

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2033 (2/85) 3M



ROLL NUMBER

DESCRIPTION

2098

2001 SENATE HUMAN SERVICES

SB 2098

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2098

Senate Human Services Committee

☐ Conference Committee

Hearing Date January 16, 2001

Tape Number	Side A	Side B	Meter #
1	X		
January 24, 2001 1	X		11.5
January 29, 2001 1	X		
Committee Clerk Signature <i>Carol K. H. H. H.</i>			

Minutes:

The committee was called to order by SENATOR LEE. All Senators were present. The tape malfunctioned until 15 minutes into the session.

The hearing was opened on SB 2098.

CHAD KRAMER introduced the bill (Written testimony) They are looking at building a facility for long term beds on Reservation. This bill will exempt Reservation from the Moratorium. He offered amendments to the bill.

CINDY MAULA supports bill. The Tribal leaders were unable to be here. The complication in Indian Country is understanding long term care. The other factor is Culture. The Indian community takes care of our Elders and provides for them. This will affect the numbers. There are Indian people in LTC homes across ND. We are looking at the aspect of Elderly care and how do redesign and build something that really is more respective of today's world and how we live today, to be culturally appropriate so we are integrating in the care of the families, the best

we can along with whatever skilled nursing, medical, that might also be there. Most of what we are looking at now is probably like an assisted living facility. Most is based on the Culture.

Because of the Culture and economically and financing we need the cooperation and assistance of the state so you are eligible for Fed grants. SENATOR MATHERN stated that a study of human costs of welfare and Native Americans use less care than anyone else. Is this bill an indication that Native Americans will be using LTC? Do you see a different use of LTC?

MS. MAULA answered the people are living longer now. It is harder for families to take care of family members who suffer from Alzheimer's or long term diseases. We need your cooperation.

SHELDON WOLF, Assistant director, Medical Services, Dept of Human Services, supports this bill (written testimony). SENATOR MATHERN: I see we are eliminating all references to Alzheimer's and related dementia. It seems like there is more going on here than what we are hearing about. MR. WOLF: The first part of the bill that is actually strike over is omitted. They aren't changing that section through this amendment. SENATOR KILZER: What kind of numbers are you talking about? MR. WOLF: They are looking at a 20 bed nursing facility and 40 basic care - 60 total. SENATOR LEE explained how the transfer of beds works for the benefit of the new members of the committee.

SENATOR BERCIER representing Tribe, supports the amendment to 2098. We have three facilitates Rolette and Rolla nursing home facilities run at about 80% of capacity sometimes close to 100%. Dunseith has 54 beds and has been running at about 40 beds. We have another bill that we would like to bring the possibility to Belcourt and not diminish the number of beds that are there. There is an agreement with the new bill. As a tribe, elders are taken care of by family. Our ability to manage daily needs is becoming unable to do this. Families move

together - we have very few homeless people. Senator Bercier introduced testimony from Robert Lattergrass, Turtle Mountain Band of Chippewa Indians.

BERNICE JUAREZ, Spirit Lake Tribe, presented testimony (written)

SENATOR MATHERN: Is the bill meeting the Spirit Lake Tribe needs? Ms JUAREZ didn't seem to think it was doing any good. The 2 to 1 is not activated. SENATOR LEE: If we can clarify the language would this be helpful? MS. JUAREZ: The Tribal Council would have to accept.

MS. MAULA: There is always the possibility of Tribes going right to the Federal Government. The process gets very complicated. We are in an era that the government calls self determination in Indian Country. Tribes have the authority or right to take under contract or compact to manage the system that the Federal Govt has decided for us. There are many Tribes going to this self government compacting concept. Eventually all Tribes will take over all management, all administrative control of these services and programs and this is one of them. Red Lake is an example of this model. The push by the Government is self determination. There are pilot projects to negotiate these agreements for the betterment of the people that are trying to affect change. HICKFA would like Tribes and states to work together and to find common ground in addressing these issues because of how the systems are there against the financing part of it. We can come to common ground between ND and the Tribes.

SENATOR LEE: The changes are omitted and not the section in the amendment.

No further testimony. The hearing was closed.

January 24, 2001, Tape 1, Side A, Meter 11.6

SENATOR LEE opened the discussion of SB 2098. SHELLEY PETERSON was present to discuss how the bill came about and what it will do. SENATOR LEE stated that is HB1113

1-24-01

passes it would be the same as deleting section 1 on this bill. If HB 1113 does not pass and we pass this we will have done what they decided not to do. The expression of Tribes in the title is probably not needed. Discussion on amendments. SENATOR MATHERN moved to amend with Mr. Kramer's amendments and to correct the title. SENATOR POLOVITZ seconded the motion. Roll call vote carried 6-0. SENATOR MATHERN moved a DO PASS AS AMENDED. SENATOR POLOVITZ seconded it. Roll call vote carried 6-0. SENATOR MATHERN will carry the bill.

SB 2098 was called back to committee from the Senate floor. SENATOR FISCHER moved to reconsider the bill. SENATOR MATHERN seconded it. Roll call vote carried 6-0.

Discussion on the intent of the bill not being compatible with HB 1113. SHELDON WOLF was called from the Department of Human Services. We really wanted an exemption for the Tribes, not to repeal the moratorium. HB 1113 was killed on the House floor. The committee discussed reamending the bill and permit the Tribe to move ahead only with the moratorium in place.

SENATOR MATHERN moved to further amend SB 2098 to eliminate the repealer and replace with section on moratorium so that the Tribes would be able to move ahead with their plans and create the moratorium for anyone else. SENATOR FISCHER seconded it. Roll call vote carried 6-0. SENATOR MATHERN will carry the bill.

FISCAL NOTE
Requested by Legislative Council
03/22/2001

Bill/Resolution No.:

Amendment to: Reengrossed
 3B 2098

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This bill would continue the moratorium on basic care bed capacity and long-term care bed capacity. Additionally, it would allow long-term care facilities and basic care facilities to bank beds for up to 24 months from the date of transfer. For each bed transferred, one bed must be reduced. For transfers to a tribal reservation, licensed capacity must be reduced by an amount equal to twice the number of beds transferred. Also, long-term care facilities may transfer licensed nursing facility capacity to basic care capacity, and nursing facility capacity back to licensed long-term care capacity once during a twelve-month period. Fiscal impact cannot be determined for this bill.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and*

appropriations.

Name:	Brenda M. Welsz	Agency:	Department of Human Services
Phone Number:	328-3297	Date Prepared:	03/23/2001

FISCAL NOTE

Requested by Legislative Council
02/09/2001

Bill/Resolution No.:

Amendment to: Engrossed
SB 2098

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This bill would continue the moratorium on basic care and long-term care bed capacity. Additionally, it would allow long-term care facilities to bank beds for up to 18 months from the date of transfer. The bill would also allow tribal facilities to bank beds for up to 18 months for basic care facilities. It also provides for a provision that for each bed transferred one must be reduced, with the exception of purchasing a facility where this provision doesn't apply. This bill would not cause a fiscal impact at this time. Fiscal impact would need to be reevaluated if a new basic care or long-term care facility is established with the transferred beds.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and*

appropriations.

Name:	Brenda M. Weisz	Agency:	Department of Human Services
Phone Number:	328-2397	Date Prepared:	02/14/2001

FISCAL NOTE
 Requested by Legislative Council
 12/21/2000

Bill/Resolution No.: SB 2098

Amendment to:

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This bill would allow tribal facilities, that are established as basic care facilities and as nursing facilities, to be exempt from the moratorium on the expansion of basic care and long-term care bed capacity. The bill would also allow the banking of beds for future transfer to tribal facilities. There currently are no tribal facilities which qualify as a basic care facility or a long-term care facility in the state. This bill would not cause a fiscal impact at this time. Fiscal impact would need to be reevaluated if a tribal basic care or long-term facility is established.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Brenda Welsz	Agency:	Department of Human Services
Phone Number:	328-2397	Date Prepared:	12/28/2000

Date: 01/24/01

Senate	HUMAN SERVICES	Committee
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Motion Made By Senator Mathews Seconded By Sen. Roberts

[illegible]

Mr Kramer's corrected title

Date: 1/24/01

Roll Call Vote #: 2

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2098

Senate HUMAN SERVICES Committee

☐ Subcommittee on _____

or

☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Do pass as amended

Motion Made By Sen Mathern Seconded By Sen Polovitz

Senators	Yes	No	Senators	Yes	No
Senator Lee, Chairperson	✓		Senator Polovitz	✓	
Senator Kilzer, Vice-Chairperson	✓		Senator Mathern	✓	
Senator Erbele	✓				
Senator Fischer	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen Mathern

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

Date: 1/29/01

2098

Committee

or



~~Recommend~~ Call bill back.

Sen. Joseph
Matthew

Mathew
Des. ~~Frank~~

[illegible]

6

0

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

Date: 1/29/07

2095

Committee

or

Received 12 November 2003; accepted 12 November 2003

Almond

Sam Matheson

By

Don Frischer

[illegible]

Total (Yes) 6 No 0

Absent

Floor Assignment

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

REPORT OF STANDING COMMITTEE

SB 2098, as engrossed: Human Services Committee (Sen. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2098 was placed on the Sixth order on the calendar

Page 1, line 1, replace "section" with "sections 23-09.3-01.1 and"

Page 1, line 2, after "of" insert "basic and" and replace "; and to repeal section" with a period

Page 1, remove lines 3 and 4

Page 1, after line 5, insert:

"SECTION 1. AMENDMENT. Section 23-09.3-01.1 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

23-09.3-01.1. Moratorium on expansion of basic care bed capacity. ~~Except when existing beds are converted for use by the alzheimer's and related dementia population under the projects provided for in section 59-06-14.4, the department may not issue a license under this chapter for any additional bed capacity above the state's gross licensed capacity of one thousand four hundred seventy one beds, adjusted by any reduction in beds before July 31, 1999, during the period between August 1, 1999, and July 31, 2001. Transfers of existing beds from one municipality to another municipality must be approved if the licensing requirements are met, during the period August 1, 1999, to July 31, 2001, only to the extent that for each bed transfer approved the total number of licensed beds in the state is reduced by the same number transferred. Existing licensed beds released by a facility which are not immediately transferred to another facility may not be banked for future transfer to another facility. The state department of health may not issue a license for any additional bed capacity. Transfer of existing beds may occur to the extent that for each bed transferred, one is reduced by the same number. Existing licensed beds released by any facility and transferred to a tribal facility must become licensed within eighteen months of transfer. Purchasing of facilities is not subject to the two for one transfer provision.~~

Page 1, remove lines 22 and 23

Renumber accordingly

2001 HOUSE HUMAN SERVICES

SB 2098

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2098

House Human Services Committee

☐ Conference Committee

Hearing Date March 5, 2001

Tape Number	Side A	Side B	Meter #
1	x		1 to end
1		x	1 to 1044

Committee Clerk Signature

Corinne Eston

Minutes:

Chairman Price: I will call the Human Services Committee to order and the clerk will take the roll. We will open the hearing on SB 2098. The clerk will read the title.

Cynthia Mala - Executive Director of the ND Indian Affairs Commission: It was introduced per the request of my office stemming from a meeting of the ND Indian Affairs Commission last June under former Governor Schaffer where the Tribal representatives who are the Tribal chairman and four at large members who make up the commission requested that the Indian Affairs Commission present legislation looking at the moratorium on long term beds in ND and how this affects Indian country. Specifically to bring forth the legislation of language to request a waiver in that Tribal government and Indian communities could be exempted from the moratorium. This prefaces also that the moratorium legislation would be up for re authorization. It is the belief of Tribal leaders and Indian people that the complexities of being Indian is so misunderstood and when things happen from a policy perspective, things affect us other ways. In

having a moratorium precludes the Tribes from going forth looking at long term care issues, Indian issues, relative to our elders and our senior citizens and how we can provide care and services for them. We understand the complexities of financing and mechanisms of financing for the licensor and certification of these facilities, but again most of that is through the state. The moratorium affects our capabilities in building a structure, some type of level of care locally, to provide care for our seniors. This is a real brief summation of the feelings out there. We have negotiated a talk with the Human Services Department, with the Health Department and the Long Term Care Association regarding the language. We are trying to keep it as specific and simple as possible. We are trying to change the language, rather than the legislation itself to advance the Tribal communities from the moratorium.

