

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1190

2005 HOUSE HUMAN SERVICES

HB 1190

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1190

House Human Services Committee

☐ Conference Committee

Hearing Date 1/10/05

Tape Number

1

Side A

x

Side B

Meter #

0-732

Committee Clerk Signature



Minutes:

Chairman Price: Opened the hearing on HB 1190. All committee members were present.

Rep. Devlin: Appeared in support of HB 1190.

(See Attached Testimony)

Shelly Peterson, Pres. ND Long Term Care Assoc.: Appeared in Support of HB 1190.

(See Attached Testimony)

Rep. Kreidt: The basic care beds that were previously nursing beds to the transfer, are those nursing home beds, then lost forever once they go to basic care? Can they ever be converted back to nursing beds again?

S. Peterson: That issue of conversion back and forth is covered in HB 1191.

Chairman Price: When you talk about the 50 mile radius, are you talking across state lines?

S. Peterson: I am not sure.

Chairman Price: I am wondering how willing the those providers are going to be to answer the questions needed.

S. Peterson: That would be an issue in Grand Forks and Fargo. We would have to look at going over state lines. Minnesota certainly would not recognize our need in ND. Maybe we could insert within state lines.

Rep. Kaldor: Do you have information on the statistics relative to Grand Forks and Fargo? For example, the occupancy rating, that exists now?

S. Peterson: I have them in my office, I can get those for you.

Rep. Potter: Could you remind us about the difference between nursing facilities and basic care beds.

S. Peterson: A nursing facility provides 24 hour skilled care. You have to have nurses, RN's or LPN's around the clock. They must be in the facility providing care and supervision. In a basic care facility, there is not a specific requirement for nursing coverage, generally though, every basic care facility, has nursing time but it not specified as to how much. Basic care individuals do not generally have complex medical needs. They just need reminding, etc. for medication administration. Skilled nursing facilities clients have more complex needs.

Rep. Potter: Looking on page 1, line 18, Is that the entire nursing facility converting - part of the nursing facility converting - I'm not quite clear on that.

S. Peterson: A nursing facility that converts some beds to basic care has the option of how many they want to convert. Minimum is 5 beds, (legal definition) Nursing facility can't say I just want to convert 1-2 beds. Generally it is 5-6 beds. The facility can convert beds once a year, they have to give a 90 day notice to the dept. that they are going to do this, then after a year you can

decide that those basic care beds aren't in demand, you can choose to convert those back to nursing home status. This give flexibility to those communities.

Rep. Kreidt: With the transfer of beds, is the cost, what the market will bear?

S. Peterson: It is what the market will bear. The buyer and seller determine what the price is, that is an allowable cost so if you pay \$10,000 a bed, you can't put it on the cost report and expect that the dept. will put it in your rates, you have to come up with the money. It is a willing buyer - willing seller determining the price. Generally they haven't for the basic care facility, for the basic care facility, it has been \$1,000-\$2,000 - not been very much at all.

Rep. Potter: Basic care assistance funds, (part 2) Can you explain what basic care assistance funds - where they come from and what they are used for?

S. Peterson: It is financial assistance from the state for low income people that don't have sufficient funds to pay for their care. Certain medical conditions must meet the guidelines for this assistance. Generally they follow Medicaid eligibility requirements. A social worker determines twice a year, if the individual meets the basic care guidelines for services.

Rep. Potter: Where do those moneys come from? From state or federal money.

S. Peterson: Requested appropriation this year, a little over 12 million dollars, a combination of state general funds and the personal care option, which is a later bill, but ND applied in 2001 for federal funds for the first time in basic care assistance. (MR-1452) We were able to access some federal moneys for the personal care services that have been delivered. Medicaid dollars and State general funds.

Rep. Devlin: Has the basic care funding from the federal government been approved yet?

S. Peterson: I will let Dave Zentner respond to that.

Dave Zentner Director of Medical Services, Dept. of Human Services.

(See Attached Testimony:)

Statement involving addition's to testimony: On page 2, lines 7-8-9, may not be necessary if HB 1148 becomes law, which will extend personal care on an ongoing basis. The bottom line is that we have to enroll any basic care provider that meets the criteria, because then the personal care option becomes an entitlement. As was stated by Shelly, there are two funding sources, for the program, the personal care portion of the service that is provided in basic care is a Medicaid state optional service and we do claim the regular Federal match for that. The non-personal care service, we refer to here as room and board, is 100% state dollars. So there is two funding sources for them.

(Para: #3 in Testimony)

Rep. Kaldor: Why is it that we don't need lines 7-8-9 on page 2?

D. Zentner: If personal care option is applied the Federal Govt., any basic care facility that is licensed and approved and is providing those services, must be enrolled in the Medicaid program.

Rep. Potter: Is just for basic care or is the money for individuals stay in their home?

D. Zentner: Only federal dollars for care facility, in 2003 another bill was passed that directed us to also provide in home. Personal care is an optional service, you have to get the Fed. govt. to approve the state plan.

Rep. Porter: In state/out of state (50 mile radius) would it hinder a facility in Fargo/Grand Forks to come in for new beds to expand, regarding need based on vacancies in Minn. or full capacity in Minn.?

D. Zentner: We don't look at what is happening in other states. We just look at occupancy within the borders of ND.

Rep. Porter: In statement it says within a designated area of the state or existing beds within a 50 mile area, your saying that the Dept. uses the designated state rather than the 50 mile radius.

D. Zentner: So far that what is what we have done, we have used the 8 regions for guidance and as our standard area.

Chairman Price: Any more testimony in favor/ opposed? Hearing none, we will close the hearing on HB 1190.

(Afternoon Session 1-10-05)

Chairman Price opened discussion.

Rep. Devlin: Motion to accept the amendments.

Rep. Potter: Second.

Rep. Devlin: Line 21 - in State/Community.

Rep. Porter: After line 22, with in the state.

V. Chrm. Kreidt: Could the LC advise us regarding a description of the regions/state, referring to the applicable areas of the state.

Rep. Porter: Motion Do Pass

Rep. Nelson: Second

Chairman Price: With the amendments, there is no additional fiscal impact.

Page 6

House Human Services Committee

Bill/Resolution Number HB 1190

Hearing Date 1-10-05

D. Zentner: Not that I know of.

Vote: 12 - 0 - 0.. **Carrier:** V. Chrm. Kreidt

FISCAL NOTE
Requested by Legislative Council
01/07/2005

Bill/Resolution No.: HB 1190

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.

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

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

This bill would amend and reenact NDCC section 23-09.3-01.1 relating to a moratorium on the expansion of basic care bed capacity.

There is no fiscal impact.

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 Weisz
Phone Number: 328-2397

Agency: Human Services
Date Prepared: 01/07/2005

Amendment to HB 1190

Page 2, Line 6, after "beds" insert 3 words: or new facilities

50335.0101
Title.0200

Adopted by the Human Services Committee
January 10, 2005

VK
1/10/05

HOUSE AMENDMENTS TO HOUSE BILL NO. 1190 HS 1-11-05

Page 2, line 6, after "beds" insert "or any new facility"

Renumber accordingly

Date: 1/10/05

Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1190

House

Human Services

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken *No Pass as Amel*

Motion Made By

Seconded By

Representatives	Yes	No	Representatives	Yes	No
Chairman C.S. Price	/		Rep.L. Kaldor	/	
V Chrm.G. Kreidt	/		Rep.L. Potter	/	
Rep. V. Pietsch	/		Rep.S. Sandvig	/	
Rep.J.O. Nelson	/				
Rep.W.R. Devlin	/				
Rep.T. Porter	/				
Rep.G. Uglem	/				
Rep C. Damschen	/				
Rep.R. Weisz	/				

Total

(yes) 12

No 0

Absent

0

Floor Assignment

V. Chrm. Kreidt

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

REPORT OF STANDING COMMITTEE

HB 1190: Human Services Committee (Rep. Price, Chairman) recommends
AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS**
(12 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1190 was placed on the
Sixth order on the calendar.

Page 2, line 6, after "beds" insert "or any new facility"

Renumber accordingly

2005 SENATE HUMAN SERVICES

HB 1190

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1190

Senate Human Services Committee

☐ Conference Committee

Hearing Date February 15, 2005

Tape Number	Side A	Side B	Meter #
1	x		2100-end
1		x	00-1688
2	x		1900-2630

Committee Clerk Signature *Cathy Minard*

Minutes: **Chairman Lee** opened the public hearing on HB 1190. All members of the committee were present.

Representative Gary Kreidt, District 33, a co-sponsor of the bill, introduced it. This bill relates to a moratorium on the expansion of basic care bed capacity.

Sen. Dever: It appears that almost everything in the bill is either struck or underlined, I'm curious, it's an 0200 version of the bill and I'm curious what the House amendments were.

Rep. Kreidt: There were some amendments where the major change was the date and being able to move that forward, from the previous session to the 2005 and July 1, 2000 except and when and I guess I briefly explained the exceptions in the bill proper.

Chairman Lee: Were those exceptions amended that were done in the House?

Rep. Kreidt: On line 6 page 2 we made a change, that was in order for new facilities to be able to participate under this, under the old language we've eliminated a new facility that would be

able to come online through the transfer of beds. It wouldn't have been recognized that way so that was probably the most important amendment to the bill.

Sen. Dever: Subsection 2 talks about licensing transferred basic beds. Subsection 3 talks about a new facility, and then it says they don't need to be licensed for the first four years. Do I understand that right?

Rep. Kreidt: That's right.

Sen. Dever: So they can operate without a license?

Rep. Kreidt: No, that's not the intent. If they built the facility, they would become licensed when the facility was opened. If they built the facility, they would become licensed. When the facility was opened, they would have to become licensed but it gives them the opportunity to, if it's a new facility, after they purchase the beds, to be able to do the construction, and get up and running so they have the 48 months timeline to be able to do that.

Sen. Lyson: I'm looking at three also, I would imagine that the reservations, the tribal places on the reservations are now licensed by the state and we're not going to have a litigation on that are we?

Rep. Kreidt: No. There are no basic care beds. The tribes have no beds, nursing or basic care. But they would have the option, if beds became available to be able to purchase those beds like any other entity could and they would follow the same guidelines where they would have the 48 months to bring them online. If they didn't within 48 months, then the deal was dissolved.

