

Office memo

Date: April 27, 2024

To: Nursing Home Workforce Standards Board

From: Leah Solo, NHWSB Executive Director

RE: Analysis of Proposals in currently discussed by the NHWSB

During discussion of the proposals submitted to the Board for consideration on March 20, 2024 (hereinafter “Union 2(a) and 2(b)”) at the April 15, 2024 NHWSB Meeting, the Board reviewed the Memo “Analyzing Proposals,” which walks through the NHWSB Act data obligations for analyzing proposals. During that discussion, a request was made by the Board for Staff to analyze 2(a) and 2(b) according to the terms laid out in the memo. In response, staff reached out for assistance from the Department of Labor and Industry to use the data and tools the Board has collected to analyze the proposals. On April 22, 2024, Board Members Lundmark, Rocheleau, and Swanson shared two additional proposals. Below is that analysis of Union 2(a) and 2(b), as well as the additional proposals from Board members Lundmark, Rocheleau, and Swanson (hereinafter “Wage 1 Proposal” and “Amend Time and a Half”).

Statutory language

To summarize the Board’s statutory obligations with regards to data and setting initial wage standards, there are three items to keep in mind.

1. “The board must adopt rules establishing minimum nursing home employment standards that are reasonably necessary and appropriate to protect the health and welfare of nursing home workers...” Minn. Stat. § 181.213 subd. 1(a). This is the Board’s guiding statute from the legislature. Standards for wages should be reasonably necessary and appropriate to protect the health and welfare of nursing home workers.
2. “The board must investigate market conditions and the existing wages, benefits, and working conditions of nursing home workers for specific geographic areas of the state and specific nursing home occupations.” Minn. Stat. § 181.213 subd. 2(a). This directs the Board to research and gather data about the conditions of nursing home workers. Statute further directed the Board on what data must be collected in Minn. Stat. 181.213, subd. 2(b); an in-depth discussion of each type of information the Board was directed to collect can be found in the April 10, 2024 memo titled “Analyzing Proposals” memo. This is why the Board collected wage data, sought public testimony, and examined cost of living data in Minnesota.
3. “Based on this information, the board must seek to adopt minimum nursing home employment standards that meet or exceed existing industry conditions for a majority of nursing home workers in the relevant geographic area and nursing home occupation.” Minn. Stat. § 181.213 subd. 2(a). This is what we have referred to as the “majority benchmark.” The Board should seek to establish a minimum wage

standard that meets or exceeds the current conditions for a majority of nursing home workers; put another way, the standards the Board sets should attempt to raise the minimum wage to a level beyond the current wages of over half of the nursing home workers in a given geographic area and occupation. The Board should be using the data gathered from the research the Board has done to be able to show this.

The Board should be able to show, based on the research that has been done, that the initial minimum wage standards set by the Board are reasonably necessary and appropriate to protect the health and welfare of nursing home workers and that they are seeking to meet or exceed the current conditions for a majority of workers that fall under the NHWSB Act.

Additional language

In addition to the language directing the Board's general goal, the imperative to research, and the majority benchmark, it is important to keep in mind the process laid out in Minn. Stat. § 181.213 subd. 2 (c-e), regarding the consideration to be given to funding new standards, the acquisition of said funding, and the implementation of standards when additional funding is required. This process has been examined by the Board on several occasions, most notably through the April 10, 2024 "Analyzing Proposals" memo, and the corresponding discussion at the April 11, 2024 meeting of the Board. Below is a summary of relevant information as it pertains to the proposals before the Board; for a more fulsome discussion of this process, please see the April 10, 2024 "Analyzing Proposals" memo.

1. "In considering wage and benefit increases, the board must determine the impact of nursing home operating payment rates determined pursuant to section [256R.21, subdivision 3](#), and the employee benefits portion of the external fixed costs payment rate determined pursuant to section [256R.25](#)..." Minn. Stat. § 181.213 subd. 2 (c). This language is the statutory charge of the Board to look at the costs that the state will incur due to the standards going into effect. Note that this portion of the statute points to parts of the Medicare reimbursement rates for nursing homes as calculated by DHS as being the metric by which the Board determines the cost to the State.
2. "...If the board, in consultation with the commissioner of human services, determines the operating payment rate and employee benefits portion of the external fixed costs payment rate will increase to comply with the new employment standards, the board shall report to the legislature the increase in funding needed to increase payment rates to comply with the new employment standards and must make implementation of any new nursing home employment standards contingent upon an appropriation, as determined by sections [256R.21](#) and [256R.25](#), to fund the rate increase necessary to comply with the new employment standards." Minn. Stat. § 181.213 subd. 2 (c). This portion of statute gives the direction to the Board to report to the legislature any increase in funding needed as a result of an increase in payment rates to comply with the new standards. The statute does not direct the Board to modify schedules or calculations of payment rates to nursing homes.
3. The next section gives specific instructions about how to calculate any increased need in funding in consultation with the commissioner of DHS. Some specific observations about Minn. Stat. § 181.213, subd. 2(d):
 - a. Section (1) states: "the statewide average wage rates for employees pursuant to section [256R.10](#), subdivision 5, and benefit rates pursuant to section [256R.02, subdivisions 18](#) and 22, as determined by the annual Medicaid cost report used to determine the operating