Chairman Price: I don't know how much you have been following the legislation on long term care, specifically HB 1196, but in that we are asking for a study of long term care needs totally across the state. As far as everything, transportation, meals-on-wheels, right up through the skilled care. I know that the Turtle Mountain Tribe has done some research on their needs based on age and that type of thing. I guess I am putting in a request that your office could help us because obviously when we do that study, we need to look at all the states. Was it two biennium's ago that we had an interim committee. I remember sitting in the Chambers with some representatives of the Tribes talk about long term care specifically. I think it might have been Spirit Lake or it might have been one other Tribe. Often times the family takes care of member and that is their choice. In looking at the needs for long term care, my concern would be are we putting the right level in anywhere? Would a home and community based service where the person stays in the home be more favorable, or would the beds be more favorable. Do you feel

that is something the Tribes are looking at, prior to saying Okay, we have x number of people this age? It is different between what we think they need and what they want.

Mala: It is a complicated issue for us because of the limitations within our system locally. And also because it's so misunderstood. The Tribes system and infrastructure are very fragmented and isolated and there are many compounding factors. Ideally, yes we would prefer our elders stay home with us. Culturally that is very, very true, we pride ourselves that we are very respectful of our elders and that we do take care of them. We have some data relative to Indian elders in this state. It is not as comprehensive as I would like it to be. We have worked with Human Services and the Health Department when they did a long term care study and we went out to each of the reservations and we talked with the elders. That is included in that long term care study, that is talks specifically about needs. Again from that point of view it should be taken to the next level. The wants versus the needs, what is the balance? I think the Tribal leaders are also very cognizant of dynamics of what they have to deal with the levels of sophistication are at a different juncture right now then we were ten or fifteen years ago as far as providing for our people. Our Tribal leaders and Tribal government specifically are trying to find ways to address these things in a collaborative fashion that will complement and not detract from anything else that may or may not be there. Because of the complexities of it all and because of the misunderstanding relative to Indian people there are still very strong perceptions about how we live the way we do. There are strong beliefs that the Federal Government provides these huge pots of money to deal with these things, when that has never been the case. When you talk about health care for Indian people. Health care has only been funded at approximately 60-65% of need. Long term care and senior issues are not in the mix. We have to do a lot of partnering and collaborating to really address specific things like that. We really struggle with trying to figure

out what is best for our people. I do believe there is a need for better education relative to what we are talking about. The levels of care, when we are talking about the moratorium. Exactly what does that mean? My Tribe specifically which is the Spirit Lake Nation is looking at something more likened to assisted living facilities versus a long term care skilled nursing home. These definitions need to be better explained.

Chairman Price: We struggle with the definitions too. Do the facilities at Parshall and New Town, do they meet the needs of the Tribes down there? To your knowledge, or are we missing something.

Mala: I would have to refer that to the Tribes to answer. I am aware that a lot of Indian people are in nursing homes across the state. My chairman's mother is housed at the Lakota nursing home which is fifty miles from the reservation. The ideal would be something on the reservation. We have some data from Spirit Lake and where some of our people are housed.

Chairman Price: I think distance is a problem for all of ND, not just the Tribes. We find that even from people who live in Minot and have family elsewhere. It is statewide.

Richard Monette - Chairman, Turtle Mountain Tribe: I am here to support SB 2098. (See written Testimony).

Chairman Price: Where would you anticipate the facility being built?

Monette: I think we are anticipating right now, just to the north of the current retirement home on our reservation. We have a relatively good size retirement home with a large population, many of whom should be in at least assisted living. Some of whom would be immediately eligible for long term care. Just north of that site, some of the land would overlap with the Catholic church that is also to north ½ miles. It would be a perfect site for this facility.

Chairman Price: This is in Belcourt?

Monette: Yes. It would then be ½ mile from the hospital as well.

Chairman Price: That would be my next questions, you have all the services that are available.

Monette: Everything right in the immediate vicinity.

Chairman Price: In discussion, or preliminary planning, have you talked about specific areas for Alzheimer's, or even traumatic brain injury. Have you looked at that area at all?

Monette: Just the beginning. No sense in jumping the gun. We have with architects, discussed the plans to encompass all those areas.

Rep. Metcalf: As far as the impact on the long term care facilities where we currently have Native Americans living, have you looked at that at all? Are there a number, 50-60, Native Americans in other facilities that you are talking about?

Monette: I really believe that, I don't know that we will ever be able to judge that until we actually do it. Where we have the one or two spread out in a good number of facilities, I think the impact would be minimal. One or two people, where you may see a significantly greater impact is in the facilities that are otherwise in the County. In Rolla, Rolette and Dunseith. Most of our people in the Dunseith Nursing Home facility are from that area, with some exceptions. We also have some Dunseith people that should be eligible for long term care living in our retirement homes in the Belcourt area. If we were able to get the nursing home with Dunseith, we could easily have the Dunseith people fill that home and have those people brought over to Belcourt. As far as the Rolla and Rolette, we are practically in the same boat. Some of our Tribal members are from the Rolette area, and those are the ones that we have made an effort to have in that area, the same thing goes for Rolla. So what I am told is with the unserved population at this point, and given the population of the retirement home and the population projections, we would have

enough people to fill this conservatively 60 beds with negligible impact to any of the surrounding facilities. If we went on to build a 100-150 bed facility, we could fill that, the impact would be significant. But with this conservative estimate, it would be next to none.

Rep. Metcalf: Along that same line, you mentioned Valley City, of course, where I am from.

When you have people in distant locations like that is that because they came from that community or is that the only place they could find an opening.

Monette: In that case, it was the only place they could find an opening. That person was born and raised in the town of Dunseith.

Vice Chair Devlin: It is my understanding that at least some of the nursing homes you mentioned earlier, that have vacancies now. I think there would be some concern from the committee if they are already operating with vacancies, what would happen to that facility if they were to put another one in there?

Monette: Dunseith does have some vacancies, I am not sure of all the reasons for it. I have tried to ask. Certainly what I am told is some of the reasons for the vacancies have nothing to do with needs. There are apparently some other factors involved. It raises a significant issue, and not least among them, the fact that the Dunseith Nursing Home and the City of Dunseith have approached the Tribes asking us if we would purchase this facility. We may well do that. We have had some extensive discussion along those lines. Without knowing all the numbers up front, I can assure you that we are not wanting to purchase a facility that goes under. So, again it is just our assessment at this point. But the people who are in Dunseith now would stay there. It would be possible to have more people there. We have people in our Tribe who simply won't go to a nursing home - and they have to deal with people they are not familiar with. When they have to deal with people, they have obstacles to communicating with because of language barriers, we

are talking about real and practical cultural barriers. We have done some interviewing of the elders in our community and if they felt they could go in and be with their own people they would use a facility like that.

Chairman Price: Any further questions? Anyone else testifying in favor of SB 2098?

Sen. Bereier - District 9: I am here today in support of this bill. One of the problems they mentioned they had is the lack of nurses. Rugby also has this issue, they are running less than 100% occupancy primarily because of the lack of nurses. A lot of the nurses at Dunseith come from the nursing programs at the Tribal college. They are willing to make that commute and to the Rolette facility. Traveling to Rugby is another issue. That is further to drive and does cost a bit more. I think this is a good bill, I wish you would look favorably at it and pass it out of this committee. It is going to be good for everyone in the area. There is one concern and that was Rolette. I talked with Merl Boucher, about the impact if the Tribe were to take over the Dunseith long term nursing care center and they built another center in Belcourt. What kind of impact would that have on a) the occupancy in Rolette and b) what kind of impact would it have in Rolla with assisted living? We're working on some things that would help alleviate those things. We would probably have a shifting of people who are in Dunseith that would rather be in Rolla, people in Rolette who would rather be in Belcourt, people in Belcourt would rather be Rolette. I think it would be a shuffling and movement of people. We have an opportunity to serve more and more people. I would be open for questions.

Rep. Metcalf: You mentioned lack of nurses was a problem in Dunseith and Rolette and Rugby. If we establish another facility there where are the professional people going to come from to keep another facility operational?

Sen. Bercier: The college would expand their existing program and bring more of those folks into those areas and help. We have a shortage of nurses throughout ND. In fact we killed a bill that wanted to reduce the standards for nurses. That tells you there's a shortage. We defeated that bill in the Senate. We had a lot of professionals who felt we have a good state, with good education we should not lower our standards.

Rep. Metcalf: Does the Tribal college provide a four year degree in nursing?

Sen. Bercier: At this point, no, but we are working on more four year programs. We are working with UND which would allow us to do some full four year accredited courses.

Vice Chair Devlin: Under current law, any community that wanted to set up a nursing home could buy beds from other nursing homes. I am wondering why we need the bill?

Sen. Bercier: Why do we need the bill?

Vice Chair Devlin: Under existing law they could buy beds to set up a facility if that is what the Tribe wanted to do. I am just wondering what

Sen. Bercier: Maybe someone could answer this better than I could. It was my understanding the intent was originally to reduce the number of bed throughout ND. When you start doing that, that means they are going to buy a bed and reduce it from their inventory. So if we have 500 beds, every time a bed is sold or bartered for, we would lose that bed and it would start diminishing. This bill allows and stops that process and allows the Tribal groups to come in and bed for bed bring them into our system.

Chairman Price: Any other questions for Sen. Bercier? Anyone else here to testify in favor of SB 2098?

Shelly Peterson - President of the ND Long Term Care Association: (see written testimony).

Vice Chair Devlin: When we did 1196, there was some concern, in particular on the basic care area, where there weren't any available beds in a geographic area. Is that the case in the Dunseith, Rolla, Rolette area? I understood there vacant beds in all those facilities? Is that incorrect?

Peterson: Representatives from Dunseith and Rolla are here this morning to address that question. Yes, they do have openings.

Rep. Metcalf: Have you been giving thought to these areas Rep. Devlin is talking about so they can transfer a one for one rather than a two for one type situation. If we don't have beds in these communities that need them, wouldn't be better off just taking them one for one? Is that something you would care to talk about?

Peterson: When we agreed to the two for one transfer when the Legislature put that in which was two sessions ago or maybe three, it was because of the belief that we had too many beds in long term care. Right now we are at about 91-92% occupied, which means we probably have 600 open beds statewide. Under a two for one transfer, we believed there were too many beds and under that we could at least in areas that felt they needed beds, we could get rid of some beds while transferring some beds to the new location. Now if we look at statewide distribution of beds even in the cities of Bismarck, Mandan and Fargo, we have open beds where we thought we would have greater demand. We have a number of open beds in Minot. Some of that is related to staffing. Some is the demand. So at this point, our position is to still support the two for one because we don't believe there's enough of a demand at this point in time to warrant a one for one transfer. We believe with the study passed in 1196, we might better be able to answer that question.

Rep. Metcalf: Did HB 1196 say that the location of the communities that felt they needed a basic bed petition to have a basic bed facility.

Peterson: If you look on my testimony on page four, sentences 6-12. What it does is any facility that wanted to convert nursing facility beds to basic care, it would allow you to do that. It would allow the existing Alzheimer's pilot project to convert to basic care. And as in line 10, 11, 12 if you could demonstrate an additional need for basic care capacity in that immediate area, it would allow it. For nursing facilities on the following page line 10-14. In essence the nursing facility moratorium would be in place, it would allow you to convert your nursing facility beds to basic care and allow within a 12 month period, they could convert back.

Rep. Metcalf: On that line 10-12, wouldn't it be better as a part of the demonstration to say they could transfer bed on a one for one basis, instead of adding new beds?

Peterson: Possibly.