Chairman Lee: They've been a part of that dialogue for several years.

Representative Bill Devlin, District 23 from Finley: See written testimony (Attachment 1)

Sen. Warner: What is the incentive for a long term care facility to surrender beds and how is the price established?

Testimony in favor of HB 1190

Shelly Peterson, President of the North Dakota Long Term Care Association. See written testimony (Attachment 2)

The only thing the House changed in this bill was page 2 line 6, where you see 'or new facility'

Sen. Brown: Are there *no* low income beds in Fargo?

Peterson: That's correct. You have licensed basic care facilities in Fargo, but they are not allowed to participate in the basic care assistance program. So virtually, any moderate or low income person cannot be served in Fargo.

Sen. Brown: Where do they go?

Chairman Lee: There's more to it than that. The county has chosen, up to this point, to provide home and community based services through SPED and ESPED and other programs, rather than having them in an institutional setting. The decision on the part of the county has been to provide services at home which is all local dollars rather than using state and federal dollars to provider through basic care beds.

Sen. Warner: Can I ask about the bidding process and how they establish a value on beds and the incentive for under used facilities to surrender beds.

Peterson: It really is a buyer and seller and what they can negotiate. Generally, if anyone is interested in selling, they will contact our association and say how many beds they want to get rid of. Then we'll put them out on the market by sending an e-mail to all the facilities saying what's available. Then bids will be accepted for a certain period of time. It is an allowable expense, so

if you sell beds and you purchase beds and you are the new entity purchasing those beds, you can't recoup that cost from the state. You, as a private entity, have to have those resources. The price has been about \$800-\$1000 per bed. And we have had very little selling of skilled nursing facility beds after the bed buyout program.

Chairman Lee asked Ms. Peterson to go over the 2001 legislative decision for a \$4 million buyout program for nursing home beds. This was to get rid of excess capacity or close facilities. About 300 beds were taken out with the cost of \$3 million. They also discussed the Good Samaritan society and how beds can be transferred. Also discussed was the great need for nursing facilities on the reservations. Home and community based services are provided but nursing homes have not been successful.

Sen. Warner: Is this situation largely unique to North Dakota because of its structure where we guarantee, where we don't allow cost shifting, equalization rates, or do all states going to the same.

Peterson: North Dakota and Minnesota are the only states that have equalization of rates for skilled facilities. In basic care, basic care is very unique to North Dakota, we don't know of another state that has "a basic care" systems program. They generally call it assisted living in other states and we have nursing facilities, basic care and assisted living.

Sen. Warner: Why is it unique?

Peterson: Regarding the moratorium, the number of beds that we have and the reduction of numbers, generally in the US., there's a lot of over capacity throughout the US. The model of care 100 years ago was everyone wanted to build a nursing home. Today, the model care is everyone wants to stay at home for as long as possible. States are trying to shift toward

providing the full continuum of care throughout life. So North Dakota is 94-95% occupied in nursing facilities whereas the rest of the United States is at about 85%. So there's a lot of great capacity out in the other states more so than in North Dakota right now. For basic care, since it's so unique to North Dakota, it's hard to compare what the other states are doing because they don't have a basic care assistance program.

Sen. Brown: It's my opinion that we are a rural state more so than a lot of states. We have a population that is aging a little more than some other states. People that become elderly, don't always have family around anymore especially in the small towns. You add the problem of dementia, and where do these people go? Home and community based for a person with dementia, while I'm an advocate of home and community based services, it's hard to deal with. Trying to deal with an Alzheimer patient, even in the early stages, is difficult. The problem is that there aren't a lot of nursing homes that are willing to take Alzheimer patients either.

Peterson: In the early states, we would hope they would go into basic care.

Sen. Brown: I'm trying to justify the need for skilled nursing facilities.

Peterson: That's why we allows the flexing of beds where a skilled nursing facility where you don't have basic care, we wanted them to provide the full continuum so they could convert some beds to basic care. So if some people just needed supervision, that need could be met.

Chairman Lee: Have we looked at doing away with the basic care category and go with the assisted living definition like the rest of the world?

Peterson: We brought that up. For some reason they are afraid to combine, it might go back to the Waterford experienced in Fargo. The requirements are different, the life safety issues, a lot of things would need to be worked out. They big one was money. The state provides financial

assistance for basic care that are low income. You don't in assisted living and the fear was that if we opened it up and licensed it as one category, everyone in assisted living, people like that environment, it's wonderful, and we would have a much greater demand and could the state afford it?

We looked at the question of how much more do we charge for basic care because we don't have equalized rates and are private pay people charged more because of this? Ms. Peterson went over the charts (attachment 2A) and explained this issue.

David Zentner, Director of Medical Services for the Department of Human Services.

See written testimony (Attachment 3)

Sen. Warner: What is the relationship between the Health Department and Human Services and who does what.

Zentner: The Health Department does the licensing, and in the long term care area, they do both licensing and certification requirements that Medicare and Medicaid have. On the basic care side, they're also required to go out and do reviews to make sure standards are being met. We're the payors, so you have the separation of the licensing and the monitoring versus the payment process over here.

Sen. Warner: What's the relation between your ability to pay and their willingness to license. I assume that you've made some commitment to each other.

Zentner: We work together, but they're responsible for doing the licensing if a facility meets the standards. On the other hand, we have to try to have enough money to make sure we can pay for all of those services. That's why it's difficult to estimate, are we going to have any new facilities, and if you do, how many of those individuals will participate, how many are going to

be low income. In this case, we decided it would be too iffy to say this would cost us additional dollars. That's why we didn't attach a fiscal note.

Vice Chairman Dever: What's the delineation between what the state covers and what Medicaid covers?

Generally, what is covered for basic care?

Zentner: Up to two bienniums ago, all the dollars for basic care came out of general funds. So we paid both for the room and board and any of the service costs. In 2001, we were able to Medicaid, not the room and board portion, but the portion relating to providing the personal care services. So at that time those individuals who were Medicaid eligible, we could claim federal financial participation for the personal care services provided. Because this is not an institution as defined by the federal government, you can't pay for room and board, the only thing you can pay for is the service. So the room and board part remains as separated and if we're going to subsidize it, we have to use all state dollars to do that. In a nursing home you have a different situation. They are considered an institution by definition by the federal government. So all services, including the room and board costs, are payable and matched by the federal government.

Bruce Prichard, Health Department: I am in favor of this bill.

There was no further testimony on this bill.

Vice Chairman Dever closed the public hearing on HB 1190.

Chairman Lee reopen discussion on HB 1190. All members were present.

Sen. Warner: I just thought of a concern with this bill's amendment. I'm not sure if there's a town on the reservation at Turtle Mountain, that reservation is tiny, it only covers about two

townships. That would limit them, if we require that they put their nursing home on a reservation by this amendment that might not be the town they want to put the nursing home on.

Carlee looked at the map and thought that Belcourt was on the reservation.

Sen. Lyson: The amendment doesn't do anything for it. If you look at #14, replace tribal reservation with tribe, then it says that...

Sen. Brown: If a tribe acquires basic care beds on a on a reservation a tribal facility must meet state licensing. How could they not build it on a reservation?

Sen. Warner: Most of their trust land is off the reservation.

There was additional conversation about reservation land and how this amendment fits.

Sen. Warner: I think it's cleaner without the word 'reservation'

Chairman Lee: So just change 'tribal reservation' to 'tribe'?

Sen. Warner: Yes. I think that Senator Brown may be right. If they build it off the reservation, it's subject to state law, this just makes it clearer that if it's on the reservation it's still subject to state law, but it means the same thing.

Chairman Lee: Is the goal of the committee to allow the tribes to build a facility on land that is not on the reservation but that serves tribal members?

Sen. Lyson: Probably the only place that would happen is down in our area.

Chairman Lee: And I think Turtle Mountain is the only area

Sen. Lyson: It's the only one that has trust land in North Dakota.

Sen. Brown: If they do it, I want them to meet state licensing requirements. But I don't want them to turn it into a sovereign nation.

The other committee members agreed and said they couldn't turn it into a sovereign nation.

Chairman Lee: I want it clear that if a tribe is going to establish a facility, on or off the reservation, that they have to meet state licensing requirements.

Sen. Dever: Then this puts on a new wrinkle. It is an exception to a moratorium. So one way for anyone to get around the moratorium would be for the tribe to establish it.

Sen. Brown: Not it they have to meet state licensing requirements.

Sen. Lyson: What we're doing with this amendment, is saying that if they do it on the reservation, they have to have to be state regulated. The amendment is perfect.

Senator Brown moved DO PASS on the amendment, seconded by Senator Dever

VOTE: 5 yeas, 0 nays, 0 absent

Senator Brown moved DO PASS as amended, seconded by Senator Dever

VOTE: 5 yeas, 0 nays, 0 absent Carrier: Senator Lyson

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1190

Senate Human Services Committee

☐ Conference Committee

Hearing Date March 21, 2005

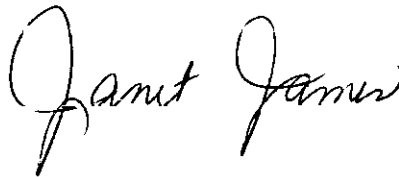
Tape Number
1

Side A

Side B
X

Meter #
45.7 - 49.2

Committee Clerk Signature



Minutes:

Senator Judy Lee, Chairman of the Senate Human Services Committee opened committee work on HB 1190.

All members of the committee were present.

Senator Lee stated she has been questioned as to what was the intent of the committee and responded that they did not think an indian reservation could get the beds. The concern might be that only beds on the reservation could be bought. The intend is that the beds could be bought anywhere but that the facility has to be on the reservation.

Senator John Warner commented that his understanding was that the facility could be anywhere, but if was not on the reservation then it is clearly controlled by state law. The committee would also like to see state control if the facility is located on reservation.

Discussion was held by the committee to understand the concerns of the House and the amendments so that a conference committee can be arranged.

Proposed Amendments to Engrossed House Bill 1190
February 15, 2005

Page 2, line 14, replace "tribal reservation" with "tribe"

Page 2, line 15, after "beds" insert "on a reservation"

Renumber accordingly

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1190

Page 2, line 14, replace "a tribal reservation" with "an Indian tribe".