payment rate and the employee benefits portion of the external fixed costs payment rate for the first day of the calendar year immediately following the date the board has established minimum wage and benefit levels;” This section specifically cites a need to examine a statewide average rate for employees.

- b. Sections (2) and (3) specifically cite the operating payment rate and employee benefits portion of the external fixed costs payment rate and the most recent budget and economic forecast completed under Minn. Stat. § [16A.103](#) as the elements needed to be examined to determine what needs to be reported to the legislature for an appropriation.

Data Sources

As laid out in statute, the Board used several sources of data and research.

“5b Analysis of Data for WFSB 20240130 11452” from February 8 Board Packet can be referenced for the best compilation of data regarding the requirements of Minn. Stat. §§ 181.213 subd. 2(b)(1),(2),(6). This data is from DHS and comes from the workforce incentive grant program, which allowed DHS to see actual wage-per-hour data on a significant amount of nursing home workers who make less than \$30/hour. Based on a sample of that data from 132 facilities out of approximately 340 possible facilities, one can input a hypothetical minimum wage per hour for one of 5 occupations (CNA, Dietary Aide, Cook, Housekeeping, Activities Aide) and determine the percentage of people working in that profession whose wages currently fall below the proposed minimum standard.

“5a Minnesota Minimum Wages and Benefits – Summary for NHWSB Feb 2024” in the February 8 2024 Board packet laid out minimum wages and other requirements for wages and benefits in Minnesota. Of note in this memo is that many employers in Minneapolis and St. Paul have a minimum wage of \$15.57/hour and that will see an annual increase on 1/1/2025 and each year afterwards. This memo draws heavily on the Minnesota Department of Labor and Industry’s website and relates to requirements under Minn. Stat. § 181.213 subd. 2(b)(5).

The Board also heard a presentation from DEED in regards to the [Cost of Living Tool](#). This tool helps determine what a person or family in Minnesota would need to earn in a year or per hour in order to maintain a very basic standards of living. This helps both understand potential wages needed for the health and welfare of nursing home workers and falls into the category listed in Minn. Stat. § 181.213 subd. 2(b)(7).

To help determine what would be relevant nursing home occupations, the Board examined statute governing nursing home reimbursement in Minn. Stat. § 256R.02. This research helped determine the need to look specifically at Certified Nursing Assistants, Dietary Aides and others as well as understand how we could define categories of occupations. This is in line with Minn. Stat. § 181.213 subd. 2(b)(7).

“Employee Counts” is a data workbook that was shared at the October 23, 2023 Data workgroup meeting. It draws on data provided by DHS from cost reports. This data source includes the number of full or part time employees that are reported to DHS in various categories of workers which can be used to determine the majority benchmark.

Minn. Stat. § 181.213 subd. 2(b)(4) instructed the Board to listen to testimony from current and former nursing home workers, worker organizations, nursing home employers, and employer organizations. The Board did this

through 5 public forums and a set of online questionnaires. Highlights from the forums included workers advocating for \$25/hour and employers asking the Board to ensure the minimum wages were paid for by the legislature. Summaries of the data from the questionnaires can be found under the March 14, 2024 data workgroup meeting materials [NHWSB Data Workgroup meeting materials | Minnesota Department of Labor and Industry \(mn.gov\)](#).

Minn. Stat. § 181.213 subd. 2(b)(3) directed the Board to collect collective bargaining agreements (CBAs). The Board did do this, but determined that because they only represent a third of facilities, they were not the correct data set for comparison with proposed standards.

Limitations of the Data

No data set is able to show a perfect reflection of market conditions and the lives of nursing home workers. Below are some ways in which the research and data is not a perfect reflection.