Vice Chair Devlin: When we put that language in one of the concerns was the definite geographic need in Fargo for basic care beds. In the other major cities there were open beds. We couldn't demonstrate this, that is what we were trying to work through.

Chairman Price: Any further questions? Anyone else testifying in favor?

Jerry Peak - Administrator of Dunseith Community Nursing Home: I can only speak from Dunseith's perspective. I am very happy to work with the Tribe. The percentage of Native American residents we have in our facility is 68%. We have forty seven residents in the house today, we are licensed for 54 residents. This number has increased over the years as we have been providing service to Native Americans. The percentage of Native American employees is 58%. We have approximately 60 employees. The percentage of Afro-American employees is 3%. Dunseith is somewhat unique in that we have never suffered a shortage of staff. With licensed

personal we have been tight some times, but we have never had to go to Temp services. Our social worker is Native American. Our activity director is Native American. The last time our nursing home was full was in February 1993. Our occupancy ratio has fallen from a high in 1993 of 97.1% to last year, 2000, we were at 79.1%. This indicates there is more room for residents of any kind. Our facility enjoys a good working relationship with the physicians in Belcourt. They will make rounds in Dunseith. The comment made about the acquisition of the Dunseith nursing home. To my knowledge that has never been formally approached at least by the present administration. The population in Dunseith is growing as it relates to the Native American population. It will be approximately 75-80%. The school right now has about 98% population of Native American. There was a comment made about the atmosphere of nursing home. The nursing home in Dunseith was built in 1968 and it is built on the institutional model. It looks very institutional, it has been my goal to soften the atmosphere of the facility. Dunseith provides services to the kidney dialysis unit in Belcourt. We load up residents that require that service and haul them to Belcourt and then we come back in the afternoon and get them, three times a week. We work with the Tribe to provide a training class for CNA's in the college in Belcourt. The director of nurses at Dunseith was officially one of the professional people responsible for the education program over there. There was a comment made about language barriers, we do have people in our facility that speak Mitchif, when there is need we provide that service. We have had residents there that have only spoke Mitchif and we provided services to them in their native language. It has been my experience that there are barriers to admission from the Native American people, some of that has to do with moneys. There are family and cultural barriers, if that could be served in a different location, I really don't know. I guess what I would like to

leave with the committee is we support the legislation the way it is written, we are prepared as a community to work with the Tribe anyway we can.

Rep. Porter: With your testimony and what was given to us, if a facility was to open in Belcourt it would mean approximately a 68% reduction in your occupancy. How would you stay open?

Peak: It would look like that is a possibility, there are some Native Americans in our facility that have declared they would not move to Belcourt. Whether they would or not when the time came, I do not know. There may be others out there who could come in and fill in the bill, maybe those who are there wouldn't move. It is hard to say, but I do believe this, if there was a facility built in Belcourt and the one in Dunseith was left, then Dunseith would probably not survive.

Rep. Porter: In HB 1196, we went to great lengths to assure a study of basic care and skilled care in Rural ND. We heard of concerns of staffing, nursing shortages and we dealt very diligently with those issues in 1196. Do you think that with 2098 we are putting the cart before the horse? Before the study is done? That this particular issue should be part of the study done over the next interim so that we have the new census information, we have the impacts of what's going on with rural ND in population. And we have numbers of vacancies of basic and skilled care across ND?

Peak: I think that is a reasonable question. I don't know that I can speak very clearly on that issue. It would seem reasonable at this point, if there was something to be gained by postponing it and including it in the study, that's seems reasonable too.

Rep. Metcalf: You have a skilled nursing facility, not a basic care facility? What we are talking about is a basic care facility in Belcourt? Are we on the right sheet of music?

Peak: It is my understanding that Belcourt is looking for a facility that would include both skilled and basic care beds. I think they spoke in terms of 45 skilled care beds and that's basically how many residents I have in my place right now.

Chairman Price: Any other questions of Mr. Price? Anyone else testifying in favor?

Anelda Grant - Director of Nursing at Presentation Care Center: (See written testimony) I have 21 out of 46 residents that are Native American. That is 45.6%. This last year I admitted 13 Native American residents out of 29. Of the 64 employees, 25 are Native American. Out of 42 nurses, I have 18 Native Americans. I have worked closely with the social worker at the Belcourt hospital, that is where I have gotten my 13 admits. Directly from the Belcourt hospital. We work closely with the dental and eye clinics at the hospital. Our activities people, 2 are Native Americans, we have Pow Wows and special meals for the Native Americans brought in. I am a registered member of the Turtle Mountain Band of Chippewa Indians. I know how to talk to them, and I understand them. I have never had a problem with communication. We are fifteen miles from Belcourt. I have people come to visit family members, we just don't take care of residents, we take care of residents families. I feel that I am in favor of the bill as it stands now, because I provide services for the Native Americans. There isn't anything we can't offer them.

Rep. Devlin: In follow up to what Rep. Porter asked Mr. Peak. If a new facility opens up in Belcourt or elsewhere on the Reservation and you lose your 39% Native American, can your nursing home survive?

Grant: I would like to think that I could replace them, other residents, maybe Native Americans, maybe not. I have asked the Native Americans in my facility if Belcourt opens a facility, would you be interested in moving? The majority of the residents said no. I would like to think I could survive.

Chairman Price: Any other questions? Anyone else testifying in favor?

Penni Weston - Administrator of Edgewood Vista: (See written testimony).

Chairman Price: Questions?

Rep. Pollert: If you are just supporting the continued moratorium on beds in ND, then why do we need SB 2098?

Weston: I guess in my personal opinion, we don't need 2089. I feel this is covered under 1196 to maintain the moratorium. I would be supportive of not having SB 2089.

Roger Unger - Division of Health Facilities, ND Department of Health: (See written testimony).

Rep. Devlin: If you went to a mechanism for compliance, if the facility wasn't in compliance, what power would the State of ND have?

Unger: The comment of developing an agreement or contract with Human Services... It would have to be something defined in that agreement. What would we do if there was not compliance? Currently, the ND Century Code does not cover any enforceable rules. There would have to be defined in an agreement.

Chairman Price: Any other questions, anyone else testifying on 2098, any opposition?

Tex G. Hall - Chairman Three Affiliated Tribes: (Written testimony submitted by a representative on behalf of Chairman Hall). They support the bill.

Chairman Price: Anyone else to testify?

Monette: I would like to make a couple of additional comments. We heard some remarks about the Dunseith nursing home being closed. I can tell you in no uncertain terms, that is not the intent of the Tribe. 70% of the people there are Tribal members. That is a base of employment there, there is not one single intent to undermine the workings of that facility. I was hoping that we weren't going to divulge to a discussion on antidotes, but some of the comments by Rolette and Dunseith Administrators have given rise to some sort of discussion that what they hear from the people when they are talking to them is different from what I hear. I happen to know many of the people well. I haven't required formal discussion with the City Council of Dunseith because in

our own Tribal way, the mayors mother, who is my mother's sister, there are ways to communicate that don't require a formal address to the City Council. Those discussions have been in a favorable light, and that is the way we approach this Committee today. In light of some of the questions about whether this would undermine those surrounding facilities and in particular some of the more difficult questions about legalities. What kind of compliance would ND be able to insure? We are not even certain if ND licensing requirements apply to the Tribe? For better or worse, the fact of the matter is that this is an area that is entirely regulated by the Tribe within its boundaries. That is well entrenched in Federal law. The problem is because of some wording regarding licensing in ND and Medicare and Medicaid, we have what appears to mostly be a glitch in Federal statutes and regulations that has in effect held the Tribe in hostage. I am hopeful that we can instead in the spirit of a neighborly discussion see the need to advance the Tribes position here. Our study is based on a conservative number and that we can sustain 60-65 beds a day without even counting the Tribal members currently in the Dunseith, Rolla, Rolette nursing facilities. The facility we are purposing to build now does not even count them.

Chairman Price: Chairman Monette, the third page of your testimony when you said actual Native American's in nursing facilities in the area happen to be 63. But those 63 people are not counted in the rest of the survey?

Monette: That is correct.

Chairman Price: Anyone else to testify. Close the hearing on SB 2098.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2098

House Human Services Committee

☐ Conference Committee

Hearing Date March 5, 2001

Tape Number	Side A	Side B	Meter #
4	x		1 to 218
Committee Clerk Signature <i>Corinne Easton</i>			

Minutes:

COMMITTEE WORK

Chairman Price: SB 2098, the Tribal Bill this morning. Without objection I would like to choose the same subcommittee that worked on HB 1196. I talked to Dave Zentner and Barb Fischer and they will talk to Darlene Bartz and Roger Ornberg on all of the questions raised as to what the Feds are going to require. They don't even know if they can license a bed on the reservation because we do not have the Tribal Nursing Home right now on the reservation. They don't know if the Feds are going to allow them or not. Chairman Monette talked about accessing just 70% of Medicaid dollars in the private meeting. The State doesn't think he could have that option. If we do license or certify those beds, they are still subject to Medicaid certification. If they don't meet that, what is our responsibility of the State and what is the hammer that we use to make sure those patients are receiving the care.. Obviously if they lose their certification, we cannot continue to pay. But are those patients are responsibility. Do we have to move them, so those

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House Human Services Committee
Bill/Resolution Number SB 2098
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four people are going to get together and do some talking. The previous Attorney General did not give them an opinion. They may go to the current Attorney General and see if they can get an opinion on this. The two things we did talk about is to leave in the original language on transferring beds or buying beds, that the two for one still applies. If they purchase an entire facility then it would be one for one. Just a couple of suggestions to the subcommittee. Give those four people a chance to visit. I guess my personal opinion is we need to put together what we think would work on this, but we should work with the Senate on this. They have HB 1196, and that will probably be the final vehicle. Any other comments?

(some discussion on sub committee chair)

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2098 A

House Human Services Committee

☐ Conference Committee

Hearing Date March 13, 2001

Tape Number	Side A	Side B	Meter #
Tape 3	X		415 to 1000
Committee Clerk Signature <i>Corinne Easton</i>			

Minutes:

COMMITTEE WORK:

CHAIRMAN PRICE: SB 2098.

VICE CHAIRMAN DEVLIN: On SB 2098, the subcommittee met trying to resolve the issues with tribal ownership. The subcommittee's feelings is that whether a facility is owned by the tribe on the reservation or off the reservation, they should be subject to state licensure if they are going to get state dollars. That is essentially is the one we have in law would stay now except if they were buying an existing facility. The other thing is to just change the years for the moratorium.

CHAIRMAN PRICE: But they had asked for 18 months.

VICE CHAIRMAN DEVLIN: The tribes had asked for 24 - the original language said 18 months and we agreed to the 24 months. The only other question we had is what would be the

ramifications of trying to close a facility on the reservation if it didn't meet health or licensing or whatever requirement.

REP. PORTER: I know that from an ambulance standpoint, that it is optional that the ambulance services on the tribes want to maintain what the state requires for certification. The question always comes back on the reimbursement end if the state is required to give them Medicaid dollars.

CHAIRMAN PRICE: I think that is why we want to be pretty clear here. The subcommittee is moving down this road and if anybody has any objection, we should talk about it now. The Tribe can do anything they want on their land as far as building a nursing home. It is when they ask for state dollars for Medicaid patients that they bring us into it. If they are asking us to give tax payers dollars to support the Medicaid part of it, then I feel we have a responsibility to those patients that their facility meets the same requirements that we have for every other resident in the state - regardless where they live - so that they know they've met these safety codes, met all of the things right down the line. The question I would ask the committee to double check with the department is - let's say they have become Medicaid certified - we are paying state dollars and at some point they decided to disregard everything, and they flunked the next survey, basically, and may or may not be putting some of those patients at risk. What are our options as a state. Obviously, we can jerk the license, but what happens as far as reimbursement? Are we then required to take over the facility - move those patients - because being on tribal lands, I don't know if we can take over the facility. That is my question. What do we have as options and responsibilities as a state for those residents?