Page 2, line 15, after the first "beds" insert "on a reservation"

Renumber accordingly

Date: 2-15-05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1190

Senate Human Services

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken No Pass Amendment

Motion Made By Sen Brown Seconded By Sen Dever

Senators	Yes	No	Senators	Yes	No
Sen. Judy Lee - Chairman	✓		Sen. John Warner	✓	
Sen. Dick Dever - Vice Chairman	✓				
Sen. Richard Brown	✓				
Sen. Stanley Lyson	✓				

Total (Yes) 5 No 0

Absent 0

Floor Assignment

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

Date: 2-15-05
Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1190

Senate Human Services

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass as amended

Motion Made By Sen Brown Seconded By Sen Dever

Senators
Sen. Judy Lee - Chairman
Sen. Dick Dever - Vice Chairman
Sen. Richard Brown
Sen. Stanley Lyson

Yes	No
✓	
✓	
✓	
✓	

Senators
Sen. John Warner

Yes	No
✓	

Total (Yes) 5 No 0

Absent

Floor Assignment Sen Lyson

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

REPORT OF STANDING COMMITTEE

HB 1190, as engrossed: Human Services Committee (Sen. J. Lee, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1190
was placed on the Sixth order on the calendar.

Page 2, line 14, replace "a tribal reservation" with "an Indian tribe"

Page 2, line 15, after the first "beds" insert "on a reservation"

Renumber accordingly

2005 HOUSE HUMAN SERVICES

CONFERENCE COMMITTEE

HB 1190

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1190

House Human Services Committee

☒ Conference Committee

Hearing Date March 23, 2005

Tape Number

2

Side A

x

Side B

Meter #

Blank

Committee Clerk Signature



Minutes:

Tape is faulty, minutes taken from notes.

Conference Committee Members:

Chairman Rep. Kreidt, Devlin, Potter. Sen. Lyson, Dever, Warner.

Chairman Kreidt called the conference committee meeting to order.

Sen. Lyson: I am distributing a proposed language change in this amendment. It was pointed out that on page 2, lines 14-15, that refers to "on the reservations". We need to remove that.

Chairman Kreidt: Are there anymore changes or discussion?

Sen. Lyson: I move to accept the amendment. **Sen. Warner:** Second.

Chairman Kreidt: All in favor? Voice Vote Unanimous

Sen. Warner: I move that the Senate recede from its amendment and adopt the new language.

Sen. Dever: I second.

Vote: 6-0-0. Rep. Kreidt will carry the bill.

REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE) - 420

07398

(Bill Number) *HB 1190* (, as (re)engrossed):

Your Conference Committee *Klaus Herman Services*

For the Senate: *6-0-0*

Sen Lypson

Sen Reuter

Sen Warner

Y N

For the House: *6-0-0*

Rep Kreidt

Rep Deulin

Rep Patten

Y N

☒ recommends that the SENATE HOUSE (ACCEDE to) RECEDE from)
723/724 725/726 8724/8726 8723/8725

the (Senate/House) amendments on (SJ/HJ) page(s) *107 - (5J-832)*

☐ and place
727

on the Seventh order.

☒ , adopt (further) amendments as follows, and place

HB 1190 on the Seventh order:

☐ having been unable to agree, recommends that the committee be discharged
and a new committee be appointed. 690/515

((Re)Engrossed)
calendar.

was placed on the Seventh order of business on the

Attendance

DATE: *3/23/05*

CARRIER: *Rep Kreidt*

LC NO. *50335* . *0202* of amendment

LC NO. *50335* . *0400* of engrossment

Emergency clause added or deleted _____

Statement of purpose of amendment _____

(1) LC (2) LC (3) DESK (4) COMM.

2005 TESTIMONY

HB 1190

January 10, 2005

Good morning Chairperson Price and esteemed members of the House Human Service Committee.

I am Rep. Bill Devlin, District 23 from Finley.

I am here to introduce HB1190 and urge a do pass recommendation from this committee.

Those of you that have been on this committee before have seen this bill before. Briefly what the bill does is:

Extend the moratorium on Basic Care beds with a couple of exceptions. Both of those exceptions are in the law today but we want to strengthen one of them.

The unchanged exemption is the one that allows nursing homes to convert beds to basic care beds. This flexibility was added by this committee during another session. Rep. Weisz was the author of that change originally. Although it isn't used very often we need to maintain this flexibility particularly in rural areas where facilities have a real need for the program as they are most likely the only facility of any type in an area. Without this flexibility families would be forced to move their loved ones to other facilities often far from their communities.

We are adding some guidance to the second exemption. Currently the Department of Human Services can approve new basic care beds if there is a need. This bill gives some guidance on what defines need and tells how a new facility could be built. We also want to open up the transfer process if it is cost effective for the state to perhaps allow a facility to be built in Fargo where there is a really need.

Shelly Peterson of the ND LTC will explain the bill in a little more detail. She will also offer a small amendment that everyone agrees is needed. I urge a do pass on HB 1190 and would be happy to answer any questions but would like to point out that the experts are coming next.

Thank you!

William R. Devlin
State Representative, District 23

Testimony on HB 1190
House Human Services Committee
January 10, 2005

Chairman Price and members of the House Human Services Committee, thank you for the opportunity to testify on HB 1190. My name is Shelly Peterson, President of the North Dakota Long Term Care Association. I am here today to testify in support of HB 1190.

HB 1190 sets the policy of determining further expansion of basic care facilities in the state. The current language is found by many to be confusing and problematic. In August 2004 we met with the Department of Health and Department of Human Services for the purpose of redrafting the moratorium language for basic care and nursing facilities. It was decided our Association would lead the effort to re-write the moratorium language while seeking input and guidance from both Departments. The bill draft before you was our latest version of the re-writing process.

Before I explain the three sub-sections in HB 1190 I would like to provide just a little background information on basic care. Although there are just a few new committee members it is easy to forget this information if you don't deal with it often. We are in the process of completing a comprehensive survey of basic care facilities and the residents they serve and soon will have more updated information. As of 08/11/04 North Dakota had 54 licensed basic care facilities representing 1587 beds. Basic care facilities are annually licensed by the Health Department. Recently the Department of Health began surveying basic care facilities once a biennium. Basic care facilities are 83% occupied. As of July 1, 2004 the average cost for one day of care was \$57.73. Basic care provides twenty-four hour care and supervision, including room and board, nursing assessment, supervision and service, social service care, activities and medical transportation. The greatest needs of a basic care resident are twenty-four hour supervision and medication administration. Basic care financial assistance is available to help people who need financial assistance to pay for their care. Today approximately 475 individuals are receiving basic care assistance from the state. Under the personal care option the state is able to access federal funds that help pay the bill for personal care services provided to low income individuals residing in basic care. In order for an individual to be eligible for basic care assistance they must meet financial and service need criteria. Hopefully this brief description helps you understand the needs of basic care residents.

Now back to HB 1190. HB 1190 has one section and three sub-sections. I would like to explain the three sub-sections and their effect.

SUB-SECTION 1

States that basic care beds can not be added through July 31, 2007 except in two circumstances. The two exceptions to the moratorium include:

1. Nursing facilities are allowed to convert their nursing facility beds to basic care beds. This conversion process was authorized in the 2001 legislative session. The conversion of beds has only occurred on a limited basis and only rural facilities have taken advantage of this opportunity. In 2004 four nursing facilities utilized this option located in Arthur, Forman, Hettinger and Mott.

2. The second exception allowed is if an entity can prove to the Department of Health and Department of Human Services that a need exists. Under this provision the Department of Health has approved a number of facilities that specialize in care for individuals with Alzheimer's disease. This section has been re-written establishing some minimum criteria that must be met prior to expansion being allowed. It states basic care services must not be readily available within the area or that existing basic care beds within a fifty-mile radius have been occupied at 90% or more for the previous twelve months. This language was added because the Department of Health requested some guidance on how to determine need.

SUB-SECTION 2

Allows basic care beds to be transferred/sold to other entities. All transferred beds have four years to become licensed in the new location. A new section was added on funding. It states the entity receiving the transferred beds may seek to participate in the Basic Care Assistance Program. Prior to being approved for funding the entity must be able to demonstrate that by caring for individuals in this new basic care setting, entry into the nursing facility will be delayed, thus saving the state money.

In preparing this testimony I noted an unintended omission in this section. It states only entities receiving transferred beds may seek to participate in the Basic Care Assistance Program. If you agree with the policy of allowing new facilities based upon "need," the language should be amended to allow this option of funding for potential low income residents in new facilities. This could be easily accomplished by adding three words on line 6 of the second page. After beds insert: or new facilities. Please see my attached amendment for your consideration.

SUB-SECTION 3

This is the section for reservations. Nothing changes in this section. It is just re-written in what we think is clearer language. Sub-section 3 allows reservations that have purchased basic care beds to license those beds within forty-eight months and allows them to seek to participate in the Basic Care Assistance Program if all state and federal requirements are met.

This concludes my testimony on HB 1190. I would be happy to answer any questions you might have.

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

TESTIMONY BEFORE THE HOUSE HUMAN SERVICES COMMITTEE

REGARDING HB 1190

JANUARY 10, 2005

Chairman Price, members of the committee, I am David Zentner, Director of Medical Services for the Department of Human Services. I appear to provide information on this bill.

The bill is designed to clarify language regarding maintaining the current moratorium for basic care facilities. The bill makes it clear that no additional basic care beds can be added during the next biennium. Two exceptions to the rules are included, which do provide some additional guidance to the Department of Health and the Department of Human Services regarding the granting of exceptions to the moratorium.

Paragraph 2 establishes criteria for approving new facilities to receive payment through the Basic Care Assistance program. Since the Medicaid program pays for personal care services provided in a Basic Care Facility as an optional state plan service, we are obligated to pay for any Medicaid recipient who qualifies for the service. Room and board costs can be subsidized using 100 percent state funds.

Paragraph 3 describes how beds acquired by an Indian tribe can participate in the Basic Care Assistance program.

The Department concluded that the extension of the moratorium would not have a fiscal impact on the appropriation in the next biennium.

If the Legislature chooses to extend the moratorium on the expansion of basic care beds, the Department will be able to implement the changes contained in this bill.