Differing definitions

A significant amount of the data the Board has researched comes from DHS, and there may be a difference between what DHS determines are administrative costs and what is meant by statute in excluding “administrative staff” from the definition of nursing home worker. See Minn. Stat. § 256R.02, subd. 4. Staff will continue to work to obtain a more precise definition of the administrative staff that are excepted from the standards the Board must set. Using DHS’s definition of “administrative costs,” a receptionist or a security guard at a nursing home would be excluded from the worker definition, while managers and supervisors for housekeeping and maintenance would be included in the worker definition Minn. Stat. § 256R.02, subd. 4. This uncertainty in definitions that means when staff was determining the ratio of the number of nursing home workers whose wages do not currently exceed the minimum wage of a proposed standard against the number of nursing home workers affected by the standards the Board will set for the purposes of determining if a standard meets the majority benchmark, some people who likely should be included as part of this calculation were excluded, and vice versa.

Incomplete data

While the data supplied by DHS has been the most fulsome collection, it is important to note some gaps in the data. The investigative work of the Board coincided with a special data set that DHS was able to gather when all but a few of the 340+ nursing homes in the state applied for a nursing home workforce incentive grant, giving workers who make under \$30 an hour a special bonus. However, this does not provide a full set of wage data. For instance, it lacked data on anyone making over \$30/hour, meaning it did not provide a statistically significant data on some positions, like LPNs or RNs, or any other individuals making more than \$30/hour. Additionally, though the Board using DHS data was able to gather a statistically sound sample of data on positions such CNAs, housekeeping, dietary aides, cooks, and activities aides, there was not a capacity to gather samples for all positions.

Timing and location of public forums

The Board was able to hold five public forums, three in person and two online. Though the in-person events were held in three very different locations in the vicinity of nursing homes and the online events were held at

different times of day, workers and employers may have had difficulty attending. This absence means that while the Board gathered testimony from dozens of people, categories of issues could have been overlooked with the absence of people who were unable to attend. There was one reported incident where several workers who were ready to speak at a public forum were unable to do so because they needed to stay on shift due to a shortage of staff.

Reach of online questionnaires

Though the Board had over 200 people fill out the online questionnaires, with thousands of workers, hundreds of employers and thousands of people with a stake in nursing homes, it may have fallen short of a statistically significant sample. If it is a statistically unsound sample, the Board should look at it as additional individuals rather than representative of the nursing home workforce as a whole.

Despite the limitations outlined above, as has been discussed in the Data workgroup and at the Board, the DHS data is the best source the Board has for estimating the impact of the pay standard proposals.

Analyzing Wages in Union Proposals 2(a) and 2(b)

Union Proposals 2(a) and 2(b)

As revised at the March 27, 2024 Special Board meeting, the Union proposals were as follows in “Table 1: Minimum wages by occupation in union proposals 2(a) and 2(b)”:

Table 1: Minimum wages by occupation in union proposals 2(a) and 2(b)

Item	Enactment	2(a)	2(b)
Holiday Pay	1/1/2025	11 specified Holidays where workers would receive time and a half if working.	11 specified Holidays where workers would receive time and a half if working.
General Minimum Wage	1/1/2026	\$19/hour	\$18/hour
General Minimum Wage	1/1/2027	\$20.50/hr.	\$20/hr.
CNA Minimum Wage	1/1/2026	\$22.50/hr.	\$21.50/hr.
CNA Minimum Wage	1/1/2027	\$24/hr.	\$22.50/hr.
TMA Minimum Wage	1/1/2026	\$23.50/hr.	\$22.50/hr.

TMA Minimum Wage	1/1/2027	\$25/hr.	\$23.50/hr.
LPN Minimum Wage	1/1/2026	\$27/hr.	\$26/hr.
LPN Minimum Wage	1/1/2027	\$28.50/hr.	\$28/hr.

Meeting the Majority Benchmark

There are two pieces of information that the Board needs to examine to determine if a proposal meets the majority benchmark: first is the number of workers that fall under the NHWSB Act, and second is the number of workers for whom the proposal would meet or exceed their current wage rate.

Determining the total number of workers under the NHWSB Act

The first step to determining whether a proposal meets the majority benchmark is to determine the total number of nursing home workers of a given geographic region and occupation. This number becomes the denominator in the fraction that illustrates if the majority benchmark is being met. The best source of this information is the “Employee Counts” data workbook that was shared at the October 23, 2023 Data workgroup meeting. Noting the shortcomings of the data listed in this memo, “Table 2:Employee counts” shares the breakdown of the employees falling under the NHWSB Act:

Table 2: Employee counts

Job Category/Dept.	Employee Count (PT & FT)		
Activities	1,424	5%	
C.N.A.	8,888	34%	
Dietary	4,750	18%	13% dietary aides, 5% cooks
Housekeeping	1,474	6%	
Laundry	424	2%	
L.P.N.	2,546	10%	
Plant/Maintenance	845	3%	
Medical Records	694	3%	
Mental Health Worker	89	0%	
Other Direct Care	463	2%	
R.N.	2,695	10%	
Social Worker	639	2%	
T.M.A.	1,075	4%	
Total falling under NHWSBA	26,006		

Note: all employee counts are done at a statewide level, as the proposals being examined herein would establish statewide minimum wages.

