Date:
Roll Call Vote #: /

2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES *SCR 4018*
BILL/RESOLUTION NO.

Senate Government and Veterans Affairs 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 Sen Marcellais Seconded By Sen Oban

Senators	Yes	No	Senators	Yes	No
Chair Davison	/		Sen. Oban	/	
Vice Chair Meyer	/		Sen. Marcellais	/	
Sen. Elkin	/				
Sen. K. Roers		/			
Sen. Vedaa		/			

Total (Yes) 5 No 2

Absent 0

Floor Assignment Sen. Oban

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

REPORT OF STANDING COMMITTEE

SCR 4018: Government and Veterans Affairs Committee (Sen. Davison, Chairman)
recommends **DO PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING).
SCR 4018 was placed on the Eleventh order on the calendar.

2019 TESTIMONY

SCR 4018



NORTH DAKOTA SENATE

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360

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PS1



Senator Erin Oban

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COMMITTEES:

Education
Government and Veterans Affairs

SCR 4018: Paid Family Leave Study Senate GVA - 2/28/19 Testimony from Sen. Erin Oban

Good morning, Mr. Chairman, members of the Committee. For the record, I'm Erin Oban, Senator for Bismarck's District 35, a working mom, and a long-time supporter of policies like Paid Family Leave. I'm here to introduce Senate Concurrent Resolution 4018 and encourage Legislative Management to study paid family leave policies and options that could be of significant benefit to thousands of working North Dakotans and their families.

Many of you may be familiar with the federal Family & Medical Leave Act (FMLA), which guarantees 12 weeks of job-protected time off to eligible employees for a limited set of family caregiving needs. However, that job-protected time off is unpaid. Taking unpaid leave from work can and often does create financial challenges for working families, essentially making it difficult if not impossible to take that much-needed time to recover or to care for a loved one when they need it most.

The reason we need to study this topic is clear: what we have today is not working. Countless North Dakota families face the problem of choosing between their job and temporarily taking care of a loved one. The number of North Dakotans who need to provide caregiving services to a family member will certainly grow as our population is aging, and the number of North Dakotans having children has remained steady, too.

In fact, a paid family leave program would have two primary benefits: it will help North Dakota families who have significant caregiving needs *AND* it will help North Dakota businesses to recruit and retain workers - which is urgently necessary as we face a tight labor market in our state.

Paid Family Leave would be good for North Dakota families:

Most North Dakotans have the need for leave at some point in their lives. ([source](#))

- 46% of ND's private sector workforce can't even earn a single paid sick day.
- About 62K+ North Dakotans serve as family caregivers.
- About 11K babies are born every year in ND.
- Nationally, only 13% of the private-industry workforce has access to paid family leave.

Paid family leave would be welcomed by working families. ([source](#))

- 84% surveyed support a comprehensive national paid family and medical leave policy that covers all people who work.
- 66% surveyed say they would face serious financial hardship if they had to take up to a few months of unpaid leave for family or medical reasons.

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Paid Family Leave would be good for North Dakota businesses: (source and source)

- Paid leave will serve as a tool for ND employers to address their workforce challenges; it can serve as a competitive differentiator with neighboring states to help recruit and retain employees - especially young families who expect this type of benefit.
- Paid family leave helps employers avoid the cost of retraining new employees when they have high turnover (training averages one-fifth of the cost of an employee's annual salary).
- Research shows that businesses with a paid leave program retain new mothers at a higher rate and overall see a reduction in employee turnover, an increase in worker productivity and an improvement in employee morale & loyalty.
- Research shows that employers in states with paid family leave programs say program administration is not challenging and the programs result in a cost saving not a financial drain.
- Employers say abuse is extremely rare (source).

Aspects to study

The US is the only developed nation in the world without a national paid parental leave policy. Within the US, six states + DC have enacted paid family leave programs. A study of paid family leave can seek best practices from these other states that have such a program, helping us to answer many very valid questions that arise in these debates.

Most commonly, these states set up a paid family leave program to be an earned benefit that both employers and employees invest in together. Such a program would build on FMLA, which allows an eligible employee to take an unpaid leave of absence. With this idea, the state is merely facilitating the "paid" aspect. It would not be a government handout, but rather the state managing a program that benefits businesses and families alike.