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

OUT OF STATE PLACEMENTS

17B/190

DHS Placing Region	C O D E	DOB	Sex	Facility	Placement Date	Brief Indication of Problem	Match	Rate	Ave. In-State Rate	Spec. Ed. Needs Y/N	Custodian	Bed Avail. * Previous Placement
Bismarck	I	8/16/86	M	Mesabi, MN	3/30/01	ADHD, obsessive compulsive disorder, tourettes disorder by records, disruptive disorder, NOS. GAF-35 in light structure. Sexually acting out since he was approximately 7 1/2 yrs. Old. Aggressive toward others. Threatened suicide on several occasions. Cited in the past for runaway & assault. Current charges pending for assaulting staff member at the State Hospital. IQ-75	EA	212/ Day	314/ 12 Day Months	Yes	Burleigh CSSB	(2)RMAC, DBR, Luther Hall (3)State Hospital, RMAC, Manchester House, Dakota House
Dickinson	I	6/2/87	M	Millie Lacs, MN	10/1/03	Reactive attachment disorder, paraphilia, NOS. Arithmetic disorder, onset insomnia. Emerging histrionic & dependent traits. History of physical, verbal, emotional & sexual abuse. Discharged from in-state facilities due to his grooming behaviors. Needs sex offender treatment. GAF 31 in structured setting. IQ 102	EA	228/ Day	314/ 12 Day Months	Y	DJS	(3)DBR, HOTR, YCC
Grand Forks	I	9/15/87	M	Mesabi Academy MN	10/8/03	Sexual disorder, conduct disorder, adjustment disorder, ADHD, parent-child problems. Sexual abuse of child. Two adult convictions for GSI. In need of sex offender treatment program. IQ 7	EA	227/ Day	314/ 12 Day Months	Y	DJS	(2)DBR, HOTR (3)YCC
Grand Forks	I	10/29/88	F	Woodfield Center, SD	11/8/04	History of self-harm activities including cutting and head banging. Six suicide attempts in 18 mos. Raped by family member. Depression, NOS. PTSD. Cluster B traits. Asthma. Moderate to severe stressors. GAF-35	EA	160/ Day	314/ 9 Day Months	No	Stark Co.	(1)Luther Hall, RMAC, DBR (2)CHYS, St. A's
Minot	I	3/29/91	M	Cleo Wallace, CO	2/3/04	Conduct disorder, childhood onset. Major depressive disorder. ADHD, by history. R/O PTSD. R/O paraphilia, NNOS. GAF-40. Sexually abused by uncle. Perpetrated his sisters. Needs treatment for his sexual perpetration and sexual victim issues. Father lives in Colorado. Reunification efforts planned. IQ 82	FM	240/ Day	314/ 12 Day Months	Y	Ward Co	(2)Pride-Manchester, DBR-Fargo, Luther Hall; RMAC, HOTR, CHYS (3)DBR-TL
Bismarck	I	4/25/88	M	Mesabi, MN	3/7/03	ADHD, combined type, by history ODD. Pervasive developmental disorder (stereotyped & repetitive motor mannerisms, social oddities). Anxiety disorder, NOS. R/O Bipolar disorder, NOS. Problems with primary support group, social environment, legal system, other psychosocial. Sex offending behavior. GAF-50 IQ 85	FM	227/ Day	314/ 12 Day Months	Y	Kidder Co	(1)DBR (2)HOTR (3)Cleo Wallace
Bismarck	I	5/1/87	M	Mesabi, MN	8/11/00	Depressive disorder, NOS. Reactive attachment disorder (provisional). Anxiety disorder, NOS, with obsessive compulsive disorder features. Sexual disorder, NOS, with fetishism and history of sexual exploitation of a younger peer. ADHD, combined type. Moderate psychosocial stressors. GAF-55; IQ 96	EA	212/ Day	314/ 12 Day Months	Yes	Grant CSSB	(1)Manchester House, RMAC (3)Millie Lacs
Dickinson	I	8/17/90	M	Mesabi, MN	11/2/04	Conduct disorder, child onset type. Generalized anxiety disorder. Sexual abuse of child. Poor peer & family relations. GAF-50. Sexually abused his sister. History of sexually acting out, destruction of property & behavioral dyscontrol. Needs sex offender treatment. IQ - 109	EA	219/ Day	314/ 12 Day Months	Yes	DJS	(1)DBR (3)HOTR
Bismarck	I	7/29/92	M	Dakota House, SD	8/4/04	Bipolar disorder, manic, & ADHD. Needs constant supervision due to potentially dangerous behaviors, such as choking his younger sibling, handling guns, sexually inappropriate behavior toward brother and younger child. He's argumentative toward adults & violent behavior toward his mother. He's a victim of sexual abuse. GAF-45 IQ 77	RM	160/ Day	314/ 6 Day Months	Yes	Morton Co.	(1)Manchester, DBR
Dickinson	I	7/17/90	M	Cleo Wallace, CO	3/31/03	RAD, PTSD, ADHD, mood disorder, NOS, parent-child relational problems. GAF-30. Aggressive behavior. Depression, ODD, possible FAE, intolerable behaviors, eating non-material items such as stocking caps, buttons & paper clips & need to be drinking from the toilet. History of enuresis. History of emotional, physical & sexual abuse. IQ-75	EA	130/ Day	314/ 9 Day Months	Yes	Stark Co	(1)Manchester (2)RMAC, Luther Hall (3)Black Hills Childrens Home, DBR-Pgo

* (1) No bed available; (2) Bed available, not accepted; (3) Actually placed

OUT OF STATE PLACEMENTS

DHS Placing Region	C O D E	DOB	Sex	Facility	Placement Date	Brief Indication of Problem	Match	Rate	In- State Rate	Antic. Length of Placement	Spec. Ed Needs Y/N	Custodian	Bed Avail. • Previous Placement
Fargo	1	9/5/87	F	Northwood, MN	1/16/04	Bipolar disorder, NOS. Parent-child relationship problems. Alcohol/marijuana/mahant abuse in remission. Eating disorder, NOS. Borderline personality disorder. Scoliosis. Family problems with primary support group. Social biting, kicking, runaway and threats to harm self and others. Assaultive behaviors. History of sexual and physical abuse.	FM	177/ Day	314/ Day	12 Months	No	Cass Co	(2)DBR, Luther Hall, RMAC (3)JSL Hospital, Prairie Psych (3X), DBR-RTC, YCC (2X), DBR Safe Home (2X), Luther Hall
Fargo	1	11/25/88	F	St. Cloud Childrens Home MN	10/7/04	Reactive attachment disorder, bipolar disorder, ADHD, ODD, mood disorder, NOS. Victim of abuse/neglect. Dyslexia, NOS. Relational problems, NOS. Obsessive compulsive, borderline and histrionic traits. Lack of nurturing and/or empathic failure in developmental years. Physical and sexual abuse developmental years, maladaptive relationships, issues related to identity, self-esteem, dependency needs. GAF-40.	FM	179/ Day	314/ Day	12 Months	N	Cass Co/ Spirit Lake TSS	(2)DBR (3)RMAC, Luther, PATH
Grand Forks	1	10/31/88	F	Catholic Charities, MN	7/9/04	Mood disorder, NOS, unipolar vs. bipolar. Alcohol dependence, per history. Cannabis dependence per history. PTSD. Anxiety disorder. Abuse/neglect. Nicotine dependence. Parent/child relationship problems. R/O dissociative disorder, NOS vs. psychotic disorder, NOS. Borderline traits. Stressors acute - multiple placements due to poor emotional & behavioral control. Mom's lack of contact & follow through. Lack of nurturing or empathic skills in developmental years, emotional, verbal, physical & sexual abuse in developmental years. Abandonment issues (father), Maladaptive maternal & interpersonal relationships. Issues related to identity, self-esteem & dependency issues. GAF 37. Average IQ.	EA	216/ Day	314/ Day	7 Months	N	DJS	(2)DBR, Fargo, Luther Hall (3)Luther Hall
Fargo	1	12/9/88	F	Catholic Charities, MN	7/14/04	Depressed & acting out. Has had suicidal ideation. History of runaway. Cutting on herself. Suffers from bulimia. Acting out sexually with both males & females. Depressive disorder, NOS. ODD. Parent/child relational problems. R/O major depressive disorder, non-psychotic. R/O PTSD. Borderline/histrionic traits. Stressors moderate to severe. GAF 38.	EA	305/ Day	314/ Day	12 Months	N	Cass Co	(3)Luther Hall, Prairie Harvest Safe Home, DBR Safe Home
Bismarck	1	6/18/90	M	Dakota House, MN	5/28/03	Mood disorder, NOS by history. Reactive attachment disorder, ADHD, combined type. Developmental coordination & phonological disorder by history. History of abuse & neglect as a very young child. History of asthma & visual problems in the past. Severe psychosocial stressors in the recent past. History of sexual abuse. Recently charged with two counts of GSI, GAF-46, IQ 83.	FM	140/ Day	314/ Day	12 Months	Yes	DHS	(3)Manchester
Grand Forks	1	12/21/86	M	Mesabi, MN	4/24/02	ADHD, combined type, severe. Conduct disorder, childhood onset. PTSD versus reactive attachment disorder. Functional enuresis - nocturnal type. Paraphilia, NOS. R/O gender identity disorder - doubtful. Mild mental retardation. Reported exposure to alcohol in utero. Sexual abuse, emotional & physical neglect, history of multiple placements, history of legal problems. GAF 25 in structured environment. IQ 52.	EA	220/ Day	314/ Day	12 Months	Yes - IEP	DJS	(2)HOTR (3)RMAC, YCC, Western Plains, DBR-RTC
Minot	1	3/6/91	M	Mesabi, MN	4/28/04	Paraphilia, NOS. Exposing his genitals and soliciting contact from his victims. Severe mood swings, impulsivity, depression, anxiety. Exposed himself to two six year old males. Needs sex offender specific treatment.	RM	234/ Day	314/ Day	10 Months	?	DJS	(1)DBR (2)HOTR (3)DBR-TL
Bismarck	1	6/13/90	M	Mesabi, MN	1/31/03	Sexual abuse of child - perpetrator & victim (paraphilia NOS), depressive disorder NOS vs. bipolar disorder, ADHD, combined type, PTSD, obsessive compulsive symptomatology & borderline cognitive ability. Sexually molested sister. Aggressive, general agitation & severe sexual acting out. Needs low functioning sex offender treatment program. IQ 71.	FM	227/ Day	314/ Day	12 Months	Y	Mencer Co	(1)Manchester House (2)Luther Hall, DBR (3)Western Plains