Calculating the percentages affected by proposed minimum standards from “5b Analysis of Data...” worksheet

After determining employee count numbers, the next step is to determine the number of employees for a given occupation whose current wages fall below the minimum wage set in the proposed standard. This number serves as the numerator in the fraction that illustrates if the majority benchmark is being met. The number can be found by using the “5b Analysis of Data for WFSB 20240130 11452” spreadsheet. This spreadsheet allows the user to enter a theoretical wage and it then calculates the number of workers from the sample do not currently meet that minimum standard. That percentage is listed in “Table 3” and “Table 4” below in the row “percentage.” The row “% of all workers as defined...” in Table 3 and Table 4 below takes the percentage of a particular occupation that falls below the minimum standard being proposed and translates that into a percentage of the entire NHWSB Act workforce. The row “Total % of all workers...” combines the row above into a total number of workers whose current wages fall below the proposed standard.

Table 3: Analysis of data using union proposal 2(a)

UNION 2(a) Proposal	CNA	Cook	Dietary Aide	Housekeeping	Act Aide
Possible Wage	\$ 22.50	\$ 19.00	\$ 19.00	\$ 19.00	\$ 19.00
Current Median	\$ 20.30	\$ 19.68	\$ 16.06	\$ 16.99	\$ 16.82
Percentage	76%	44%	88%	83%	72%
% of all workers as defined by NHWSBA for whom the proposed standard is greater than their current wage	26%	2%	11%	5%	4%
Total % of all workers as defined by NHWSBA for whom the proposed standard is greater than their current wage as able to be demonstrated by "5b Analysis of Data ... worksheet"	48%				

Table 4: Analysis of data using union proposal 2(b)

UNION 2(b) Proposal	CNA	Cook	Dietary Aide	Housekeeping	Act Aide
Possible Wage	\$ 21.50	\$ 18.00	\$ 18.00	\$ 18.00	\$ 18.00
Median	\$ 20.31	\$ 19.84	\$ 16.05	\$ 16.90	\$ 16.79
Percentage	64%	27%	80%	67%	65%
% of all workers as defined by NHWSBA for whom the proposed standard is greater than their current wage	22%	1%	10%	4%	4%
Total % of all workers as defined by NHWSBA for whom the proposed standard is greater than their current wage as able to be demonstrated by "5b Analysis of Data ... worksheet"	41%				

So, with data that can be calculated using the “5b Analysis of data... worksheet” Union 2(a) meets or exceeds for 48% and Union 2(b) meets or exceeds for 41% of workers. This conclusion is reached by adding the percentages in the line % of all workers as defined by NHWSBA for whom the proposed standard is greater than their current wage. That lines calculation was made by taking the percentage of a particular occupation that fall below the

proposed minimum and multiplying it by the percentage of the workforce as a whole that work in that occupation. For example, in the 2(b) proposal, 64% of CNAs fall below the proposed standard and CNAs represent 34% of the workforce. Multiplying 64% of CNAs times 34% of the workforce, produces 22% of the workforce who are CNAs and fall below the proposed standard.

Additional Calculations

The calculation so far accounts for CNAs (34% of the workforce), Dietary (18%), Housekeeping (6%), and Activities (5%) or 63% of the nursing home workers as defined by the NHWSB Act. Of the remaining workers, let's first examine TMAs.

Conversations at the NHWSB meetings have generally agreed that TMAs earn \$1 more per hour than CNAs. Union proposals 2(a) and 2(b) both propose TMAs making \$1 more per hour than CNAs. The Board could estimate then that the proposals would have a similar effect on TMAs as CNAs because the proposals for TMAs are \$1 above CNA wages. It would follow then that for Union 2(a) proposal, the proposed initial minimum wage of \$23.50 per hour would meet or exceed current conditions for 76% of TMAs and for Union 2(b) proposal, the proposed initial minimum wage of \$22.50 per hour would meet or exceed current conditions for 64% of TMAs. With TMAs making up 4% of the workforce, that adds 3% of the workforce to Union 2(a) and 2.6% of the workforce to Union 2(b).