To help you envision how this might work - I'll share some basic principles from other states that have it:

- States identify criteria for participating employers. Most often, employers of a certain size would be required to participate, similar to how FMLA applies to employers with 50 or more employees. Smaller businesses could choose to participate, and many would find that appealing because it would help them better compete for talent against larger employers and big corporations.
- States identify criteria for eligible employees who may participate. Typically, the employees will have been employed for a certain number of months, accrue a certain number of hours of work, and work a certain number of hours per week.
- A qualifying medical event would typically be defined the same as FMLA, encompassing the arrival of a new child, caring for a seriously sick or injured family member, or dealing with the individual's own health event. Paid leave is not for short-duration events that typical earned sick leave would provide for, like minor illnesses; it is meant to provide financial stability that most working families need for more significant events that families occasionally face.
- Typically, employers and employees EACH pay into the paid family leave fund - similar to disability insurance. As one example, they might each contribute two cents per \$10 in wages (0.2%) - about \$1-\$2 per week. If North Dakota pursued this model, here how that would play out:

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Wage Scenarios	Annual wage	Paid leave contribution	
Average employee wage in ND (mean)	\$48,130	\$1.85 / week	\$96.26 / year
50th percentile (median) wage in ND	\$40,040	\$1.54 / week	\$80.08 / year
Entry-level employee	\$24,440	\$0.94 / week	\$48.88 / year
Average of bottom 1/3 of overall wage distribution)			
Experienced (average of upper 2/3 of overall wage distribution)	\$59,970	\$2.30 per week	\$120 / year

Continuing with aspects to study:

- The study should determine the amount of leave time an eligible employee could take. Other states range from 4 weeks to 12 weeks of paid coverage per year.
- The study should determine what portion of the person's wages the paid leave would cover. Most commonly, paid leave provides 66% of the person's wages, with a maximum amount per month (a \$4,000 max). Employers could certainly go beyond this program with their own benefits. For example - if the state program allowed 6 weeks of paid leave at 66% of the wages, the employer could provide supplemental pay so the employee received 100% pay for that same period.
- The study could analyze "usage rates" from other states with this program - how much time an eligible employee actually takes off versus what they are eligible to take off.
- The study should consider the financial feasibility of the model with different contribution amounts (two cents per \$10 of wages versus other amounts) and different benefits (for example, offering four weeks of leave versus eight or twelve). That financial feasibility should also include analysis on what level of start-up funds would be necessary, which could be structured as a loan.
- The study will want to consider which state agency is the best to administer such a program. Is it an agency like WSI that has experience working with employers, or would the Insurance Commission or Commerce Dept be a better fit?
- The study should consider how many FTEs or contract employees are needed to ensure successful program management, looking at similar programs in other states and comparable programs in ND.
- The study should look at what financial impact a paid family leave program would have on other state programs. For example, the state funds child care assistance programs, caregiving programs like SPED and Ex-SPED, and even Medicaid and Medicare. A paid family leave program could reduce state investment in these programs or at least curb growth.
- The study may want to provide suggestions for different phases of the program - time to develop the staffing, administrative rules and program structure, the time when contributions could begin, and the time when people could start taking leave benefits.
- The study may want to identify specific details to include in a future policy, such as the ability to break up a leave into increments versus taking it all at once.

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Conclusion:

pg 4 Not to divert from my messaging here, but Obans have been working on this issue for longer than I've been an Oban. In 1989, in testimony given to the Senate IBL Committee by my late father-in-law, Rep. Bill Oban, a cosponsor of a family leave bill, he stated, "How often have you heard people say that they yearn for the "good old days" when family took care of family? I believe that family still wants to care for family. Our society and our workforce has changed. With both spouses working, it becomes more difficult for family to care for family unless some element of security is available. It may not be the way we want it, but it's reality."

Mr. Chairman, I know firsthand the experiences - the really good ones, and the really terrible ones - that working families face in these situations. In the course of a year and a half, my father was diagnosed with terminal cancer, we lost a child, our son was born (I quit my job at that point for lack of maternity leave AND waitlisted for childcare), and my father died. Those are extraordinary events that don't all typically happen at once but that typically impact nearly every North Dakotan at some point. I don't know each of you has had a similar, very challenging experience in your life, too. I was fortunate to be able to pay my bills long enough to make this work, but I still chose between my family and my job/paycheck. That's a terrible, terrible choice to make.

A paid family leave program would solve two problems that we have today in our state: people are having to choose between their job and being able to pay their bills and taking care of a loved one, and businesses are struggling to recruit and retain workers. Paid family leave policies and programs can and do help with both.

Such a program will make a meaningful difference in the lives of thousands of North Dakotans. Because of that, I ask for a do-pass recommendation on SCR 4018 so that we can spend the time it takes to thoughtfully explore and craft good policy that can work for North Dakota families AND for North Dakota employers.

Attachments:

- An overview of the state's caregiving programs. Nancy Nikolas Maier, Director of the ND DHS Aging Services Division, developed the document.