•(1) No bed available; (2) Bed available, not accepted; (3) Actually placed

OUT OF STATE PLACEMENTS

DHS Placing Region	C O D E	DOB	Sex	Facility	Placement Date	Brief Indication of Problem	Match	In- State Rate	Antic. Length of Placement	Spec. Ed Needs Y/N	Custodian	Bed Avail. • Previous Placement
Bismarck	1	12/8/89	F	Catholic Charities, MN	7/20/04	History of acting out aggressively & harming herself. In need of secure & structured environment. Numerous mental health issues such as PTSD, disruptive behavior disorder, NOS. Probable dysthymia & RAD. GAF 30-50. Possible physical & sexual abuse. Abandonment by mother & father.	FM	305/ Day	314/ 12 Months	F	DJS	(2)Luther Hall (3)DBR-RTC, YCC
Fargo	1	3/12/94	F	Northwood, MN	1/12/04	PTSD, chronic. RAD, ADHD, combined type. Parent-child relational problem. ODD. Sexually abused and physically abused. Psychosexual stressors are severe w/chronic and multiple out-of-home placements, exposure to violence & physical & sexual abuse, chemical dependency issues in bio family. Dissolution of guardianship & TPR. GAF-43; without supports low 30's.	EA	179/ Day	314/ 12 Months	N-ED	Cas	(1)Pride-Manchester (3)PATH, Prairie Psych, DBR Safe Home
Bismarck	1	6/14/87	M	Mesabi, MN	8/17/04	Adjudicated delinquent for GSI, indecent exposure & sexual assault. Also a victim of sexual assault. Generalized anxiety disorder, sexual perpetrator, enuresis, nocturnal only, by history. Victim of sexual & physical abuse. Problems with primary support group, problems related to the social environment & problems related to legal system. GAF-40. Needs structured sex offender program. IQ 100	FM	227/ Day	314/ 12 Months	N	Burdigh Co	(2)Luther Hall, RMAC (3)HOTR
Williston	1	11/6/86	M	Mesabi, MN	9/18/04	Charged with GSI in 704 after offending against a 9yr old resident while in placement at Western Plains. Pervasive developmental delay, NOS. Disruptive behavior disorder, NOS. Bipolar disorder, NOS. Paraphilia NOS. Borderline intellectual functioning. Fetal alcohol exposure, possible syndrome. Visual and hearing deficits. Premature birth, neonatal and perinatal conditions and anomalies. GAF-34. Goal is for John to successfully complete a treatment program for sexual and behavioral issues.	EA	234/ Day	314/ 12 Months	Y	DJS	(2)HOTR (3)Western Plains, DBR
Fargo	1	6/6/90	M	Bar Nore, MN	12/4/02	ODD, mood disorder NOS, ADHD, reactive attachment disorder, alcohol related birth defects. Victim of verbal, physical, sexual & emotional abuse. Lack of supervision, medical & educational neglect. History of being physically aggressive & sexually inappropriate with others. History of running. GAF 30. IQ 78	FM	250/ Day	314/ 12 Months	Y	Spirit Lake (Legal) Cas CSSB (Physical) DJS	(3)Northwood, Manchester, PATH, Prairie Psych
Minot	1	12/10/87	M	Mesabi, MN	1/30/03	Child sexually molested multiple times by multiple offenders. Involved with gang & has identified himself as the "gang bich". History of suicide attempts. Practices static writing. Charged with GSI. Victim was a 4 year old boy. Needs sex offender treatment	FM	220/ Day	314/ 12 Months	?	DJS	(1)DBR (2)Luther Hall, HOTR (3)YCC
Fargo	2	6/21/87	M	Bar Nore, MN	4/6/04	Defensive disorder, NOS. Disruptive behavior NOS vs. ODD. R/O PTSD. Parent-child relational problems. R/O ADHD. R/O substance abuse, NOS. R/O borderline intellectual functioning. Antisocial traits. R/O learning disabilities. Stressors-severe. Possible lack of nurturing and/or empathic failure developmental years. Abusive father killed in the war when child was an infant. Culturalization issues, each is related to identity, self esteem & dependency needs. GAF-37, IQ-67	EA	233/ Day	314/ 12 Months	Yes	Cas Co	(3)DBR Safe Home, HOTR, PATH, RRV, Luther Hall, Prairie Harvest
Minot	2	6/21/89	F	Cleo Wallace, CO	9/20/04	Depressive disorder, NOS, social phobia, ODD, mild MR, problems with primary support group, social environment & education. Previously discharged from Western Plains due to extreme physical & verbal aggression. Facility staff report her as being defiant, oppositional, defensive, argumentative & inappropriate. IQ 64	EA	130/ Day	314/ 12 Months	Y	Ward Co	(2)Western Plains (3)State Hospital, Western Plains, Oppen, PATH, Cleo Wallace
Grand Forks	2	2/9/87	M	Mesabi, MN	11/13/03	Obsessive compulsive disorder w/contamination fears. Conduct disorder, childhood onset. ADHD, inattentive type. Dysphymia. Learning disorder, NOS. Possible history of physical abuse (stepfather) per records. GAF 50 in structure. Extensive criminal record. Has difficulty respecting peers, teachers and others in authority. Failed ND facility placements. IQ average	EA	187/ Day	314/ 12 Months	Yes	DJS	(2)RMAC, Luther Hall (3)DBR-RCCF & RTC, YCC

* (1) No bed available; (2) Bed available, not accepted; (3) Actually placed

OUT OF STATE PLACEMENTS

12/04

DHS Placing Region	C O D E	DOB	Sex	Facility	Placement Date	Brief Indication of Problem	Match	In- State Rate	Antic. Length of Placement	Spec. Ed. Needs Y/N	Custodian	Bed Avail. * Previous Placement
Bismarck	2	10/14/87	F	Cleo Wallace, CO	11/9/04	History of using, the run risk and the danger she presents to herself and others is beyond the capacity of ND facilities. Failed Luther Hall placement. Depressive disorder, NOS. ODD vs. Disruptive behavior disorder. A/N of a child. PTSD. Alcoholism and polysubstance dependence. Eating disorder, NOS. Relational problems, NOS. R/O major depression without psychosis. Borderline narcissistic and obsessive compulsive traits. GAF-30. IQ 107	EA	130/ Day	314/ 12 Day Months	N	DHS/DIS	(1)RMAC (2)DBR (3)McLeod Treatment Homes, Luther Hall, State Hospital, CHYS, YCC, PATH
Fargo	2	10/14/89	M	Northwood, MN	1/9/04	Violent w/family members - threatened to burn down the family home. Previous placement in Northwood therapeutic foster home. Schizoaffective disorder, bipolar type currently remedied by medications. ODD, by history. ADHD, combined type. Disorder of written expression. Reading disorder. Communication disorder, NOS. Psychosocial stressors severe. GAF 60. IQ 78	EA	179/ Day	314/ ? Day Months	Yes	Cass Co.	(3)Prairie Psych, Manchester, DBR, Kaines House, Northwood, PATH
Fargo	2	8/1/88	M	Bar Nune, MN	8/12/04	Mood disorder, NOS. ADHD, ODD per last admitt. Parent/child relational problem. R/O Cannabis & alcohol abuse. R/O depressive disorder. History of asthma. Psychosocial stressors are severe. Multiple out-of-home placements & hospitalizations. Long standing interaction with mental health professionals & numerous providers. Witness to domestic violence & victim of physical abuse. Exposure to parents' drug/alcohol use. Family with significant dual diagnosis concerns. Academic difficulties. IQ - average	EA	160/ Day	314/ 12 Day Months	Yes	Cass Co	(3)Detention, DBR Safe Home, Prairie Psych, PA Th
Fargo	2	4/14/94	M	St. Joseph's Childrens Home, MN	11/14/03	Bipolar disorder, manic. Pervasive developmental disorder, NOS. Mild mental retardation. Cerebral palsy, pinworms. Problem with primary support system. TPR, possible adoption. Problems with education. GAF-30. Aggressive behavior. Extensive past psychiatric history. IQ 68	EA	195/ Day	314/ 12 Day Months	Yes	DHS	(1)Prairie Psych, PA Th (3)Prairie Psych, PA Th
Grand Forks	2	8/17/87	F	Catholic Charities, MN	10/4/04	Mood disorder, NOS. ODD. Conduct disorder, by history. Highly volatile behaviors. recent drug overdose. Return to Catholic Charities where she had been successful.	FM	305/ Day	314/ 10 Day Months	DIS		(3)Catholic Charities, YCC, RMAC, CHYS, Prairie Harvest, State Hospital, PATH
Fargo	2	2/1/92	M	Northwood, MN	4/6/04	Bipolar disorder, NOS, rule out bipolar disorder, mixed, moderate; rule out a mood disorder due to a subtle seizure disorder; rule out subclinical PTSD. Parent divorce 2X, several moves in life, placement in foster care, several hospitalizations; legal involvement. History of agitation and violent behavior. Self-destructive & self-injurious behavior. Mood changes appear abruptly.	EA	177/ Day	314/ 12 Day Months	N	Cass Co.	(3)Stadler Center, DBR Safe Home (1)Manchester
Fargo	2	2/13/91	M	Millie Laas Academy, MN	12/01/04	ADHD, PTSD, Depression, NOS. Bereavement. Victim of abuse. Status post head injury. Psychosocial stressors severe, child is orphaned & bio family has history of mental illness. GAF-46. Child jumped out of moving car in summer of '03. Behaviors include lying, stealing, urinating in bedroom closet, defiance, oppositional, hiding a knife in his room & having marijuana in his possession. IQ 83	FM	228/ Day	314/ 12 Day Months	?	DHS	(1)RMAC, Luther Hall (3)DBR (R TC & Safe Home), PATH, Prairie Psych, St. Cloud Childrens Home
Bismarck	2	12/31/86	F	A Kidz Hope, CO	6/11/04	Schizophrenia, paranoid type. Bilateral hearing impairment, obesity secondary to olanzapine. Difficulty in responding to residential care environment. GAF-36. IQ 93	EA	130/ Day	144/ 12 Day Months	Yes	Burleigh Co	(3)RMAC, CHYS, State Hospital
Fargo	2	5/12/88	M	Mesabi Academy MN	7/23/04	ODD, ADHD, Mood disorder, NOS (predominately affective over-reactivity) that may have its origins in residual posttraumatic symptoms stemming from the earlier abusive parenting. History of abuse & neglect & parent/child relational problems. Probable mixed developmental (learning disorders). Severe psychosocial stressors in the past, currently moderate. Exhibits extreme violence, attacking staff & damaging property. GAF-35	EA	187/ Day	314 12 Day Months	Yes	Cass Co	(3)Gliffan, Luther Hall, Manchester, State Hospital, PATH