REP. WEISZ: As far as the Medicaid issue, Zentner made it very clear that if they flunked so to speak, they will immediately be sanctioned by the Feds and so will we. The dollars stop flowing.

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House Human Services Committee
Bill/Resolution Number SB 2098
Hearing Date March 13, 2001

Medicaid can only go to the state. The state is responsible for every Medicaid dollar that is dispersed. It doesn't matter if it goes to the Tribes or any other entity. Zentner's concern, which is quite legitimate, is that if we get sanctioned, what recourse do we have against the Tribes. We obviously don't have any, except the funds stop flowing.

CHAIRMAN PRICE: Let's have Zentner and Darlene Bartz come down first tomorrow morning. Hopefully, we will get these questions answered.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2098 A

House Human Services Committee

☐ Conference Committee

Hearing Date March 14, 2001

Tape Number	Side A	Side B	Meter #
Tape 2	X		0 to 5400
Committee Clerk Signature <i>Cornie Easton</i>			

Minutes:

COMMITTEE WORK:

CHAIRMAN PRICE: Pull out SB 2098.

VICE CHAIRMAN DEVLIN: The subcommittee met on the questions we had with the tribal nursing homes. We asked the department help us through some of the questions. One of our concerns was that any tribal owned long term care facility, whether it is off the reservation or on the reservation, must be subject to North Dakota licensure if they are going to get North Dakota funds.

DAVID ZENTNER: Human Services. (Discussion.)

DARLENE BARTZ: Health Department (Discussion.)

BARB FISCHER: Human Services (Discussion.)

CHAIRMAN PRICE: I just want to say "this is a scenario" - they're going to build 45 nursing homes, 15 basic care - if they're just going for Medicare, fine, we know that we're out of the

picture. If they're going for Medicaid funds, they do or do not have to have a license, they do or do not have to be certified - who is going to certify it and what are our options? I just want bullet points. It is just so we absolutely don't have any questions in our minds, and the Tribes have no question in their minds. We're testing the waters here for the Tribes. We know what they can do, but it is when we get into the state dollars. It would be nice for us to have something to compare the difference between basic care and the nursing home care.

DAVID ZENTNER: How soon do you need that?

CHAIRMAN PRICE: Could we have this by Monday. Obviously, we aren't trying to put up road blocks, it is just to understand our liabilities.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2098 B

House Human Services Committee

☐ Conference Committee

Hearing Date March 19, 2001

Tape Number	Side A	Side B	Meter #
Tape 2	X		0 to 1080
Committee Clerk Signature			

Minutes:

COMMITTEE WORK:

CHAIRMAN PRICE: SB 2098. We just passed out a new proposed set of amendments. What would the subcommittee like to tell us about these amendments?

VICE CHAIRMAN DEVLIN: The final version of the amendments treats all nursing homes in the state equal. It allows an area to make a case with the Department of Human Services and the Department of Health for additional bed capacity. It allows the 24 month modified bed bank for a facility that is trying to gather enough beds to open up a facility. Those were the major changes. We had originally proposed language that if somebody bought an existing facility, they had to keep it open for 36 months or else they were subject to the two for one trade. In talks a week ago we thought about going to 24 months on that, and in talks today, we felt there was no need for that. We took that out completely. That is essentially it.

CHAIRMAN PRICE: So we're going back to bed banking?

VICE CHAIRMAN DEVLIN: Kind of a modified version, that is exactly right.

REP. METCALF: I did talk to Rep. Boucher and we talked about the changes as far as the tribal ownership versus tribal reservation, and he had no problem with that. We also talked about the removal of No. 5 as far as buying an existing facility and as long as we were in agreement with the tribe, he had no problem with that.

VICE CHAIRMAN DEVLIN: I don't know if Mr. Ladergrass would like to comment. I think it allows tribes the opportunity to explore further and maybe make a nursing home available that they feel they can demonstrate as needed in that area. We allowed them to do that under the law, but didn't treat them any differently than we did any other facility.

REP. WEILER: Can you explain bed banking?

VICE CHAIRMAN DEVLIN: You can purchase beds from other facilities and set them aside for this 24 month period for them to be able to use at that time.

REP. NIEMEIER: Where is a one for one bed transfer and where is the one for two?

VICE CHAIRMAN DEVLIN: If they buy an existing facility, it is one for one. If they buy beds from other people, they have essentially buy two to get one.

CHAIRMAN PRICE: Mr. Ladergrass, would you like to make any comments?

MR. LADERGRASS: I would like to thank the legislature and the Department of Human Services for working with us to get us this far. Like I said to Rep. Devlin, what we want to do is just participate in the program and we're willing to work within the existing laws.

CHAIRMAN PRICE: Be aware that we're working towards reducing nursing home beds, but in hand and hand with that, providing more services in the community. I hope that as the tribe moves forward that they look - I would assume you have a shortage of home and community

services just as other areas of the state do - don't forget a piece of that when you're working towards this to the long term care.

MR. LADERGRASS: We're planning on working with the Health Department in helping us reach that goal.

CHAIRMAN PRICE: Are you aware of how well your coverage is for hospice and home health? We just don't have the coverage that we need and I was wondering how you were doing on that?

MR. LADERGRASS: We're looking at the training process - that is needed out there.

VICE CHAIRMAN DEVLIN: I would move the amendments.

REP. POLLERT: Second.

CHAIRMAN PRICE: We have a motion and second for the amendments. Other comments?

REP. WEILER: You mentioned they were going to build this facility. Where is the money coming from?

MR. LADERGRASS: We will apply for grants, and tax exemption bonds for the rest of the construction.

CHAIRMAN PRICE: Anything else? All those in favor of the amendments signify by saying Aye (14 Yes, 0 No, 0 Absent). We have an amended bill.

REP. PORTER: I move a Do Pass as amended.

REP. POLLERT: Second.

CHAIRMAN PRICE: Any further discussion? The clerk will take the roll on a **DO PASS as amended.**

14 YES 0 NO 0 ABSENT CARRIED BY REP. DEVLIN

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2098

Page 1, line 7, after "capacity." replace the remainder of the bill with:

- "1. Except when existing beds are converted for use by nursing facilities are converting licensed nursing facility bed capacity to basic care bed capacity or the alzheimer's and related dementia population under the pilot projects provided for in established under section 50-06-14.4 are requesting licensure of their existing beds as basic care bed capacity, or unless the applicant can demonstrate to the department of human services that a need for additional basic care bed capacity exists in the immediate geographic area, the department may not issue a license under this chapter for any additional bed capacity above the state's gross licensed capacity of one thousand four hundred seventy-one beds, adjusted by any reduction in beds before July 31, 1999 2001, during the period between August 1, 1999 2001, to July 31, 2004 2003.
2. Transfers of existing beds from one municipality to another municipality must be approved if the licensing requirements are met, during the period August 1, 1999 2001, to July 31, 2004 2003, only to the extent that for each bed transfer approved the total number of licensed beds in the state is reduced by the same number transferred. Existing licensed beds released by any facility and transferred to another facility must become licensed within twenty-four months of transfer.
3. Transfer of existing beds from one municipality to a tribal reservation during the period August 1, 2001, to July 31, 2003, may occur, only to the extent that the facility transferring its beds reduces its licensed capacity by an amount equal to twice the number of beds transferred. The bed capacity transferred to a tribal reservation is not subject to licensure. A tribal facility may seek to participate, within twenty-four months of any transfer of beds, in the basic care assistance program. Basic care assistance payments may only be made to a tribal facility which agrees to participate and abide by all federal and state requirements of the basic care assistance program including participation, screening, and ratesetting requirements and which agrees as part of the provider agreement with the department of human services to meet the standards which would otherwise be required for licensure by basic care facilities.

4. Not more than once in a twelve-month period, a nursing facility may convert licensed nursing facility bed capacity to basic care bed capacity or may convert basic care bed capacity licensed after July 1, 2001, as nursing facility capacity to licensed nursing facility bed capacity. At least ninety days before the conversion, the facility shall notify the state department of health of the facility's intent to convert bed capacity. The converted beds must be located in the same block of rooms within the facility.
5. The requirement of reducing bed capacity does not apply when a facility is purchased as an ongoing operation and is operated for at least 36 months in the same municipality. If the facility is moved to another municipality or tribal reservation within 36 months of the date of purchase or July 1, 2001 whichever is later, then the applicable transfer provisions set forth in subsection two or three must apply.

SECTION 2. AMENDMENT. Section 23-16-01.1 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

23-16-01.1 Moratorium on expansion of long-term care bed capacity.

1. Notwithstanding sections 23-16-06 and 23-16-10, except when existing beds are converted for use by the alzheimer's and related dementia population under the projects provided for in section 50-06-14.4 or when nursing facilities are converting basic care bed capacity licensed after July 1, 2001, as nursing facility capacity to nursing facility bed capacity, the state department of health may not issue a license for any additional bed capacity above the state's gross licensed capacity of seven thousand one hundred forty beds, adjusted by any reduction in beds before July 31, 1999 2001, during the period between August 1, 1999 2001, and July 31, 2004 2003.
2. Transfers of existing beds from one municipality to another municipality must be approved if the department of health licensing requirements are met, during the period August 1, 1999 2001, to July 31, 2004 2003, only to the extent that for each bed transfer approved the total number of licensed beds in the state is reduced by the same number transferred. Existing licensed beds released by a facility ~~which are not immediately and transferred to another facility may not be banked for future transfer to another facility~~ must become licensed within twenty-four months of transfer.
3. Transfer of existing beds from one municipality to a tribal reservation during the period August 1, 2001, to July 31, 2003.

may occur, only to the extent that the facility transferring its beds reduces its licensed capacity by an amount equal to twice the number of beds transferred. The bed capacity transferred to a tribal reservation is not subject to licensure. A tribal facility may seek to participate, within twenty-four months of any transfer of beds, in the medical assistance program. Medical assistance payments may only be made to a medical certified tribal facility which agrees to participate in and abide by all federal and state requirements of the medical assistance program including participation, screening, and ratesetting requirements.

4. Not more than once in a twelve-month period, a nursing facility may convert licensed nursing facility bed capacity to basic care bed capacity or may convert basic care bed capacity licensed after July 1, 2001, as nursing facility capacity to licensed nursing facility capacity. At least ninety days before the conversion, the facility shall notify the state department of health of the facility's intent to convert bed capacity. The converted beds must be located in the same block of rooms within the facility.
5. The requirement of reducing bed capacity does not apply when a facility is purchased as an ongoing operation and is operated for at least 36 months in the same municipality. If the facility is moved to another municipality or tribal reservation within 36 months of the date of purchase or July 1, 2001, whichever is later, then the applicable transfer provisions set forth in subsections two or three must apply."

Renumber accordingly

VR
3/20/01
1 of 2

HOUSE AMENDMENTS TO SB 2098

HOUSE HS

3-20-01

Page 1, replace lines 7 through 22 with:

"23-09.3-01.1. Moratorium on expansion of basic care bed capacity.

1. ~~Except when existing beds are converted for use by a nursing facility that converts licensed nursing facility bed capacity to basic care bed capacity or the alzheimer's and related dementia population under the pilot projects provided for in established under section 50-06-14.4 requests licensure of the facility's existing beds as basic care bed capacity, or unless the applicant demonstrates to the department and to the department of human services that a need for additional basic care bed capacity exists, the department may not issue a license under this chapter for any additional bed capacity above the state's gross licensed capacity of one thousand four hundred seventy-one beds, adjusted by any reduction in beds before July 31, 1999 2001, during the period between August 1, 1999 2001, and July 31, 2004 2003.~~
2. Transfers of existing beds from one municipality to another municipality must be approved if the licensing requirements are met, during the period August 1, 1999 2001, to July 31, 2004 2003, only to the extent that for each bed transfer approved the total number of licensed beds in the state is reduced by the same number transferred. Existing licensed beds released by a facility ~~which are not immediately and transferred to another facility may not be banked for future transfer to another facility must become licensed within twenty-four months of transfer.~~
3. Transfer of existing beds from one municipality to a tribal reservation during the period August 1, 2001, to July 31, 2003, may occur, only to the extent that the facility transferring beds reduces the facility's licensed capacity by an amount equal to twice the number of beds transferred. A tribal facility may seek to participate, within twenty-four months of any transfer of beds, in the basic care assistance program. Basic care assistance payments may only be made to a tribal facility that agrees to participate and adhere to all federal and state requirements of the basic care assistance program including participation, screening, ratesetting, and licensing requirements.
4. Not more than once in a twelve-month period, a nursing facility may convert licensed nursing facility bed capacity to basic care bed capacity or may convert basic care bed capacity licensed after July 1, 2001, as nursing facility capacity to licensed nursing facility bed capacity. At least ninety days before the conversion, the facility shall notify the state department of the facility's intent to convert bed capacity. The converted beds must be located in the same block of rooms within the facility."