Other info on FMLA:

- <https://fas.org/sgp/crs/misc/R44835.pdf>
- https://www.dol.gov/whd/fmla/applicable_laws.htm
- <https://www.dol.gov/whd/regs/statutes/fmla.htm>
- <https://www.dol.gov/whd/fmla/fmlaAmended.htm>
- <https://www.dol.gov/whd/fmla/employerguide.pdf>
- <https://www.dol.gov/whd/fmla/employeeeguide.pdf>

State and Federally Funded Home & Community-Based Services for Older Adults and Individuals with Physical Disabilities

Paid Family Leave Impact: Home and Community-Based Services (HCBS)

- By 2025, the number of adults ages 65 and older will represent 18% of the population as the baby boom generations ages.
- This shift will impact North Dakota's workforce and will increase the need for family (informal/unpaid) and formal (paid) caregivers.
- Unpaid family caregivers are an important source of long-term care services and supports for older adults and people with disabilities, and access to a family caregiver can delay or prevent institutional placement.
- Family caregivers may be more willing to provide unpaid caregiving for a longer period if they have access to paid family leave at work.
- Family caregivers who are unable to work or must cut back on the hours they work because of the demands of caregiving may choose institutional placement or publicly funded HCBS.
- HCBS services are available to qualifying individuals, may pay an individual's family member for providing their care, and can also pay for respite (a temporary break for caregivers). This may assist individuals to remain with family members and in their own communities.

Services that Support Family Caregivers				
<i>HCBS Funding Source</i>	State Funded - Service Payments for Elderly and Disabled (SPED)	State Funded - Expanded Service Payments for Elderly and Disabled (Ex-SPED)	Medicaid State Plan – Personal Cares (PC)	Home and Community Based Services Medicaid Waiver (<i>Aged & Disabled Waiver</i>)
<i>Program where family members may be paid to provide care</i>	Family Home Care (FHC)	Family Home Care (FHC)	Personal Cares (PC)	Family Personal Care (FPC)
<i>Functional Eligibility Criteria</i>	Reimburses family caregivers who are providing up to 24-hour care to a family member who is experiencing functional impairments which contribute to his or her inability to accomplish activities of daily living	Reimburses family caregivers who are providing up to 24-hour care to a family member who is experiencing functional impairments which contribute to his or her inability to accomplish activities of daily living	Assists an individual with activities of daily living (ADLs) and instrumental activities of daily living (IADLs) so that the individual can live at home and maintain as much independence and self-reliance as possible	Reimburses legal spouse of a recipient for the provision of personal care or similar services up to 24 hours per day.
<i>Financial Eligibility Criteria</i>	Respite Care Must meet functional eligibility criteria and have less than \$50,000 in assets	Respite Care Must meet same functional eligibility criteria as a resident of a basic care facility and be on Medicaid	N/A Must meet functional eligibility criteria and be on Medicaid	Respite Care Must meet the same functional eligibility criteria as a resident of a skilled nursing facility and be on Medicaid

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Number of Clients and Providers using FHC, FPC and Personal Care Services

<i>Program where family members may be paid to provide care</i>	SPED and Ex-SPED Family Home Care (FHC)	Medicaid State Personal Cares (PC)	Family Personal Care (FPC)
Number of Clients Served July 1, 2017 – June 30, 2018	322	1214	73
Number of Providers July 1, 2017 – June 30, 2018	317	784	73
Amount Paid to Providers July 1, 2017 – June 30, 2018	\$2,924,120*	\$16,424,170*	\$1,321,529*

* Source: Department of Human Services claims data pulled January 2019

Number of Clients and Providers using Respite Care

<i>Program where family members may be paid to provide care</i>	SPED and Ex-SPED Family Home Care (FHC)	Medicaid State Personal Cares (PC)	Medicaid Waiver
Number of Clients Served July 1, 2017 – June 30, 2018	47	N/A	53
Number of Providers July 1, 2017 – June 30, 2018	57	N/A	51
Amount Paid to Providers July 1, 2017 – June 30, 2018	\$177,143*	N/A	\$257,427

* Source: Department of Human Services claims data pulled January 2019

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att #2



Great Public Schools

Great Public Service

Testimony Before the Senate Government and Veterans Affairs Committee
SCR 4018
Thursday, February 28, 2019

Good Morning Chairman Davison and members of the Committee. For the record my name is Nick Archuleta and I am the president of North Dakota United. I rise today to encourage a DO PASS recommendation for SCR 4018.

Mr. Chairman, the United States of America has much to be proud of as we all know. The fact that we are the only developed nation on the planet that does not have a national paid parental leave policy is not one of them. SCR 4018 proposes that Legislative Management simply consider studying the issue of paid family leave. The issue of paid family leave is very important to families across the state as well as to employers looking to attract employees in a very tight labor market. Should paid family leave come to pass, families would have the security they deserve when death or extended illness touches their families and employers will have a tremendous instrument to use as they recruit the best and the brightest candidates to their businesses.