Next, the Board could examine LPNs. It has been discussed from the workforce incentive grants data, that not a large percentage of LPNs qualified for the grant. That means that many LPNs make over \$30/hour. The proposals have an LPN's minimum wage being under \$30/hour, peaking at \$28.50 and \$28 in 2027. With the proposed LPN minimum wages falling below \$30/hour and understanding that only a small percentage of LPNs were listed in our data as earning less than \$30/hour, one could assume that it would be a minimal percentage of the 10% of the workforce that are LPNs that currently fall below the minimum wages in the proposals. Therefore, the proposed LPN minimum wages do not add to the workforce impacted by the proposed standards for the purposes of determining if the proposals meet the majority benchmark.

For Laundry, discussions and anecdotal evidence presented by Board members have drawn parallels between Housekeeping and Laundry salaries. If the 2% of the workforce that are Laundry workers are affected by the minimums at the same rates as housekeeping, that would add another 1.7% of the workforce to Union 2(a) and 1.3% of the workforce to Union 2(b).

RN's do not have their own minimum wage in either proposal, leaving them with the \$19/hour and \$18/hour minimum wages. Based upon the anecdotal reports of Board Members in discussion, and the extensive training required of RNs, it would appear that RNs generally already receive wages that would mean the standards proposed here would have a negligible impact on this occupation for determining if the proposals meet the majority benchmark.

There currently exists no method to analyze the impact of standards for Plant/Maintenance, Medical records, Social Workers, Mental health workers, and other direct care staff in terms of meeting the majority benchmark. Together these occupations make up 10% of the workforce. Consequently, the conclusions below take a conservative view of this sector of the workforce and assume that no worker's wage falls below the minimum wage set by a proposed standard. This is done to ensure that the majority benchmark calculation is not relying on overly optimistic assumptions.

Without knowing the final section of the workforce, the Board can estimate, based on the collected data, that the proposals will meet or exceed the market conditions for at least the following percentage of workers:

Union 2(a) 52.7% (48% 5b analysis worksheet/Table 3 + 3% TMAs + 1.7% Laundry)

Union 2(b) 44.9%(41% 5b analysis worksheet/Table 4 + 2.6% TMAs + 1.3% Laundry)

Health and Welfare of Nursing Home Workers

As has been discussed, an important metric to look at regarding the health and welfare of nursing home workers is the Cost of living in Minnesota. To use the [Cost of Living Tool](#), the tool asks if a person is partnered or single. If partnered, it asks if one is working full time, one working full time and the other part time, or both are working full time. It also asks if there are children in the household, though as a limitation on this data, does not specify if there are any additional custody or child support arrangements.

In the questionnaire for workers, the Board asked if a worker is single, married, divorced, separated, widowed, or co-habiting. The Board also asked if the worker has dependents in the home. 69 people answered these questions. Below are some highlights from those answers which demonstrate there are a wide variety of family situations that nursing home workers find themselves in ranging from living alone with no children to being partnered with more than 4 children in the home.

- Using the filter for married/co-habiting, 38 out of 69 people are living with another adult.
- Of those 38, 17 had no kids, 14 had 1-2kids, 5 had 3-4 kids, 2 had more than 4 kids, meaning 2 adult households had a 55% chance of having at least 1-2 kids.
- When filtered, “single, divorced, separated, widowed”, 23 had no kids, 5 had 1-2 kids, 1 had 3-4 kids, 2 had more than 4 kids, meaning 26% of one adult households having at least 1-2 kids.
- Some of both the one and two adult households with part time/on call workers had kids as well, though much more common with two adult households.
- 29 of the 69 workers reported kids in the home with an average of 2 kids per home. 21 of those homes reported having another adult in the home.
- Of those reporting not having any dependents in their home, the majority identified as being the only adult (single, widowed, divorced, separated).

Understanding from the questionnaire that nursing home workers live in a wide variety of household situations, from working part time to full time, partnered or single, no kids to more than 4 kids in the household, below in “Table 5: Cost of living in MN data” the 24 different permutations of the minimum wages that a single person or two adults living together would need to earn to meet the basic needs in Minnesota as showing in the Cost of Living Tool referenced above. As Table 5 shows, hourly wages go from \$10.64 to \$44.78 and annual family income from \$35k-\$93k.