*(1) No bed available; (2) Bed available, not accepted; (3) Actually placed

OUT OF STATE PLACEMENTS

DHS Placing Region	C O D B E	DOB	Sex	Facility	Placement Date	Brief Indication of Problem	Match	Rate	In-State Rate	Antic. Length of Placement	Spec. Ed Needs Y/N	Custodian	Bed Avail. • Previous Placement
Fargo	2	1/3/93	M	Bar None, MN	4/28/04	Mood disorder, NOS. Anxiety disorder, ADHD, disruptive behavior disorder, problems with primary support group. GAF-30. History of verbal & physical abuse and neglect within family.	FM	233/ Day	314/ Day	12 Months	Yes	Cass CSSB	(1)Manchester (2)RMAC, Luther (3)DBR Safe Home, Prairie St John
Fargo	2	6/9/88	M	Valley Lake Boys Home, MN	6/22/04	Mood disorder, NOS. ODD. Social phobia. Cannabis dependence. Victim of abuse/neglect. Anxiety disorder. Nicotine dependence. Parent/child relational problem. NO learning disorder. R/O passive/aggressive obsessive compulsive & narcissistic traits. Stressors severe. Brother in psych unit due to homicidal & suicidal ideations. Mom has financial & health problems. Lack of nurturing and/or empathic feelings in developmental years. Abandonment by father. Emotional, physical & verbal abuse in developmental years as well as dealing with mom's chemical dependency. Issues related to identity, self-esteem, dependency needs, maladaptive maternal & interpersonal relationships.	EA	114/ Day	144/ Day	12 Months	Yes	Cass CSSB	(1)DBR, Fargo Youth Home, PLC (3)Luther Hall, DBR Safe Home, Detention
Minot	2	7/23/87	M	Mcsabi, MN	11/13/03	Mood syndrome, NOS. ODD. Tourette's syndrome. ADHD. Learning disorder. Emerging antisocial personality disorder. Legal problems, academic difficulties, peer relationship difficulties. GAF-35. Out-of-control aggressive behavior. Charged with assault. IQ 82	EA	187/ Day	314/ Day	10 Months	Yes	DIS	(2)DBR (3)DBR, RMAC, State Hospital
Blaneauk	2	2/23/88	M	McLeod Treatment Center MN	4/27/04	PTSD secondary to observed domestic violence & physical abuse in childhood. ADHD per records. ODD with features of conduct disorder (possible conduct disorder). Probable parent/child relational problems. Psychosocial stressors are prominent including exposure to domestic violence & alleged physical abuse in early years. Multiple moves by family over the years. History of academic difficulties, RAD, ADHD, Depression, NOS. Disruptive behavior disorder, inhibited type. Bipolar disorder. History of neglect & psychological abuse. Serious domestic violence in the home, including a stabbing incident. TPR in 2000. Adoptive placement disrupted. Increasingly oppositional. Charged with simple assault. IQ 81	FM	162/ Day	314/ Day	12 Months	?	DIS	(3)YCC, PLC, CHYS
Fargo	2	7/9/91	M	Northwood, MN	6/11/04	Bipolar disorder, manic, severe. PTSD. History of ADHD. Conduct disorder. Developmental coordination disorder. Otitis media, sensory deficit syndrome. GAF 50. Verbally & physically aggressive when angry. Intimidating toward younger children. IQ 87	EA	178/ Day	314/ Day	12 Months	Y	DHS	(1)Manchester (3)PATH, Stadler Center, HOTR, DBR Safe Home
Grand Forks	2	10/30/91	M	Northwood, MN	6/26/03	ADHD. Bereavement. ODD. Marijuana abuse. Parent-child relationship problems. Psychosocial stressors severe - death of mom, dad on dialysis, siblings in placement. GAF-48. Run from both in-state facilities. Once on run for a year prior to finding. History of stealing, breaking & entering, fighting, truancy, run away & physical aggressive at home and in school. IQ 83	RM	172/ Day	314/ Day	12 Months	Yes	Grand Forks CSSB	(1)Luther Hall, Pride-Manchester (3)Safe Home, detention, PATH
Fargo	2	7/16/89	M	Springfield Academy, SD	10/23/03	ODD. ADHD, combined type. Tic disorder, NOS. Learning disorder. Enuresis. Tantruming in classroom. Struggles with change. Poor impulse control. May be disruptive/assaultive. Past CPS involvement including psychological maltreatment, physical abuse & inadequate supervision. Domestic violence between mom & boyfriend.	EA	102/ Day	314/ Day	12 Months	Yes	Cass Co	(3)DBR Safe Home & Fargo RTC, Luther Hall, Detention
Grand Forks	2	7/24/95	M	Northwood, MN	4/23/04	PTSD, chronic; history of emotional difficulties and behaviors including inability to control her temper, boundary/personal space issues, history of past abuse and neglect, inappropriate verbal and poor self-esteem. Severe and persistent mental illness. Has required several psychiatric hospital admissions. Pattern of significant mental illness associated with Schizophrenia. IQ 68	EA	177/ Day	314/ Day	12 Months	Yes	Grand Forks CSSB	(1)Manchester (3)Prairie Harvest, PATH
Fargo	2	10/8/89	F	Northwood, MN	8/26/99	Bipolar affective disorder; ADHD; reactive attachment disorder; ODD; probable PTSD, chronic; history of emotional difficulties and behaviors including inability to control her temper, boundary/personal space issues, history of past abuse and neglect, inappropriate verbal and poor self-esteem. Severe and persistent mental illness. Has required several psychiatric hospital admissions. Pattern of significant mental illness associated with Schizophrenia. IQ 68	FM	158/ Day	314/ Day	12 Months	Yes - SED	Cass CSSB	(1)Manchester House (3)PATH, Manchester

*(1) No bed available; (2) Bed available, not accepted; (3) Actually placed

OUT OF STATE PLACEMENTS

DHS Placing Region	C O D E	DOB	Sex	Facility	Placement Date	Brief Indication of Problem	Match	Rate	In-State Rate	Antic. Length of Placement	Spec. Ed. Needs Y/N	Custodian	Bed Avail. * Previous Placement
Fargo	2	10/28/88	M	Bar None, MN	7/6/04	Mood disorder, NOS. ODD, MR, mild. Epilepsy. Psychosocial stressors: problems with primary support group, housing, parent-child relational problems & siblings relational problems. GAF-45. Physically aggressive at home and school. Dad in prison. Mom unable to meet child's increasing needs & child's high need for structure & consistency. IQ 59	FM	255/ Day	314/ Day	12 Months	Yes	Cass Co	(1) Western Plains
Dickinson	2	4/22/88	F	Cleo Wallace, CO	3/26/04	OCD, depression NOS. Parents divorce, conflict with mom and siblings, chronic low self esteem, academic-peer issues, estrangement from dad. GAF-35. Difficulty going to school due to anxiety and panic attacks. Isolates herself from family members who she views as contaminated; she cannot touch them fearing they have germs. Personality change due to alcohol exposure in utero. PTSD, possible co-morbid bipolar disorder, NOS. Borderline IQ. Enuresis, penicillin & wycillin allergies, history of closed head injury (possible loss of consciousness by the patient's report), rule out subtle seizure disorder - temporal lobe syndrome. History of abuse. Multiple placements since early childhood, little or no contact with father. Mother incarcerated. GAF 35. IQ 72	EA	130/ Day	314/ Day	6 Months	N	Stark Co.	(3) Rogers Memorial Hospital, PATH
Minot	2	5/27/87	M	Dakota House, SD	9/17/03	Conduct disorder vs. ODD. Disruptive behavior disorder. Parent/child relational problems. Sibling relational problems. FAE vs. FAS. GAF 40. Difficult behavior in foster home - yelling, kicking doors, & taking things. Demanding, impulsive, quick temper.	FM	150/ Day	314/ Day	12 Months	Y	Ward Co.	(3) Western Plains, Cleo Wallace, Summit Oaks, RMAC, DBR RTC & ROCF, CHVS, State Hospital, PATH
Bismarck	2	12/30/93	F	Dakota House, SD	6/4/04	Alcohol & drug usage. (Tested positive for Meth & THC) Several past psychiatric hospitalizations & AD treatments. History of eating disorder, PTSD, depressive disorder, NOS, manipulation & lying. Location of facility will allow child to continue working with ND therapists that she has a good relationship with.	FM	160/ Day	314/ Day	9 Months	N	Morton County	(1) Manchester (2) Luther Hall
Grand Forks	3	1/25/87	F	Kairos House, MN	6/30/04	Depressive disorder, NOS. ADHD. Issues of lying, not following rules, difficulties in previous foster homes. Spent the majority of her life in foster care. Both mother and father in jail. Both have chemical dependency & mental health issues. Facility is in proximity to brother who is also in foster care which will allow for visitation.	FM	134/ Day	144/ Day	7 Months	N	Grand Forks County	(3) P.H. Safe Home, Centre, Inc, State Hospital, Studter Center
Grand Forks	3	11/16/90	F	Kairos House, MN	6/9/04	Child placed with relatives in Rhode Island in 1993. Aunt requested residential treatment due to recent fire setting in the home. Child has been seeing a psychiatrist monthly and takes several medications. Concerns continue regarding his thought process and the types of decisions he makes. Plan is to return to relatives home following treatment.	RM	134/ Day	144/ Day	9 Months	No	Grand Forks Co	(3) PATH, Prairie Harvest Safe Home
Grand Forks	3	1/10/90	M	Harmony Hills, Rhode Island	9/14/04	RAD, disinhibited type. ADHD, by history. ODD. R/O depressive disorder, NOS. Borderline intellectual functioning. Extreme stressors include history of abuse & neglect in early childhood, abandonment by bio parents, adoption, peer relationship problems, academic failure, out-of-home placement, legal problems. GAF-35. Adoptive family lives in area of facility. IQ - 70	EA	205/ Day	314/ Day	12 Months	Yes	DHS	
Grand Forks	3	11/30/88	M	Secret Harbor, WA (Moved from Ruth Dykeman Childrens Ctr) Ruth Dykeman Childrens Center, Seattle, WA	10/22/04	ADHD, combined type. Generalized learning deficit. RAD. Disruptive behavior disorder, NOS. Borderline personality traits. History of prenatal exposure to alcohol. History of neglect by bio family, history of physical, emotional & sexual abuse by bio family, peer relationship difficulties, academic difficulties. GAF-35. Adoptive family in military and transferred to WA. Facility in close proximity which will accommodate family in reunification efforts. IQ-77	EA	276/ Day	314/ Day	12 Months	7	Grand Forks CSSB	(3) Prairie Harvest Safe Home, DBR
Grand Forks	3	11/14/89	F		5/7/04		EA	212/ Day	314/ Day	12 Months	7	Grand Forks CSSB	(3) DBR, Kairos House, Prairie Harvest Safe Home