At a time when families are working harder than ever to make ends meet, it is imperative that this legislative body study options to help relieve their stress and give them hope. We know that there are thousands of families in ND living paycheck to paycheck. Many working men and women cannot afford time away from work to care for a loved one. SCR 4018 is a great first step in mitigating that stress.

For that reason, I urge this Committee to send SCR 4018 to the body with a DO PASS recommendation. Thank you for this opportunity to support this truly aspirational resolution. I am happy to stand for any questions.

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House Industry Business and Labor
HB 1509 SCR 4018

Chairman Kasper and Committee Members:

I am Jenna Herman, FNP and Lobbyist for the North Dakota Nurse Practitioner Association. NDNPA does support HB 1509 a bill for an Act to create and enact chapter 65-05.3 of the North Dakota Century Code, relating to a paid family medical leave program; to provide an appropriation; and to provide for a transfer.

A concurrent resolution requesting the Legislative Management to consider studying the feasibility and desirability of implementing a paid family leave program structured to be beneficial to both families and businesses, including an analysis of how to make the program financially sound while being affordable for families and businesses; and a review of the data on usage rates from other states that have programs, which state agency would be best suited to administer the program, and policies required to ensure program success.

Most individuals at some time in their life will be involved with a family illness. This illness may be short term or take weeks of personnel time depending on the situation. NDNPA supports this bill to establish paid family medical leave funds at a place of employment. This bill does require use of two weeks of sick or vacation leave before using this fund of leave time. This fund is then available to help the individual to care for a family member requiring a prolonged illness. This fund will be extremely helpful when a family member needs assistance during an illness and will facilitate a worker in experiencing less stress due to loss of wages. This may be one item to help with retention of nurses. NDNPA does support a study on paid family leave program.

Jenna Herman, FNP

North Dakota Nurse Practitioner Association

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Real Possibilities in

North Dakota

SCR 4018

Feb. 28, 2019

Senate Government and Veterans Affairs Committee

Mike Chaussee, AARP ND – mchaussee@aarpp.org

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PSI

Chairman Davison and members of the Senate Government and Veterans Affairs Committee, my name is Mike Chaussee, Associate State Director for Advocacy with AARP North Dakota. We are here to provide support for Senate Concurrent Resolution 4018.

As many of you know we at AARP North Dakota have been working for several sessions trying to provide much needed support for the state's unpaid family caregivers. These are people who care for their loved ones at home – keeping them out of hospitals and nursing homes to the benefit of families, communities and the state.

By doing so, these estimated 62,100 caregivers save the state more than \$860 million by providing 58 million hours of FREE health care and other assistance so their loved ones can remain living in their homes and supporting their communities.

The more research we do, the more we learn about these caregivers – their role, their value and their needs. I'd like to spend a few minutes sharing with you some of what we learned through a **survey of North Dakota caregivers conducted in November and December of 2018** (just a couple of months ago). I'll make sure to discuss the things relevant to SCR 4018.

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We surveyed 800 North Dakotans age 40 and older – of those surveyed, 46 percent say they are either currently caring for someone or have cared for someone in the past. So we know this work touches many people at some point in their lives. It reminds us of a quote from former first lady Rosalyn Carter who said there are only four kinds of people in the world; **those who have been caregivers, those who are caregivers, those who will be caregivers and those who will need caregivers.**

North Dakota caregivers care primarily for their parents (64%) and spouses (18%) – they assist with transportation (89%), finances (64%), household chores (87%) and shopping (87%). They also perform a number of medical tasks including overseeing medication (63%) and other complex nursing tasks like wound care and injections (56%).

And here's the kicker when it comes to this bill – 68 percent of current and former caregivers say they work(ed) while also performing the caregiving duties. Of those who said they work(ed) – 72 percent of them said they had taken some time off from work and 28 percent said they had to take extended leave to care for their loved one. Then we have those who left full time jobs for part time ones so they could also provide care (15%) and those who quit work entirely (12%).

According to a recent report from Harvard Business School (*The Caring Company: How employers can help employees manage their caregiving responsibilities – while reducing costs and increasing productivity*) released last month – almost a third of workers – including many senior executives – say their careers have been adversely affected by caregiving obligations. And close to one-third of the employees surveyed in this study say they had voluntarily left a job during their career due to caregiving responsibilities.

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It's these caregivers, the ones who work or could be working, who can truly benefit from paid family leave programs.

AARP strongly supported the federal Family and Medical Leave Act in 1993. That act provides patients with serious medical conditions and family members caring for them up to 12 weeks of time off with guarantees to maintain insurance and retain a similar job when they return.

At the state level, AARP supports laws that provide paid leave – and would be happy to offer assistance in providing research and information to the committee if the study is approved.

Thank you for your consideration of this study. Its outcomes will be interesting and truly benefit many North Dakotans who provide much needed care for others and in turn save the state millions.

Mike Chaussee
AARP North Dakota