HOUSE AMENDMENTS TO SB 2098

HOUSE HS

3-20-01

Page 2, replace lines 1 through 14 with:

"23-16-01.1. Moratorium on expansion of long-term care bed capacity.

1. Notwithstanding sections 23-16-06 and 23-16-10, except when existing beds are converted for use by the alzheimer's and related dementia population under the projects provided for in section 50-06-14.4 or when a

nursing facility converts basic care bed capacity licensed after July 1, 2001, as nursing facility capacity to nursing facility bed capacity, the state department of health may not issue a license for any additional bed capacity above the state's gross licensed capacity of seven thousand one hundred forty beds, adjusted by any reduction in beds before July 31, 1999 2001, during the period between August 1, 1999 2001, and July 31, 2001 2003.

2. Transfers of existing beds from one municipality to another municipality must be approved if the department of health licensing requirements are met, during the period August 1, 1999 2001, to July 31, 2001 2003, only to the extent that for each bed transfer approved the total number of licensed beds in the state is reduced by the same number transferred. Existing licensed beds released by a facility which are not immediately and transferred to another facility may not be banked for future transfer to another facility must become licensed within twenty-four months of transfer.
3. Transfer of existing beds from one municipality to a tribal reservation during the period August 1, 2001, to July 31, 2003, may occur, only to the extent that the facility transferring beds reduces the facility's licensed capacity by an amount equal to twice the number of beds transferred. A tribal facility may seek to participate, within twenty-four months of any transfer of beds, in the medical assistance program. Medical assistance payments may only be made to a medical-certified tribal facility that agrees to participate and adhere to all federal and state requirements of the medical assistance program including participation, screening, ratesetting, and licensing requirements.
4. Not more than once in a twelve-month period, a nursing facility may convert licensed nursing facility bed capacity to basic care bed capacity or may convert basic care bed capacity licensed after July 1, 2001, as nursing facility capacity to licensed nursing facility bed capacity. At least ninety days before the conversion, the facility shall notify the state department of the facility's intent to convert bed capacity. The converted beds must be located in the same block of rooms within the facility."

Renumber accordingly

Date: 3-19-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2098

House Human Services Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Move Amend

Motion Made By Rep. Devlin Seconded By Rep. Pollert

Representatives	Yes	No	Representatives	Yes	No
Clara Sue Price - Chairman	✓		Audrey Cleary	✓	
William Devlin - V. Chairman	✓		Ralph Metcalf	✓	
Mark Dosch	✓		Carol Niemeier	✓	
Pat Galvin	✓		Sally Sandvig	✓	
Frank Klein	✓				
Chet Pollert	✓				
Todd Porter	✓				
Wayne Tieman	✓				
Dave Weiler	✓				
Robin Weisz	✓				

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Date: 3-19-01
Roll Call Vote #: 2

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2099

House Human Services Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Move DO PASS as amended.

Motion Made By Rep. Porter Seconded By Rep. Pollert

Representatives	Yes	No	Representatives	Yes	No
Rep. Clara Sue Price, Chairman	✓		Rep. Audrey Cleary	✓	
Rep. William Devlin, V, Chairman	✓		Rep. Ralph Metcalf	✓	
Rep. Mark Dosch	✓		Rep. Carol Niemeier	✓	
Rep. Pat Galvin	✓		Rep. Sally Sandvig	✓	
Rep. Frank Klein	✓				
Rep. Chet Pollert	✓				
Rep. Todd Porter	✓				
Rep. Wayne Tieman	✓				
Rep. Dave Weiler	✓				
Rep. Robin Weisz	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep. Devlin

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

REPORT OF STANDING COMMITTEE

SB 2098, as reengrossed and amended: Human Services Committee (Rep. Price, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed SB 2098, as amended, was placed on the Sixth order on the calendar.

Page 1, replace lines 7 through 22 with:

"23-09.3-01.1. Moratorium on expansion of basic care bed capacity.

1. ~~Except when existing beds are converted for use by a nursing facility that converts licensed nursing facility bed capacity to basic care bed capacity or the alzheimer's and related dementia population under the pilot projects provided for in established under section 50-06-14.4 requests licensure of the facility's existing beds as basic care bed capacity, or unless the applicant demonstrates to the department and to the department of human services that a need for additional basic care bed capacity exists, the department may not issue a license under this chapter for any additional bed capacity above the state's gross licensed capacity of one thousand four hundred seventy-one beds, adjusted by any reduction in beds before July 31, 19992001, during the period between August 1, 19992001, and July 31, 2001 2003.~~
2. Transfers of existing beds from one municipality to another municipality must be approved if the licensing requirements are met, during the period August 1, 19992001, to July 31, 2001 2003, only to the extent that for each bed transfer approved the total number of licensed beds in the state is reduced by the same number transferred. Existing licensed beds released by a facility ~~which are not immediately and transferred to another facility may not be banked for future transfer to another facility must~~ become licensed within twenty-four months of transfer.
3. Transfer of existing beds from one municipality to a tribal reservation during the period August 1, 2001, to July 31, 2003, may occur, only to the extent that the facility transferring beds reduces the facility's licensed capacity by an amount equal to twice the number of beds transferred. A tribal facility may seek to participate, within twenty-four months of any transfer of beds, in the basic care assistance program. Basic care assistance payments may only be made to a tribal facility that agrees to participate and adhere to all federal and state requirements of the basic care assistance program including participation, screening, ratesetting, and licensing requirements.
4. Not more than once in a twelve-month period, a nursing facility may convert licensed nursing facility bed capacity to basic care bed capacity or may convert basic care bed capacity licensed after July 1, 2001, as nursing facility capacity to licensed nursing facility bed capacity. At least ninety days before the conversion, the facility shall notify the state department of the facility's intent to convert bed capacity. The converted beds must be located in the same block of rooms within the facility."

Page 2, replace lines 1 through 14 with:

"23-16-01.1. Moratorium on expansion of long-term care bed capacity.

1. Notwithstanding sections 23-16-06 and 23-16-10, except when existing beds are converted for use by the alzheimer's and related dementia

population under the projects provided for in section 50-06-14.4 or when a nursing facility converts basic care bed capacity licensed after July 1, 2001, as nursing facility capacity to nursing facility bed capacity, the state department of health may not issue a license for any additional bed capacity above the state's gross licensed capacity of seven thousand one hundred forty beds, adjusted by any reduction in beds before July 31, ~~1999~~ 2001, during the period between August 1, ~~1999~~ 2001, and July 31, ~~2001~~ 2003.

2. Transfers of existing beds from one municipality to another municipality must be approved if the department of health licensing requirements are met, during the period August 1, ~~1999~~ 2001, to July 31, ~~2001~~ 2003, only to the extent that for each bed transfer approved the total number of licensed beds in the state is reduced by the same number transferred. Existing licensed beds released by a facility ~~which are not immediately~~ and transferred to another facility ~~may not be banked for future transfer to another facility~~ must become licensed within twenty-four months of transfer.
3. Transfer of existing beds from one municipality to a tribal reservation during the period August 1, 2001, to July 31, 2003, may occur, only to the extent that the facility transferring beds reduces the facility's licensed capacity by an amount equal to twice the number of beds transferred. A tribal facility may seek to participate, within twenty-four months of any transfer of beds, in the medical assistance program. Medical assistance payments may only be made to a medical-certified tribal facility that agrees to participate and adhere to all federal and state requirements of the medical assistance program including participation, screening, ratesetting, and licensing requirements.
4. Not more than once in a twelve-month period, a nursing facility may convert licensed nursing facility bed capacity to basic care bed capacity or may convert basic care bed capacity licensed after July 1, 2001, as nursing facility capacity to licensed nursing facility bed capacity. At least ninety days before the conversion, the facility shall notify the state department of the facility's intent to convert bed capacity. The converted beds must be located in the same block of rooms within the facility."

Renumber accordingly

2001 TESTIMONY
SB 2098

Chad Kramer

SENATE BILL NO. 2098

**EXEMPT TRIBAL NATIONS FROM BASIC
AND LONG-TERM CARE BED MORATORIUM**

A BILL for an Act to amend and reenact sections 23-09.3-01.1 and 23-16-01.1 of the North Dakota Century Code, relating to a moratorium on additional basic care facility and long-term care beds and to exempt tribal nations within the state of North Dakota from moratorium.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. ~~Section 23-09.3-01.1 of the 1999 Supplemental to the North Dakota Century Code is amended and reenacted as follows:~~

~~23-09.3-01.1. Moratorium on expansion of basic care bed capacity with exception. Except when existing beds are converted for use by the alzheimer's and related dementia population under the projects provided for in section 50-06-14.4, and when beds would be established in Tribal facilities, the department may not issue a license under this chapter for any additional bed capacity above the state's gross licensed capacity of one thousand four hundred seventy-one beds, adjusted by any reduction in beds before July 31, 1999 2001, during the period between August 1, 1999 2001, and July 31, 2001 2003. Transfers of existing beds from one municipality to another municipality or to Tribal facilities must be approved if the licensing requirements are met, during the period August 1, 1999 2001, to July 31, 2001 2003, only to the extent that for each bed transfer approved the total number of licensed beds in the state is reduced by the same number transferred. Existing licensed beds released by a facility which are not immediately transferred to another facility may not be banked for future transfer to another facility, with exception for Tribal facilities. Omitted~~

SECTION 2. AMENDMENT. Section 23-16-01.1 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

23-16-01.1. Moratorium on expansion of long-term care bed capacity with exception. Notwithstanding sections 23-16-06 and 23-16-10, ~~except when existing beds are converted for use by the alzheimer's and related dementia population under the projects provided for in section 50-06-14.4, and when beds would be established in Tribal facilities,~~ the state department of health may not issue a license for any additional bed capacity above the state's gross licensed capacity of seven thousand one hundred forty beds, adjusted by any reduction in beds before July 31, 1999 2001, during the period between August 1, 1999 2001, and July 31, 2001 2003. Transfers of existing beds from one municipality to another municipality ~~or to Tribal facilities must be approved if the department of health licensing requirements are met, during the period August 1, 1999 2001, to July 31, 2001 2003, only may occur~~ to the extent that for each bed transfer transferred, one approved the total number of licensed beds in the state is reduced by the same number transferred. Existing licensed beds released by a facility which are not immediately and transferred to another facility may not be banked for future transfer to ~~must become licensed within 18 months of transfer, another facility, with exception for Tribal facilities. Purchasing of facilities is not subject to the two for one transfer provision.~~

SENATE BILL NO. 2098

EXEMPT TRIBAL NATIONS FROM BASIC AND LONG-TERM CARE BED MORATORIUM

A BILL for an Act to amend and reenact sections 23-09.3-01.1 and 23-16-01.1 of the North Dakota Century Code, relating to a moratorium on additional basic care facility and long-term care beds and to exempt tribal nations within the state of North Dakota from moratorium.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Omitted

SECTION 2. AMENDMENT. Section 23-16-01.1 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

23-16-01.1. Moratorium on expansion of long-term care bed capacity.