*(1) No bed available; (2) Bed available, not accepted; (3) Actually placed

OUT OF STATE PLACEMENTS

12/04

Codes

Code = 1

Sex offenders

Total = 24

Code = 2

Mental health - chemical and/or behavioral

Total = 25

Code = 3

Close proximity

Total = 5

* (1) No bed available; (2) Bed available, not accepted; (3) Actually placed

February 15, 2005

Good morning Chairman Lee and esteemed members of the Senate Human Service Committee. I am Rep. Bill Devlin, District 23 from Finley.

I am here to introduce HB1190 and urge a do pass recommendation from this committee.

Those of you that have been on this committee before have seen this bill before. Briefly what the bill does is:

Extend the moratorium on Basic Care beds with a couple of exceptions. Both of those exceptions are in the law today but we want to strengthen one of them.

The unchanged exemption is the one that allows nursing homes to convert beds to basic care beds. This flexibility was added by this committee during another session. Although it isn't used very often we need to maintain this flexibility particularly in rural areas where facilities have a real need for the program. They are most likely the only facility of any type in an area. Without this flexibility families would be forced to move their loved ones to other facilities often far from their communities.

We are adding some guidance to the second exemption. Currently the Department of Human Services can approve new basic care beds if there is a need. This bill gives some guidance on what defines need and tells how a new facility could be built. We also want to open up the transfer process if it is cost effective for the state to perhaps allow a facility to be built in Fargo where there is a really need.

Shelly Peterson of the NDLTC will explain the bill in a little more detail. I urge a do pass on HB 1190 and would be happy to answer any questions but would like to point out that the experts are coming next.

Thank you!

William R. Devlin
State Representative, District 23

Testimony on HB 1190
Senate Human Services Committee
February 15, 2005

Chairman Lee and members of the Senate Human Services Committee, thank you for the opportunity to testify on HB 1190. My name is Shelly Peterson, President of the North Dakota Long Term Care Association. I am here today to testify in support of HB 1190.

HB 1190 sets the policy of determining further expansion of basic care facilities in the state. The current language is found by many to be confusing and problematic. In August 2004 we met with the Department of Health and Department of Human Services for the purpose of redrafting the moratorium language for basic care and nursing facilities. It was decided our Association would lead the effort to re-write the moratorium language while seeking input and guidance from both Departments. The bill draft before you was our latest version of the re-writing process.

Before I explain the three sub-sections in HB 1190 I would like to provide just a little background information on basic care. We have just completed a comprehensive survey of basic care facilities and the residents they serve and would like to share some information with you. North Dakota has 55 licensed basic care facilities representing 1603 beds. Basic care facilities are annually licensed by the Health Department. Recently the Department of Health began surveying basic care facilities once a biennium. Basic care facilities are 83% occupied. As of July 1, 2004 the average cost for one day of care was \$57.73. Basic care provides twenty-four hour care and supervision, including room and board, nursing assessment, supervision and service, social service care, activities and medical transportation. The greatest needs of a basic care resident are twenty-four hour supervision and medication administration. Basic care financial assistance is available to help people who need financial assistance to pay for their care. Today approximately 488 individuals are receiving basic care assistance from the state. Under the personal care option the state is able to access federal funds that help pay the bill for personal care services provided to low income individuals residing in basic care. In order for an individual to be eligible for basic care assistance they must meet financial and service need criteria. Hopefully this brief description helps you understand the needs of basic care residents. I've also attached our survey results on basic care.

HB 1190 has one section and three sub-sections. I would like to explain the three sub-sections and their effect.

SUB-SECTION 1

States that basic care beds can not be added through July 31, 2007 except in two circumstances. The two exceptions to the moratorium include:

1. Nursing facilities are allowed to convert their nursing facility beds to basic care beds. This conversion process was authorized in the 2001 legislative session. The conversion of beds has only occurred on a limited basis and only rural facilities have taken advantage of this opportunity. Today, five nursing facilities utilized this option located in Arthur, Forman, Hettinger, Mott, and Osnabrock.
2. The second exception allowed is if an entity can prove to the Department of Health and Department of Human Services that a need exists. Under this provision the Department of Health has approved a number of facilities that specialize in care for individuals with Alzheimer's disease. This section has been re-written establishing some minimum criteria

that must be met prior to expansion being allowed. It states basic care services must not be readily available within the area or that existing basic care beds within a fifty-mile radius have been occupied at 90% or more for the previous twelve months. This language was added because the Department of Health requested some guidance on how to determine need.

SUB-SECTION 2

Allows basic care beds to be transferred/sold to other entities. All transferred beds have four years to become licensed in the new location. A new section was added on funding. It states the entity receiving the transferred beds may seek to participate in the Basic Care Assistance Program. Prior to being approved for funding the entity must be able to demonstrate that by caring for individuals in this new basic care setting, money will be saved. Today, residents in newly licensed facilities, if eligible, can access money for services under the personal care option, but no new providers have been approved for the "Room & Board" portion of the basic care assistance rate. This new language was added so new facilities could seek this funding on behalf of poor residents in need of room and board coverage.

SUB-SECTION 3

This is the section for reservations. Nothing changes in this section. It is just re-written in what we think is clearer language. Sub-section 3 allows reservations that have purchased basic care beds to license those beds within forty-eight months and allows them to seek to participate in the Basic Care Assistance Program if all state and federal requirements are met.

This concludes my testimony on HB 1190. I would be happy to answer any questions you might have.

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

NDLTCA Basic Care Survey



By:
ND Long Term Care Association
1900 N. 11th Street
Bismarck, ND 58501
701-222-0660
www.ndltca.org

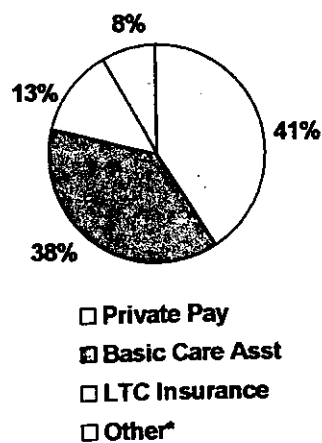
January, 2005

NDLTCA 2005 Basic Care Survey



Residents

Finances: How Residents Pay



*Other – VA, TBI Waiver & Aging Waiver
(n=1067)



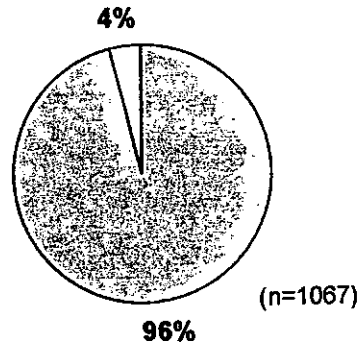
- Gender: 66% female and 34% male
- Average youngest resident: 63
- Average oldest resident: 95
- Range of residents: 19–106

(n=1067)

Profile of Basic Care Survey Data

- Sample Size = 78% (43 facilities out of 55 licensed facilities)
- Average occupancy = 83%
- Total number of occupied beds reported by 43 facilities = 1067 beds
- Total number of licensed beds reported by 43 facilities = 1285 beds

MEDICATIONS:



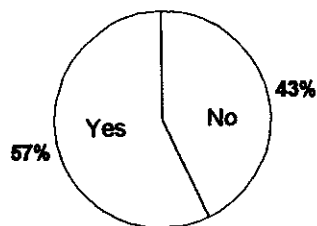
- ☐ Facility Manages Medication
- ☐ Self-Administered Drugs

42% of Residents are Receiving Psychoactive Drugs

Data Collected – January 2005

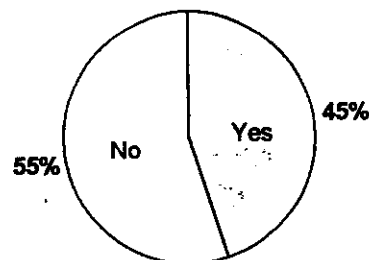
Basic Care Information

Do Facilities Charge Extra for a Private Room?



Range \$30 to \$600 monthly
Average \$231 per month

Do Facilities Charge Private Pay Residents More than Basic Care Assistance Residents?