When looking at these statewide average cost of living numbers, the median wage is between \$22.13 and \$22.95. The average is \$24.14. Additionally, the webpage on the Cost of Living Tool’s methodology notes that “Partnered, 1 full-time and 1 part-time worker, 1 child, provides a standard yearly cost and hourly wage need for a typical family, regardless of how the weekly work hours are distributed between the two adults.”([Methodology for our Cost of Living in Minnesota tool / Minnesota Department of Employment and](#)

[Economic Development \(mn.gov\)](#)). In the statewide average, the wage that both workers would need to earn is \$19.46.

Though nursing home workers report a wide variety of home life situations that would require different levels of income, above it is shown that having 2 adults and 2 kids in a house is a common occurrence, as is being a single adult. As an example of what the adults in the home with two kids would need to earn in order to sustain a household if one was working full time and one was working part time, the wage would be \$24.47. For the single adult, the wage would be \$16.82-17.01 depending on age.

Table 5: Cost of living in MN data

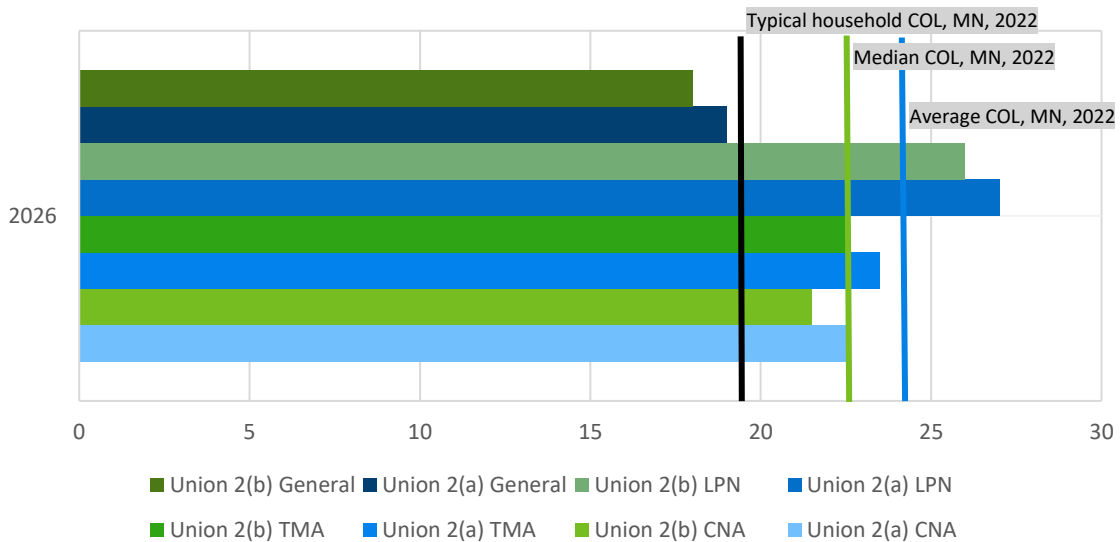
Adults	Full time/part time	Kids	Annual income	Hourly wage
2 adults, 19-50y	Both full time	0	\$44k	\$10.64
2 adults 50+y	Both full time	0	\$45k	\$10.83
2 adults, 19-50y	One full, one part time	0	\$44k	\$14.18
2 adults, 50+y	One full, one part time	0	\$45k	\$14.44
2 adults	Both full time	1	\$70k	\$16.81
1 adult, 19-50 y	full time	0	\$35k	\$16.82
1 adult,50 + y	full time	0	\$35k	\$17.01
2 adults (typical MN Household)	One full, one part time	1	\$61k	\$19.46
2 adults, 19-50y	one full time	0	\$43k	\$20.73
2 adults, 50+y	One full time	0	\$44k	\$21.10
2 adults	Both full time	2	\$90k	\$21.70
2 adults (Median)	Both full time	3	\$92K	\$22.13
2 adults (Median)	Both full time	4	\$95k	\$22.95
2 adults	One full time	1	\$51k	\$24.43
2 adults	One full, one part time	2	\$76k	\$24.47
2 adults	One full, one part time	3	\$78k	\$25.03
2 adults	One full, one part time	4	\$81k	\$26.11
1 adult	full time	1	\$60k	\$28.82
2 adults	one full time	2	\$62k	\$29.81
2 adults	one full time	3	\$63k	\$30.48
2 adults	one full time	4	\$67k	\$32.02
1 adult	full time	2	\$86k	\$41.31
1 adult	full time	3	\$90k	\$43.18
1 adult	full time	4	\$93k	\$44.78
Average				\$24.14

Comparing Median and Average Cost of living with Union 2(a) and 2(b) proposals

The median wage as presented above is between \$22.13 and \$22.95. The average is \$24.14.