Notwithstanding sections 23-16-06 the state department of health may not issue a license for any additional bed capacity. Transfer of existing beds may occur to the extent that for each bed transferred, one is reduced by the same number. Existing licensed beds released by a facility and transferred to another facility must become licensed within 18 months of transfer. Purchasing of facilities is not subject to the two for one transfer provision.

**TESTIMONY BEFORE THE SENATE HUMAN SERVICES COMMITTEE
REGARDING SENATE BILL 2098
JANUARY 16, 2001**

Chairman Lee, members of the committee, I am Sheldon Wolf, Assistant Director, Medical Services, Department of Human Services. I appear before you today to support this bill based on the proposed amendments that have been submitted by the Indian Affairs Commission.

The bill as amended would continue the moratorium on any increases in nursing facility bed capacity without any sunset requirements. It also provides a means for Tribes to obtain nursing facility excess bed capacity through the current two for one transfer policy and gives them up to 18 months to license any beds they acquire through this process.

The Department believes this is a fair and equitable approach that will continue to reduce the excess nursing facility bed capacity while providing Tribal Governments with a method to acquire beds over a reasonable period of time. The 18 month time frame will permit tribes to construct a building and obtain the other necessary resources to become certified to provide nursing facility services to the their elderly and disabled members.

It appears that the facility contemplated on the Turtle Mountain Indian Reservation will not be in operation until later in the next biennium. In addition, the nursing facility beds will be acquired from beds transferred from other facilities. Therefore, the impact on the Medicaid budget should be minimal during the next biennium.

The Department recommends a do pass on this bill.

I would be happy to answer any questions you may have.

BYRON L. DORGAN
NORTH DAKOTA
713 HART BUILDING
WASHINGTON, DC 20510-3405
202-224-2961
202-224-9378 TDD

2095

United States Senate

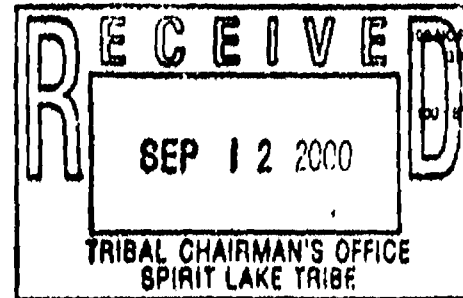
WASHINGTON, DC 20510-3405

September 5, 2000

TELEPHONE:
COMMUNICATIONS
COMMERCE, SCIENCE & TRANSPORTATION
ENERGY & NATURAL RESOURCES
INDIAN AFFAIRS

CHAIRMAN, DEMOCRATIC POLICY COMMITTEE

The Honorable Phillip Longie
Chairman
Spirit Lake Tribe
P.O. Box 359
Fort Totten, ND 58335



STATE OFFICES
312 FEDERAL BUILDING
THIRD AND ROSSER AVENUE
P.O. BOX 2575
BISMARCK, ND 58102
701-250-4818
1-800-666-4482 TOLL FREE
112 ROBERTS STREET, ROOM 117
P.O. BOX 7260
FARGO, ND 58107
701-736-6300
100 NORTH 4TH STREET, ROOM 108
GRAND FORKS, ND 58201
701-746-0872
100 1ST STREET S.W. ROOM 106
MINOT, ND 58701
701-852-0703

Dear Skip:

Thank you for your letter about North Dakota's moratorium on new skilled nursing facility beds and its impact on the Spirit Lake Tribe's effort to build a nursing home on the Reservation.

As you know, the North Dakota Legislature has imposed a moratorium on the addition of new basic care and skilled nursing home beds in our state. I'm told that this moratorium has been in place for several years now, although it sunsets every two years so the Legislature can reconsider this issue. The current moratorium expires on July 31, 2001, so the next session of the Legislature will be revisiting this matter.

I understand your view that tribes should not be prevented from using their own funds to construct either a skilled or basic care nursing home. In fact, as I understand it, tribes are free to do so under the state's moratorium.

However, the more important question from your perspective is probably whether such a facility would be eligible for Medicaid reimbursement in order to be economically viable over the long-term. As you know, the Medicaid program is a federal-state partnership, but it is administered by the state and in order for a skilled nursing facility to be eligible for Medicaid reimbursement, it has to be certified by the state. Quite frankly, it's not clear whether the state's moratorium would prevent a tribally built skilled nursing facility from accessing Medicaid funds.

In short, I don't believe the state can prevent you from building a skilled nursing home – but the state may be able to prevent you from collecting Medicaid payments.

If you would find it helpful, I would be glad to facilitate discussion between the Tribe, the Health Care Financing Administration (the federal agency that oversees Medicaid), state health officials, and other interested parties about how to resolve your concerns. I'm hopeful that by all working together, we can find a way to help tribes in North Dakota meet the needs of their elders.

Thanks again for contacting me.

Sincerely,

Byron

Byron L. Dorgan
U.S. Senator

BLD:mmm

Thank Phillip!

KENT CONRAD
NORTH DAKOTA
202-224-2043

COMMITTEES
AGRICULTURE, NUTRITION
AND FORESTRY
FINANCE
BUDGET
INDIAN AFFAIRS

United States Senate

WASHINGTON, DC 20510-3403

September 5, 2000



The Honorable Phillip Longie
Chairman
Spirit Lake Tribe
P.O. Box 359
Fort Totten, ND 58335-0359

Dear Phillip: *Shirley*

Thank you for sending me copies of your letter to Senator Dorgan and the resolution passed by the Spirit Lake Tribal Council. It was good to hear from you.

I understand the tribe's interest in building a nursing home on the Fort Totten Indian Reservation to better serve the needs of the members of the Spirit Lake Nation. As you know, a state moratorium has prevented new nursing home beds from being added in North Dakota. While this moratorium may not affect the tribe's ability to build its own facility, it is unclear if the moratorium would affect the tribe's ability to receive Medicaid reimbursement for its operating expenses. Medicaid is a state-federal program, and nursing homes must be certified by the state in order to be eligible for Medicaid reimbursement. Therefore, the state moratorium could affect the ability of a new tribal nursing home to receive Medicaid reimbursement. To clarify this situation, I will ask the Health Care Financing Administration for its assessment of this matter.

I appreciate your bringing this matter to my attention. Again, Phillip, thank you for sending me a copy of your letter to Senator Dorgan.

Sincerely,

A handwritten signature in black ink, appearing to read "Kent Conrad".

KENT CONRAD
United States Senate

KC:wsl

A. NEED FOR THE FACILITY

The Spirit Lake Tribe, at present does not have a Health Care Facility/Independent Living Facility. The tribe currently has (7) seven enrolled members on Kidney Dialysis machine, who reside on the reservation. There are (12) twelve enrolled members in off reservation nursing homes.

The elderly age limit range from:

Age	On Reservation	Near Reservation.	This amount does not include the ones in a nursing home off reservation.
55-59	66	3	
60-64	54	1	
65-69	38	2	
70-74	26	2	
75-79	12	4	
80-84	11	1	
85-89	9	0	
90-94	3	0	
95+	1	1	

In this day and age people are living longer, and our indian people want to be near their families. This Facility will keep the indian people on the reservation where they can speak their native language with family and the staff who care for them.

Total Injury Deaths Statistics for Benson, Ramsey, Nelson, and Eddy counties (North Dakota). Data obtained from the North Dakota Department of Health Vital Statistics Division.

Total Injury Deaths for Native Americans (Spirit Lake Tribe)

1992-1998 48 Injury deaths
Total Tribal Population: 5,086
Rate of injury death per 100,000 people: 134.8

Total Injury Deaths for all races

1992-1998 113 Injury deaths
Total Four County Population: 27,240
Rate of injury death per 100,000 people: 59.26

Comparison of Tribal Injury Death Rates to All-America Death Rate for All Races and Native American Populations. Data obtained from CDC statistics (see attachment).

Rate of Injury Deaths for Spirit Lake Tribe: 134.8/100,000 people
All America Rate for All Races: 56.12/100,000 people
All America Rate for NA/AN populations: 80.01/100,000 people

The rate of deaths amongst the people of the Spirit Lake Tribe are 2.4 times higher than the rate death for all races within the United States, and 1.68 times higher than the rate of death for Native Americans and Alaskan Natives within the United States.

**SPIRIT LAKE TRIBE
RESOLUTION A05-00-207**

WHEREAS, the Spirit Lake Tribe of Indians is a federally recognized Indian tribe acting under a revised *Constitution* dated May 5, 1960, approved by the Acting Commissioner, Bureau of Indian Affairs, July 14, 1961, and as subsequently amended July 17, 1969, May 3, 1974; April 16, 1976; and May 4, 1981; and

WHEREAS, the *Constitution* of the Spirit Lake Tribe generally authorizes and empowers the Spirit Lake Tribal Council to engage in activities on behalf of and in the interest of the welfare and benefit of the Tribe and of the enrolled members thereof; and

WHEREAS, the elderly people of the Spirit Lake Tribe *Constitute* an important resource to the Spirit Lake Tribe of Sioux Indians in the preservation of its culture and heritage; and

WHEREAS, it is the tradition of the Spirit Lake people that their elders are to be respected for their wisdom and must be cared for by their families and their Tribe; and

WHEREAS, both surveys and experience show that many of our elders who are in need of skilled nursing or convalescent care refuse to leave the reservation for fear of being cut off from their people and becoming isolated to a point where it may adversely affect their health; and

WHEREAS, the Spirit Lake Tribe is Sovereign Nation and the state moratorium regarding nursing homes does not apply to the Tribe; and

WHEREAS, the 1867 Treaty, Article 8, revised states, that when persons located on the reservation, by reason of age, sickness, or deformity, are unable to labor, the government may issue clothing and substance to such persons from supplies as may be provided for said bond.

NOW THEREFORE BE IT RESOLVED, that the Spirit Lake Tribal Council hereby approves the Basic Care/Assisted Living Project to be located in the Fort Totten District on the Spirit Lake Sioux Indian Reservation with reimbursement privileges from both the federal and state, upon completion and compliance of codes.

BE IT FURTHER RESOLVED, that the Spirit Lake Tribal Council submits this resolution to the State Legislators and State Human Service Center with a request for their support.

Testimony on SB 2098
Senate Human Services Committee
January 16, 2001

Chairman Lee and members of the Senate Human Services Committee, thank you for the opportunity to submit some brief written comments on SB 2098. I am unable to attend the hearing because of hearings scheduled at the same time in House Human Services.

Our Association is on record supporting the nursing facility moratorium and thus we had great concerns about SB 2098. To resolve our concerns and conflict with SB 2098 we have been talking with the parties affected by the legislation and believe a compromise has been reached. Chad Kramer of the North Dakota Indian Affairs Commission will be proposing amendments that we are supportive of and addresses the concerns we had in SB 2098.

The amendment should:

1. Remove the section on the basic care moratorium which is no long necessary because of HB 1113.
2. Keep the nursing facility moratorium in place.
3. Continue to allow the two for one transfer of nursing facility beds and allow the entity receiving the transferred beds up to eighteen months to license the beds in the new location.
4. Clarify that nursing facilities that are purchased are not subject to the two for one transfer provisions.

Thank you for the opportunity to submit these written comments.

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



TURTLE MOUNTAIN BAND OF CHIPPEWA INDIANS

P.O. BOX 900
BELCOURT, NORTH DAKOTA 58316

(701) 477-0470
FAX: (701) 477-8836

January 15, 2001

Human Services Committee
State Senate
North Dakota Legislature
Bismarck, ND

Dear Senator(s) of the Human Services Committee:

I want to thank you for allowing the Tribe to present testimony on behalf of Senate Bill No. 2098. This bill will amend section 23-16-01.1. Moratorium on expansion of long-term care bed capacity with exception. The amendment would allow existing licensed beds released by a facility, which are not immediately transferred to another facility to be reserved by the receiving entity for a period of eighteen months, as well as other technical amendments.

The Tribe supports withdrawing the proposed amendment to section 23-09.3-01.1. Moratorium on expansion of basic care bed capacity with exception, since the N.D. Department of Human Services proposed House Bill No. 1113, if passed would repeal section 23-09.3-01.1 of the North Dakota Century Code.