Range \$7 to \$647 monthly
Average \$217 per month

(n=42)

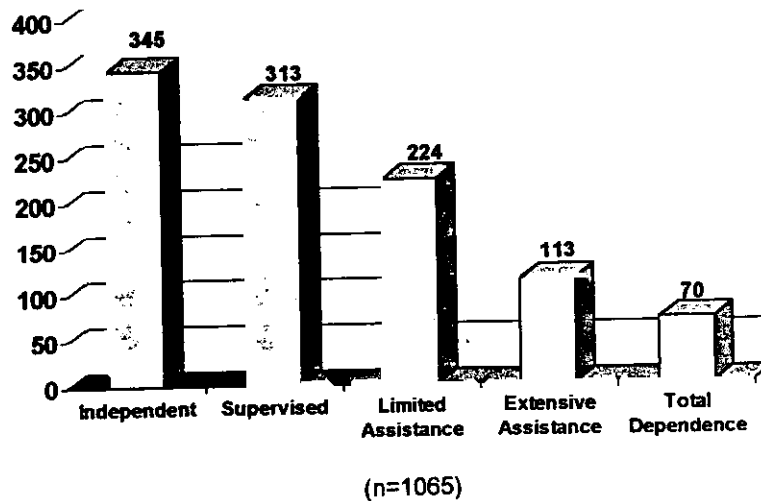
Comparison of Residents Needs from 2000 to 2005

Care Item	2000	2005
Total Administration of Medication	86%	96%
Help in Bathing	59%	68%
Total Ambulatory	73%	70%
Experience confusion or disorientation	28%	49%
Diagnosis of Mental Illness or Mental Retardation	20%	29%

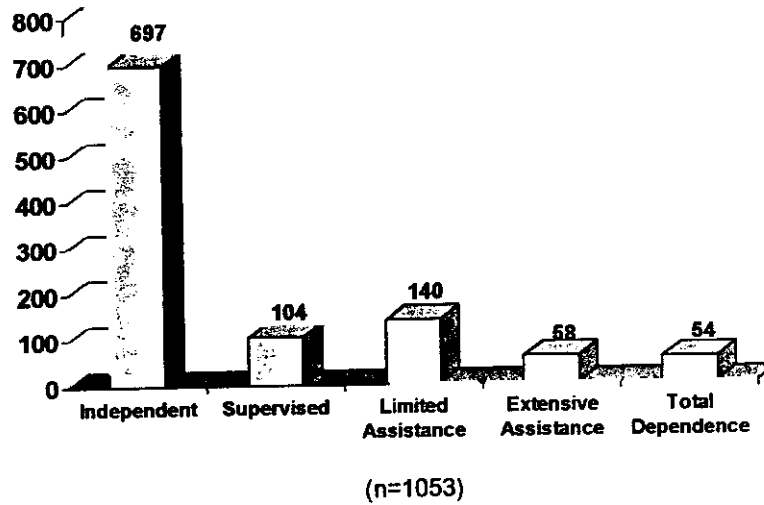
★ Basic care services include room, meals, medication administration, twenty-four hour supervision and support, activities, nursing assessment and care planning.

★ The top two reasons an individual will enter basic care is the need for medication administration and twenty-four hour supervision.

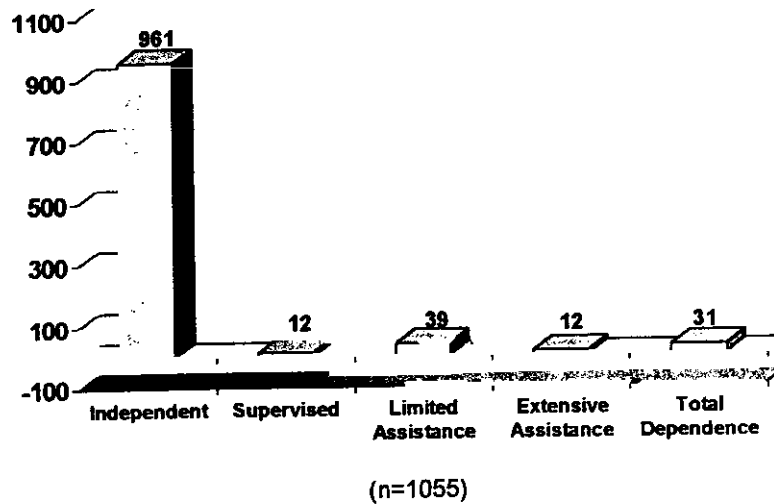
BATHING



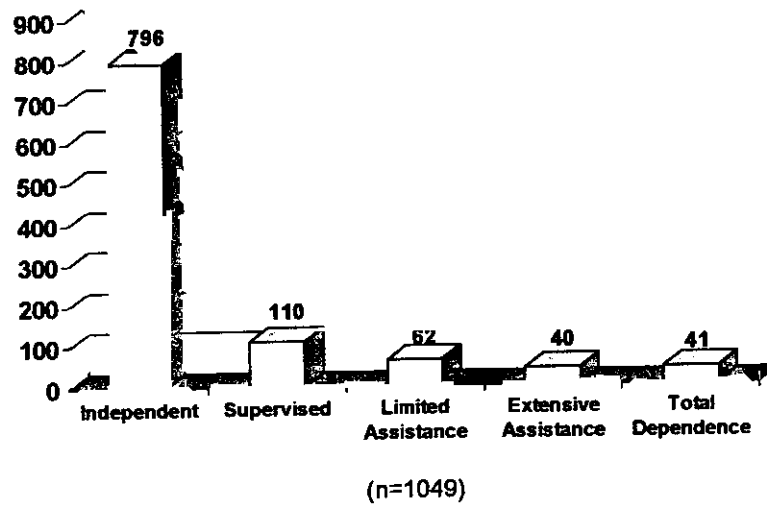
DRESSING



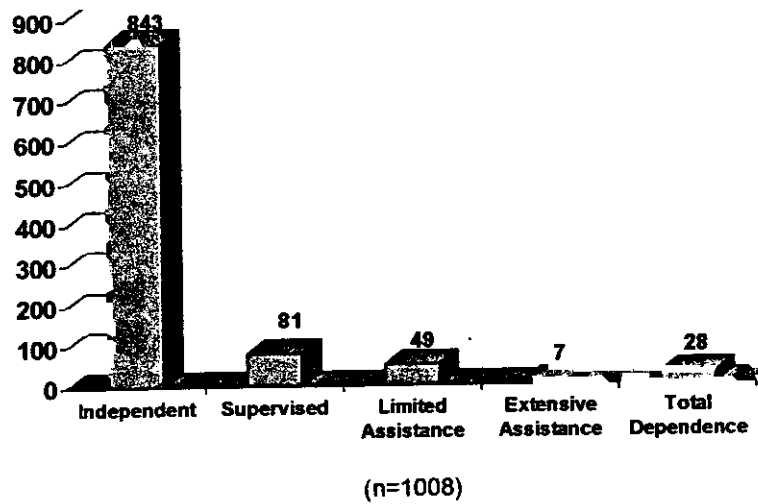
TRANSFERRING



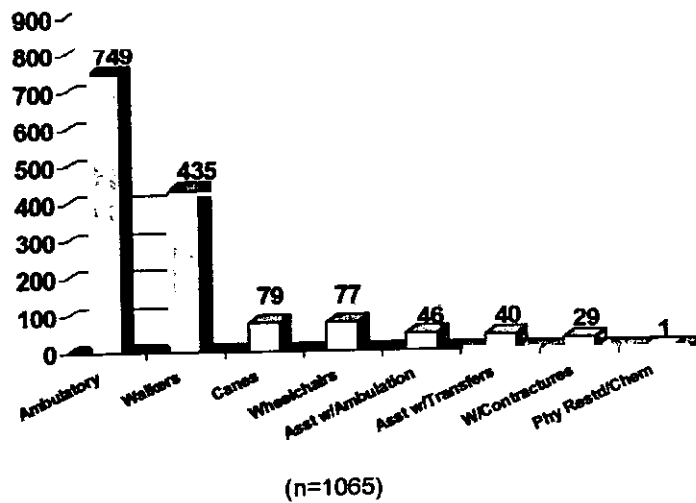
TOILET USE



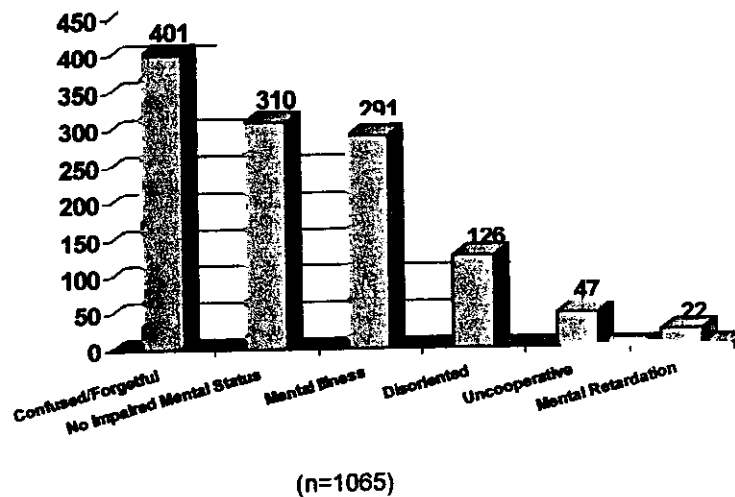
EATING



MOBILITY



MENTAL STATUS



TESTIMONY BEFORE THE SENATE HUMAN SERVICES COMMITTEE

REGARDING HB 1190

FEBRUARY 15, 2005

Chairman Lee, members of the committee, I am David Zentner, Director of Medical Services for the Department of Human Services. I appear before you to provide information on this bill.

The bill is designed to clarify language regarding maintaining the current moratorium for basic care facilities. The bill makes it clear that no additional basic care beds can be added during the next biennium. Two exceptions to the rules are included, which do provide some additional guidance to the Department of Health and the Department of Human Services regarding the granting of exceptions to the moratorium.

Paragraph 2 establishes criteria for approving new facilities to receive payment through the Basic Care Assistance program. Since the Medicaid program pays for personal care services provided in a Basic Care Facility as an optional state plan service, we are obligated to pay for any Medicaid recipient who qualifies for the service. Room and board costs are subsidized using 100 percent state funds. The bill does obligate the Department to subsidize room and board costs for any new facility that demonstrates that individuals can be cared for at a more independent level and the service will delay entry into nursing facilities.

Paragraph 3 describes how beds acquired by an Indian tribe can participate in the Basic Care Assistance program.

The Department concluded that the extension of the moratorium would not have a fiscal impact on the appropriation in the next biennium.

If the Legislature chooses to extend the moratorium on the expansion of basic care beds, the Department will be able to implement the changes contained in this bill.

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