The general minimum wage for both proposals falls below the median and average wages for a cost of living in Minnesota. Union 2(a) CNA wage for 2026 falls right in the middle of the median wages, but below the average. Union 2(b) CNA wage falls below the average and median. For the TMA wages, Union 2(a) is above the medians the first year, while Union 2(b) is in the middle of the median the first year. LPN wages are above the median and averages all years. Though the 2027 wages are higher, they are also an additional year out from the cost of living data which is from 2022. These are all shown below in “Graph 1: Comparing Union 2(a) and 2(b) 2026 wages with cost of living (COL), 2022.”

Graph 1: Comparing Union 2(a) and 2(b) 2026 wages with Cost of Living (COL), 2022



Conclusion of analysis wages in Union 2(a) and 2(b)

Based on the data collected by the Board, Union 2(a) does a better job of meeting the majority benchmark and lifts more people into a cost of living wage than 2(b). Union 2(b)’s minimum wages does not quite make the majority benchmark with available data and certainly lifts many people closer to meeting the cost of living in Minnesota.

Analysis of Wage 1 Proposal

Proposal 1 Wage Standards

Proposal 1 Wage is divided into two parts. The first part is a placeholder for minimum wages for nursing home employees to be filled in once a data request is received. Staff of the Board, in conjunction with the Department of Human Services are actively working to fulfill this request and will have the data requested shortly.

The second part of Proposal 1 Wage is a set of requirements for any standard. It reads:

“Part 2

For any standard approved by the Board, the cost estimates and the required new appropriation must:

- 1) Estimate each facility’s rate impact in relation to the new standard. The estimate must be facility specific and based on information provided to the commissioner [of DHS] about current wage rates at each facility.
- 2) The commissioner must, when determining the total and facility specific costs to meet the standard, include:
 - a) the increased cost to wages;
 - b) the employer’s share of FICA taxes, Medicare taxes, state and federal unemployment taxes, worker’s compensation, pensions, contributions to employee retirement accounts cost increases attributable to a standard.
 - c) the indirect costs as defined by the board, resulting from the implementation of a standard.
- 3) Nursing facility rates will be adjusted by the amounts determined in (a) through (c) on the first day of the previous month before the implementation date of a standard. Payments to facilities under this section shall be included in the external fixed payment rate under 256R.25.
- 4) If the Legislature does not approve an appropriation under this section prior to the effective date of the new standard, then the new standard approved by the Board cannot take effect.”

Meeting the Majority Benchmark

Determining whether this proposal meets the majority benchmark will largely rest upon the level at which the minimum wage(s) is (are) set. It is currently impossible to determine if this proposal will meet the majority benchmark without a minimum wage.

Health and Welfare of Nursing Home Workers

Determining how this proposal meets our goal for the health and welfare of nursing home workers will largely rest on the level at which minimum wage is set. Without those levels, the wage cannot be compared to cost of living or any other measurements.

Interplay with Statutory Requirements and Authority

Part 2 of Proposal 1 contains provisions that would require statutory changes before they could be written into rule or used by DHS in costing out proposals. Changes required include:

1. Part 2 includes many references to facility specific rates and costs when considering the costs of a proposed standard. Minn. Stat. § 181.213, subd. 2(d)(1) directs the Board, in consultation with DHS, to examine statewide averages to determine the costs a proposed standard would have. Statute does not prohibit the Board from collecting or utilized facility specific data, but it is not required under statute.
2. Part 2, section 2, directs the DHS commissioner to determine costs in a way contrary to their usual method for fiscal notes and is different from the directions in statute. The statutes governing the Board do not vest the Board with the power to direct how the Commissioner of Human Services is to perform any fiscal analysis required under Minn. Stat. § 181.213 subd. 2 (c)-(d).

3. Part 2, section 3, contemplates securing funds beyond what is written in statute. Statute states what is to be reported to the legislature and based upon that report whether additional funding will be needed. Additionally, statute does not grant the Board the power to change schedules for changing rates or add additional amounts to rates given to nursing facilities. This proposal would require such authority and changing how reimbursement rates are set is beyond the scope of the Board's authority and beyond what can be done in rules under the NHWSB Act.
4. Part 2, section 4, adds restrictions to not allow standards to go into effect until that additional funding is secured from the legislature. Minn. Stat. §§ 181.213, subd. 2(a), and 181.213, subd. 2(d)(3) govern when initial standards will go into effect and hold that initial standards will go into effect on January 1, 2025, or if an appropriation is needed, when appropriation is secured for the additional cost to the state and federal approval of the rate increase is obtained.