The Turtle Mountain Band of Chippewa, since 1989 - 90 have prioritized the building of a nursing home on the Turtle Mountain Reservation to provide 40 basic care beds and 20 long-term skilled beds for our reservation residents.

The Tribe has been in a rock and a hard place since 1990 regarding this project. On one hand, we have the N.D. Department of Human Services, cautioning the Tribe, that we do not need to comply by state laws regarding the construction of a nursing home on the reservation. Yet, on the other hand, the Department is advising us, that the Tribe does need to comply with North Dakota law if we intend to seek rate payments through the Medicaid programs. According to the Department of Human Services, who administers the Medicaid programs, part of the compliance for reimbursement is that the facility needs to be licensed by the Department of Health.

To make matters more complicated, the Department of Health, states that they do not have the authority to license a tribal nursing home facility. So, where does this leave the Tribe and our reservation residents who are in tremendous need for nursing home services?

Last week, I personally met with representatives of the North Dakota Indian Affairs Commission, the Department of Human Services, the Department of Health and the N.D. Long-Term Care Association. Nobody seems to have an answer for us.

By amending section 23-16-01.1. Moratorium on expansion of long-term care bed capacity. The proposed amendment will allow the Tribe, if they desire, to purchase existing beds within the State and allow the Tribe as well as other entities a period of time to build a facility and then transfer the purchase bed to the new facility. As it is now stated in North Dakota law, the transfer of bed purchases must be immediately transferred.

Despite four Indian Reservations in the State of North Dakota, there exist no Tribal nursing home facilities located on Tribal land, serving Tribal people. This results in the loss of our elderly residents, which results in losses to the family and to the children.

According a feasibility study, which was performed by the Charles Bailey & Co., Fargo, ND (1989), the Tribe's proposed project to construct a 60-bed skilled and basic care facility would not adversely affect the existing nursing homes in Rolette County.

A ready market for nursing home services was also documented by an in-depth evaluation conducted by the N.D. State Health Department and the Indian Health Service (IHS) in Belcourt, ND. The in-depth evaluation, using the State's criteria for eligible candidates for a nursing home concluded 188 elderly and handicapped individuals were in need of a Long Term Care Unit (October 1989). The Tribe and the State Health Department were particularly concerned about the elderly who were not getting adequate care or no care at all.

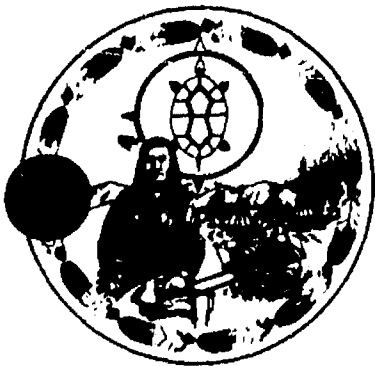
The Tribe is also experiencing an in-migration of people. The Turtle Mountain elderly Population is growing as well and will continue to grow. The median age of reservation residents is 19.5 (Census Bureau) of age.

There is overwhelming support for a Long Term Care Unit within the Turtle Mountain Tribe. Without exception the 325 members surveyed, i.e. (Oct. 1989) favored a LCU to be located in Belcourt, ND. There were four representative age groups in the survey. Overall, 89% of all respondents would use a LCU if it were located in Belcourt. In 1989, there were over 760 reservation residents who are over the age of 65.

I strongly encourage the N.D. Legislature to pass SB 2098, as it will be one less hurdle for the Tribe to jump as we continue to pursue the development of a nursing facility for our reservation residents who are in tremendous need of these services.

Sincerely,

Robert P. Lattergrass
Federal Programs Developer



TURTLE MOUNTAIN BAND OF CHIPPEWA INDIANS

P.O. BOX 900
BELCOURT, NORTH DAKOTA 58316

(701) 477-0470
FAX: (701) 477-6836

March 5, 2001

Clara Sue Price
Chairwoman
Human Services Committee
North Dakota House
State Capital
Bismarck, ND 58501

Dear Chairwoman Price:

Good morning Chairwoman Price and members of the committee. I want to thank you for allowing the Tribe to present testimony on behalf of Senate Bill No. 2098. This bill will amend section 23-09.3-01.1 and 23-16-01.1 of the North Dakota Century Code, relating to the moratorium on expansion of basic and long-term care bed capacity. The amendment would allow existing licensed beds released by a facility, which are not immediately transferred to another facility to be reserved by the receiving entity for a period of eighteen months, as well allow for a 1 for 1 transfer.

The Turtle Mountain Band of Chippewa, since 1989 - 90 have prioritized the building of a nursing home on the Turtle Mountain Reservation to provide long-term care for our reservation residents. We are in tremendous need for nursing home services.

Based upon the current US Department of the Interior, Bureau of Indian Affairs Labor Force Survey, (1999 data) and the compilation of active charts at the Quentin N. Burdick Memorial Health Care Facility the Tribe have a demonstrated need for approximately 65 beds. These numbers were compiled by Duane S. Nelson, CPA, FMFMA of Eide Bailly LLP on March 2, 2001.

Other factors affecting demand will include:

- The age 65 and over Native American population is expected to increase by 16 percent in the next five years. This is on top of 45 percent growth in the past 10 years.
- Tribal members returning to live in the area are increasing demand for services.
- Alternative services such as home health or basic care/assisted living are decreasing the demand for nursing facility beds, as such the Tribe is exploring the option of building an assisted living center as well as the nursing home.

- Potential residents prefer residential facility usage as compared to the rest of the country. As such the Tribe is looking at building a state of the art nursing home facility so that it looks and operates less like an institutional building.
- Potential residents prefer residential looking facilities rather than the very institutional look of most existing nursing home facilities. Private rooms are also preferred. Responding to these preferences will positively impact demand.
- The availability of clinic and hospital services positively impacts demand as compared to communities with a lesser level of these services.
- The relatively high unemployment rate on the reservation creates opportunities for training/development of staff for the facility.

Based upon the attached numbers, the Tribe desires to build a 65-bed facility, with approximately 45 skilled beds and approximately 15 basic care beds.

I am asking the committee for a "Do Pass" vote for SB 2098 and as well as exploring with the ND Senate and House Human Services Committee(s) the required language to allow the Tribe to purchase existing nursing home beds in the State of North Dakota at a exchange rate of 1 for 1 transfer and allow the existing licensed beds released by any facility and transferred to a tribal facility to be certified within eighteen months of transfer.

Again, I thank you for the opportunity to present this testimony on behalf of the tribal membership of the Turtle Mountain Reservation and look forward to working with you on the exact and appropriate language for SB 2098 and as well HB 1196.

Respectfully submitted,

Richard Monette, Esq.
Tribal Chairman

Attachments: Eide Bailly Letter (Estimated Basic Care/Nursing Facility Need)

**Turtle Mountain Band of Chippewa Indians
Estimated Basic Care/Nursing Facility Need**

Tribal Enrollment (1)	28,027
Local Active Charts (2)	17,000
Percentage of tribe seeking local service	61%
Rolette County Tribal labor force (1)	11,116
Rolette County Tribal members 65 and over (1)	592
Estimated local area 65 and over	905
6.5% of North Dakota population 65 and over in nursing facilities - estimated need	54.8 beds
Actual native americans in nursing facility in the area (2)	63
1.2% of North Dakota population 65 and over in basic care facilities - estimated need	10.9 beds

(1) Source: Indian Labor Force Survey Form, US Department of the Interior, Calendar 1999 data

(2) Source: Quentin N. Burdick Memorial Health Care Facility compilation of active charts



Consultants • Certified Public Accountants

March 2, 2001

Mr. Robert Lattergrass
Turtle Mountain Band of Chippewa Indians
PO Box 900
Belcourt, ND 58316

Dear Mr. Lattergrass:

The purpose of this letter is to summarize our initial analysis of demand for basic care/nursing facility beds. Due to inaccuracies in census data, we have utilized tribal enrollment numbers and Indian Health Service statistics combined with average North Dakota basic care and nursing facility utilization in relation to aged population to estimate native american demand at approximately 65 beds in the attached analysis.

Other factors affecting demand will include:

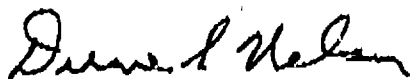
- The age 65 and over native american population is expected to increase by 16 percent in the next five years. This is on top of 45 percent growth in the past ten years.
- Tribal members returning to live in the area are increasing demand for services
- Alternative services such as home health or basic care/assisted living are decreasing the demand for nursing facility beds
- North Dakota has a high rate of nursing facility usage as compared to the rest of the country
- Potential residents prefer residential looking facilities rather than the very institutional look of most existing nursing facilities. Private rooms are also preferred. Responding to these preferences will positively impact demand
- Cultural sensitivities in services and food will have a positive impact on demand
- The availability of clinic and hospital services positively impacts demand as compared to communities with a lesser level of these services
- Availability of skilled staff may impact your ability to serve residents. The relatively high unemployment rate on the reservation creates opportunities for training/development of staff.

Turtle Mountain Band of Chippewa Indians
Page 2

We would recommend that you be conservative in your approaching the construction of a new facility. We would also recommend a skilled facility of approximately 45 beds. We believe that this size will be relevant over the first 20 years of life of the facility. We would also recommend that you have approximately 15 basic care beds. We believe that a number of nursing facility beds in North Dakota will be changed to basic care beds in the next few years based on the need for service and to create savings in the system.

Please call if you have questions.

Sincerely,



Duane S. Nelson, CFA, FHFMA
Eide Bailly LLP

Testimony on SB 2098
House Human Services Committee
March 5, 2001

Chairman Price and members of the House Human Services Committee, thank you for the opportunity to testify on SB 2098. My name is Shelly Peterson, President of the North Dakota Long Term Care Association. I am here today on behalf of our members: nursing facilities, basic care facilities and assisted living facilities.

This winter the Turtle Mountain Band of Chippewa Indians approached us about the moratorium and their desire to provide skilled nursing and basic care services on their reservation. After some good discussion the North Dakota Indian Affairs Commission, the Department of Human Services and our Association agreed to move forward and support legislation that would allow the nursing facility moratorium to remain in place, allow the tribe to purchase beds under the two for one transfer provision currently available in law and allow any entity under the two for one transfer, to have up to eighteen months to license the beds in a new location. We also agreed to clarify if an entire facility was purchased by a new entity, it would not be subject to the two for one transfer. To date we've never had a facility purchased and moved to a new location.

SB 2098:

Basic Care Facilities:

1. Keeps the basic care moratorium in place.
2. Allows a two for one transfer of basic care beds.
3. Allows a tribal facility to have eighteen months to license transferred beds on the reservation.
4. Clarifies a purchased facility is not subject to the two for one transfer.

Nursing Facilities:

1. Keeps the nursing facility moratorium in place.
2. Allows a two for one transfer of nursing facility beds.
3. Allows any facility to have eighteen months to license transferred beds in the new location.
4. Clarifies a purchased facility is not subject to the two for one transfer provision.

As you are aware the House recently passed HB 1196. HB 1196 for the most part deals with the intergovernmental transfer / Health Care Trust Fund dollars, also contains moratorium language. SB 2098 and HB 1196 are in conflict on this issue. Attached to my testimony is the language in HB 1196 which addresses the moratorium. HB 1196 was heard in Senate Human Services on February 28, 2001 and they too are aware of the conflicting language.

We welcome the opportunity to work with both committees on language that reflects the legislatures position on the moratorium.

We believe both bills have attractive features regarding the moratorium and believe a small work group could arrive at acceptable language.

Thank you for the opportunity to testify on SB 2098. I would be happy to answer any questions.