Analysis of Holiday Pay in Union 2(a) and 2(b) and Amend Time and a half

Holiday Pay Proposal in 2(a) and 2(b)

In proposals 2(a) and 2(b), it is proposed that nursing home workers are paid time and a half on the 11 state holidays observed in Minnesota pursuant to Minn. Stat. 645.44, subd. 5(a). Those days are as follows: New Years Day, January 1; Martin Luther King's Birthday, the third Monday in January; Washington's and Lincoln's Birthday, the third Monday in February; Memorial Day, the last Monday in May; Juneteenth, June 19; Independence Day, July 4; Labor Day, the first Monday in September; Indigenous Peoples Day, the second Monday in October; Veterans Day, November 11; Thanksgiving Day, the fourth Thursday in November; and Christmas Day, December 25. Nursing home employers, like some Minnesota public employers, would have the option to elect to include as a "holiday" the Friday after Thanksgiving but not include Indigenous Peoples Day.

Available Data

The data available on Holiday Pay is much more limited than what is available for wages.

One source is the questionnaire for employees which included the question "If there were additional funds for compensation and benefits, what would be your top three choices for that funding to go toward?" The answers for this question in order from most to least popular where:

1. Raise in Wages (100%)
2. Pension or other retirement plan (47.14%)
3. **Paid Holidays (38.57% - tie) & Health Insurance (38.57%- tie)**
4. Childcare (20%)
5. Long-term or short-term disability insurance (17.14%)
6. Dental Insurance (12.86%)
7. Group Life Insurance (5.71%)

Regarding it can be concluded that additional holidays paid at time and a half for those working would be a popular benefit for nursing home employees.

Another other source of data that was collected are the Collective Bargaining agreements (CBAs). Of 36 CBAs listed under “Long Term Care - Nursing Homes & Greater MN Hospitals” at [Worksites \(seiuhealthcaremn.org\)](http://worksites.seiuhealthcaremn.org), the CBAs had on average and a median of 7 recognized holidays per year, including holidays not recognized by Minn. Stat. 645.44, subd. 5(a), such as Easter or Christmas Eve. If the holidays that are not included in proposals 2(a) and 2(b) are removed, the average number of holidays a worker is given is 6.2 and the median is 6 holidays. In these CBAs, the average pay is 1.88 times regular pay, as a result of some CBAs having provisions that provide for holiday pay in excess of time and a half. The holidays observed by a CBA but not recognized by Minn. Stat. 645.44, subd. 5(a) would remain as holidays pursuant to the individual CBA during the agreement’s lifespan, which would result in some nursing home workers and employers observing more than 11 holidays in a year.

So, for the sample of nursing home workers under a CBA, currently averaging 6.2 holidays listed in Minn. Stat. 645.44, subd. 5(a), proposals 2(a) and 2(b) would add on average 4.8 holidays where those who work would be paid time and a half of their usual rate of pay. None of the CBAs had all 11 holidays that are named in 2(a) and 2(b) included. This means 100% of workers under these CBAs would see a benefit to this proposal.

Conclusion on Holiday Pay Proposal in 2(a) and 2(b)

Though the data is quite limited in regard to this proposal, what data is available indicates that this would be a welcome benefit and that it would benefit a majority of nursing home workers.

Amendment to Time and a Half Proposal

In regard to the Union Proposals 2(a) and 2(b), which proposed time and a half for those working the 11 state designated holidays, with the option to swap out Indigenous Peoples Day for the day after Thanksgiving, the employer’s proposal is to amend that proposal as such: “To accommodate religious, cultural and local preference, nursing facility employers may select different holidays to meet the total number of holidays mandated by rule.”

As was discussed above, based on the data that the Board has, while limited, would indicate that having 11 holidays paid at time and a half would be a benefit that would have an impact on many workers and likely would meet the majority benchmark. For this proposal, however, since the employer would have flexibility to count any holiday as one of the 11 holidays, the employer could count holidays like Easter and Christmas Eve as holidays meeting this standard. So, in this case, it would be appropriate to use the average of 7 holidays found in the CBAs as the number to which to compare the proposal. In other words, on average, based on the sample CBAs, this proposal would add 4 additional holidays those who work would be paid time and a half of their usual rate of pay.

Though this proposal would allow greater employer flexibility in determining which holidays a nursing home will observe. However, this flexibility for the employer may in turn require extra scrutiny by the Board to ensure that nursing home workers are being educated and noticed about their rights pursuant to Minn. Stat. §§ 181.214 and 181.215.