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

HB 1196

1 **SECTION 7.** A new subsection to section 21-10-06 of the 1999 Supplement to the
2 North Dakota Century Code is created and enacted as follows:

3 Health care trust fund.

4 **SECTION 8. AMENDMENT.** Section 23-09.3-01.1 of the 1999 Supplement to the
5 North Dakota Century Code is amended and reenacted as follows:

6 **23-09.3-01.1. Moratorium on expansion of basic care bed capacity.** Except when
7 ~~existing beds are converted for use by~~ nursing facilities are converting licensed nursing facility
8 bed capacity to basic care bed capacity or the alzheimer's and related dementia population
9 ~~under the pilot projects provided for in~~ established under section 50-06-14.4 are requesting
10 licensure of their existing beds as basic care bed capacity, or unless the applicant can
11 demonstrate to the department that a need for additional basic care bed capacity exists in the
12 immediate geographic area, the department may not issue a license under this chapter for any
13 additional bed capacity above the state's gross licensed capacity of one thousand four hundred
14 seventy-one beds, adjusted by any reduction in beds before July 31, ~~1999~~ 2001, during the
15 period between August 1, ~~1999~~ 2001, and July 31, ~~2004~~ 2003. Transfers of existing beds from
16 one municipality to another municipality must be approved if the licensing requirements are
17 met, during the period August 1, ~~1999~~ 2001, to July 31, ~~2004~~ 2003, only to the extent that for
18 each bed transfer approved the total number of licensed beds in the state is reduced by the
19 same number transferred. ~~Existing licensed beds released by a facility which are not~~
20 ~~immediately transferred to another facility may not be banked for future transfer to another~~
21 ~~facility.~~ Not more than once in a twelve-month period, a nursing facility may convert licensed
22 nursing facility bed capacity to basic care bed capacity or may convert basic care bed capacity
23 to licensed nursing facility bed capacity. At least ninety days before the conversion, the facility
24 shall notify the state department of health of the facility's intent to convert bed capacity. The
25 converted beds must be located in the same block of rooms within the facility.

26 **SECTION 9. AMENDMENT.** Section 23-16-01.1 of the 1999 Supplement to the North
27 Dakota Century Code is amended and reenacted as follows:

28 **23-16-01.1. Moratorium on expansion of long-term care bed capacity.**
29 Notwithstanding sections 23-16-08 and 23-16-10, except when existing beds are converted for
30 use by the alzheimer's and related dementia population under the projects provided for in
31 section 50-06-14.4 or when nursing facilities are converting basic bed capacity to nursing

1 facility bed capacity, the state department of health may not issue a license for any additional
2 bed capacity above the state's gross licensed capacity of seven thousand one hundred forty
3 beds, adjusted by any reduction in beds before July 31, 1999, during the period between
4 August 1, 1999, and July 31, 2001. Transfers of existing beds from one municipality to another
5 municipality must be approved if the department of health licensing requirements are met,
6 during the period August 1, 1999, to July 31, 2001, only to the extent that for each bed transfer
7 approved the total number of licensed beds in the state is reduced by the same number
8 transferred. Existing licensed beds released by a facility which are not immediately transferred
9 to another facility may not be banked for future transfer to another facility. Not more than once
10 in a twelve-month period, a nursing facility may convert licensed nursing facility bed capacity to
11 basic care bed capacity or may convert basic care bed capacity to licensed nursing facility bed
12 capacity. At least ninety days before the conversion, the facility shall notify the state
13 department of health of the facility's intent to convert bed capacity. The converted beds must
14 be located in the same block of rooms within the facility.

15 **SECTION 10.** A new chapter to title 43 of the North Dakota Century Code is created
16 and enacted as follows:

17 **Nursing facility nurses student loan payment program - State health council -**
18 **Powers and duties.** The state health council, in cooperation with the North Dakota long term
19 care association, shall administer the nursing facility nurses student loan payment program.
20 The state health council shall adopt rules necessary to administer the nursing facility nurses
21 student loan payment program.

22 **Nurse selection criteria - Eligibility for loan payment program.**

- 23 1. The state health council shall adopt rules establishing criteria regarding nurse
24 selection for loan payment funds under this chapter. The criteria must give priority
25 to nurses employed by rural facilities and must give priority to nurses with previous
26 long-term care experience.
- 27 2. In addition to meeting the selection criteria, an applicant for loan payment under
28 this chapter shall establish that the applicant:
- 29 a. Is licensed as a nurse under chapter 43-12.1;
30 b. Is employed as a nurse by a licensed nursing facility; and
31 c. Has an outstanding education loan balance.

Anelda
brant

Director of Nursing

SB 2098

**Presentation Care Center
Rolette, ND**

Residents

21 Native Americans
46 Total Residents
45.6% Native Americans

New Admissions

13 Native Americans
29 Total Admissions
44.8% Native Americans

Employees

25 Native Americans
64 Total Employees
39.06% Native Americans

Nursing Staff

18 Native Americans
42 Total Nursing Staff
42.8% Native Americans

Activities Staff

2 Native Americans
3 Total Activities Staff
66% Native Americans

Cultural Activities

Pow Wows
Square Dancer and Jiggers from the Elementary and Middle Schools
Fiddle Players
Rev. LaVallie and Gospel Singers
Native American Traditional New Years Feast
Participate in Tribal Elections



3406 Dominion Street • Bismarck, ND 58503 • (701) 258-7489 • Fax (701) 258-7491

TESTIMONY ON SB 2098

Chairman Price and members of the House Human Services Committee.
My name is Penni Weston and I am the Administrator of Edgewood Vista in Bismarck. Our facility offers assisted living, Alzheimer's care and licensed basic care.

I am here to ask for your support on SB 2098 and the section that calls for the continued moratorium on the expansion of basic care beds in North Dakota. HB 1196, as you know, calls for a study of long-term care needs in this state. I believe that the moratorium on the expansion of any additional long-term care beds needs to be upheld so that a true picture can be identified with the study.

The long-term care industry is now in a state of reorganization and redefining what services are needed and desired for the seniors of our state. It would be premature at this time to allow for the expansion of basic care beds, which have been demonstrated to be less desirable than assisted living settings and staying in one's own home. Maintain the moratorium and let the study be completed first. Then we will see what services and settings the seniors of ND need and want.

Thank you for the opportunity to testify on this bill and I hope you will vote yes on SB 2098.

*Testimony on SB 2098, Second Engrossment
before the House Human Services Committee*

Roger Unger, Division of Health Facilities
North Dakota Department of Health
March 5, 2001

Good morning Chairman Price and members of the committee. My name is Roger Unger and I represent the Department of Health, Division of Health Facilities. I am here to provide comment on Senate Bill 2098 relating to the licensing of basic care beds in North Dakota, specifically on tribal territory.

Page 1, Section 1, lines 20 and 21 refer to the licensing of a "tribal facility". SB 2098 does not identify the location of such facility to be on tribal territory or within the borders of the state of North Dakota. The North Dakota Century Code currently authorizes the Department of Health to establish and enforce rules for facilities in North Dakota, however, does not define or extend authority to tribal territory. Currently, the Department of Health does not conduct licensure activity on tribal property. Should SB 2098 be enacted as written, additional amendments to the North Dakota Century Code would be needed to define the authority of the Department of Health to license and enforce state administrative rules for facilities located on tribal territory.

Another option available may be to determine compliance with the licensure rules through a contract agreement with Human Services. The Department of Health currently provides this type of service for the Department of Human Services in other program areas. This would not result in licensure of a facility on tribal territory, however, would be a mechanism by which compliance with the requirements could be determined.

This concludes my comments. I would be happy to address any questions you may have.



TRIBAL BUSINESS COUNCIL
(701) 627-4781
Fax (701) 627-3805

MANDAN, HIDATSA, & ARIKARA NATION

Three Affiliated Tribes • Fort Berthold Indian Reservation

HC3 Box 2 • New Town, North Dakota 58763-9407

Human Services Committee North Dakota House of Representatives 57th Legislative Assembly

Testimony of Mandan, Hidatsa and Arikara Nation Three Affiliated Tribes

**Tex G. Hall
Chairman**

**on SB 2098
Nursing Homes on the Indian Reservations
March 5, 2001**

Dosha! (Hello). Mr. Chairman, members of the Committee, thank you for the opportunity to present testimony today concerning SB 2098, which was originally introduced to assist the Tribal Nations in North Dakota to properly care for their elderly on the reservations rather than off.

My testimony today will be brief. It is my understanding that the SB 2098 has now been changed from what it was when it was introduced. Initially, the bill provided an exception for Tribal nursing home facilities. Now, it appears that the only way that a Tribal facility can be approved by the state Department of Health is for a transfer of beds to occur, accompanied also by a reduction in the number of beds equal to the number transferred. That results in a two beds reduced for one obtained. This makes it difficult, if not impossible, for Tribes to obtain approval from the state Department of Health, making it nearly impossible for a Tribal nursing facility to be economically viable, as state Department of Health is needed for the Tribal facility to receive Medicare reimbursement.

As you all may know, Tribal members would like to be able to be in nursing home or assisted living facilities on or near the reservation. Elders are honored in our culture, and are not generally warehoused in nursing homes. But when the time comes for assisted care living, or even the more intensive care provided in a nursing home, Tribal elders must go off the reservation. That is unfortunate and hastens the end of life for many of our Tribal elders.

The reduction of beds will occur naturally if Tribes are allowed to place their elders in Tribal facilities that are approved by the state Department of Health. The state needs to be fair to the Tribes and this bill, in its present form, does not equate to fairness.

I urge this Committee to recommend that SB 2098 be returned to its original language and then that a DO PASS recommendation be given to the bill as amended. Without a return to the original language, the bill helps us very little.

Rollette NO

Rehabilitation Care Center
Occupancy Rates

January 1999	95.50%
February 1999	97.40%
March 1999	99.60%
April 1999	95.90%
May 1999	98.05%
June 1999	90.21%
July 1999	92.20%
August 1999	98.05%
September 1999	93.40%
October 1999	92.54%
November 1999	86.53%
December 1999	79.17%
January 2000	84.14%
February 2000	86.06%
March 2000	86.83%
April 2000	88.06%
May 2000	83.06%
June 2000	82.50%
July 2000	82.59%
August 2000	83.13%
September 2000	85.50%
October 2000	92.34%
November 2000	90.97%
December 2000	91.94%

TRENTON INDIAN SERVICE AREA

P.O. Box 210
Trenton, North Dakota 58853
Telephone: (701) 572-8316
Fax: (701) 572-0124

March 5, 2001

Mr. Chadwick Kramer
North Dakota Indian Affairs Commission
600 East Boulevard Avenue
State Capitol
Bismarck, ND 58505-0300

RE: Senate Bill No. 2098

Dear Mr. Kramer;

Please consider this correspondence as a letter of support for Senate Bill No. 2098, relating to the moratorium on expansion of basic and long-term care bed capacity.

The Trenton Indian Service Area has always advocated for the planning and construction of long-term care facilities for our reservations in the State of North Dakota. American Indians and Alaska Natives are one of the fastest growing minority populations in the United States. The population within our respective reservations, especially the elderly, is aging very rapidly. In the Trenton Indian Service Area alone, there are 259 tribal members who are 55 and older. It is projected that by the year 2020 that number will increase to 443.

As Chairman of the organization, I feel it is safe to say there is a need for some type of long-term care facilities for our elderly population. However, one of the primary considerations in looking at this type of project has been the operational finances. On their own, the Tribes in North Dakota are not able to finance this type of facility without assistance from the Medicaid program. With the current moratorium in place on expansion of basic care bed capacity, I do not believe any Tribe(s) in North Dakota will be able to construct and operate a facility on its own.

I can appreciate and understand the justification for implementing the moratorium. However, I feel that rural areas, especially the reservations, were never considered when this type of action was taken. It is a fact that our Indian people are living longer. It is also a fact that as our elderly population ages, there is a need for some type of long-term care on the reservations. Senate Bill No. 2098 allows the transfer of existing beds to a tribal facility and the Trenton Indian Service Area fully supports that amendment at this time. Thank you for the opportunity to express our thoughts and concerns on the bill.

Sincerely,

TRENTON INDIAN SERVICE AREA

Everette Enno

Everette Enno
Chairman