

2013 HOUSE HUMAN SERVICES

HB 1180

2013 HOUSE STANDING COMMITTEE MINUTES

House Human Services Committee Fort Union Room, State Capitol

HB 1180
January 23, 2013
Job #17588

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to qualifications, authority and duties of independent home and community based services case managers.

Minutes:

Testimonies #1-8

Chairman Weisz: Opened the hearing on HB 1180.

Rep. Jim Schmidt: Introduced and supported the bills. (See Testimony #1)

3:48 Jesse Taken A Live: A Council Member of Standing Rock testified in support of the bill. Examples of taking care of those with special health care needs are care for veterans who are at home. We laid to rest our last WWII veteran a couple of years ago and our Korean War veterans are dwindling and our Viet Nam veterans are still with us. Of course there are the veterans who took part in the Gulf War. And we have soldiers serving now. For those who have loved ones overseas now and you watch the TV news about what is happening over there, it affects you emotionally. If you have diabetes and are under stress worrying about your young person you have a hard time controlling your diabetes. Some of our tribal members have diabetes and are on dialysis. It is hard to get out of your home in rural ND to get to medical facilities for treatment. Many times referrals are made to Bismarck and it is hard to get up here. Our CHRs are skilled and caring and can offer services out in the homes of these families and I'm talking about prevention. If we can prevent illness and that is saying a lot. We are one of 12 area regions and our region is Aberdeen, SD. We are the least funded for the 12 areas. Nationwide the Indian health services is funded between 45-50%. This bill has been in the works for the past 6 or 7 years. Our CHR program have employees that understand or speak our language which is critical as the trust element is cemented in. (Spoke in his native language for a couple of minutes.)

13:47 Rep. Laning: Do you know how many people would receive this type of service?

Taken A Live: I defer to our program people for the numbers.

14:28 Sen: Donald Schaible: From District 31 supports 1180 and asked for a fair consideration.

John Eagle Shield: Community Health representative for Standing Rock testified in support of the bill. (See Testimony #2) We have over 650 elderly living on Standing Rock Reservation and over half live in ND. After years of effort in 2012 we look forward to building a partnership.

18:52 Chairman Weisz: You mentioned no one on the reservation is currently taking advantage of any home and community based services. Why aren't they using the services and take advantage of what is out there now?

John Eagle Shield: We have many that have to be assessed by a social worker and doesn't always get done. They have to go to their homes or they have to come to you and there is a trust issue.

Rep. Mooney: You are looking for the ability to have your own system developed and devised by your nation so you can manage it within your perimeters?

Eagle Shield: Exactly.

Rep. Muscha: You have CHRs, but the people aren't being seen?

Eagle Shield: In this community service setting. There are no services reaching those individuals through the home and community based services. We are trying to get the access.

22:10: Christine Burd: Testified in support of the bill. (See Testimony #3)

Rep. Fehr: You used the term independent social workers. Are you referring to the term licensed independent clinical social work?

Burd: No. We thought we could get social workers to apply and become QSP social workers who could case manage for a number of the services that are offered. We tried testing the system in the past two years and two social workers who tried to do that are here in the audience. We only found out they were going to be stopped from that approval. We found out the social work board insisted that would be a licensed independent social worker. HB 1093 was to allow people use social workers with five years of supervise experience who then could become an independent case manager. Under that program social workers would only be allowed to assess for some services and we would still have to get the county social worker to assess for other things. HB 1180 builds upon HB 1093.

Rep. Oversen: HB 1093 will allow an LSW to practice independently and allow them to determine eligibility.

Berg: We still have to go through an eligibility worker for Medicaid. But if you can't be on that you can be on the SPED programs. If we could just get one social worker who look at all the programs and see what could help the client.

Rep. Oversen: The CHRs, is that funded through Tribal government?

Burd: That is done through Indian Health Service funding which has been contracted to the Tribe.

30:57 Chenille Condon Gates: Testified in support of the bill. (See Testimony #4)

36:37 Carole Lysne: From Minnewaukan, ND. (See Testimony #5)

40:36 Rep. Mooney: Do you see any cons to moving forward with this?

Carol: Independent social workers have to follow the same rules. Trying to find social workers to come to rural areas and work on reservations are difficult. I see them as a backup for counties too.

Rep. Mooney: Do independent workers have a support system to go to?

Carol: You have people you can contact for technical and emotional support.

Rep. Fehr: If 1180 is passed, but the current licensure stays as it is, is there anything to prohibit LSWs to work for an agency such as non-profit from being able to do the work defined under 1180?

Carol: I could work for a Tribal agency. The problem is even the agency could not access the SPED funding. The current law says the only person that can do the case management is the county social services. It's locked in. If I was working for an agency, I could do for the Medicaid waiver and other Medicaid funding sources, but I couldn't do the SPED program because it is limited to the county by law.

Rep. Fehr: Isn't that the purpose of HB 1180?

Carol: Is to allow others agencies and independent social workers.

Chairman Weisz: If we pass 1180 and not 1093 could an LSW work under that hospital agency and perform all the case management services?

Carol: Yes.

48:47 Mary Langley: LSW in Benson Co. testified in support of bill. (See Testimony #5)

52:06 Scott Davis: Executive Director of the Indian Affairs Commission testified in support of the bill. Let's utilize our local resources because we know our people, there is a trust issue and we want to keep our people at home. I look at this as a jobs opportunity. Taking care of our relatives and making a little money doing it. There is a lot of debt when we come up to Bismarck to the Emergency room because we can't get our needs met here.

Chuck Stebbins: Testified in support of the bill. (See Testimony #7)

1:03:28 Phyllis Young: Councilor at large. Testified in support of the bill. We need to practice our native healing ceremonies besides the modern medicine. It is a great democracy to testify. I support both 1093 and 1180 bills to help us.

1:08:18 Elaine Black hoop: Testified in support. I support the two bills. I had to take care of my mother without help. We have people who want to stay home. I hope you will help us.

Margaret Gates: The Tribal Health Administrator and I'm in full support of both bills. This can work if we both collaborate and work together. There is only one social worker for Standing Rock. There are people who want to stay at home and can't, but if we had help from the social workers we could do that.

Rep. Mooney: There are no long-term care facilities on the reservation?

Margaret: No there isn't.

Vern Lambert: I'm from the Spirit Lake Tribe in Ft. Totten and I have lived on a reservation all my life and elder in the Tribe. I have a bachelor and master's degree from UND. I've been teaching the last five years how to be a tribal citizen which we have never been educated on. I support both bills because our Tribe gets help from federal funding and many don't get help from the state. This bill would help us.

Phillip Longi: Former chairman from Spirit Lake. We face many of these problems today. We had a meeting about 3 years ago and found out everyone was working on their own when it came to home based community services. I support HB 1093 and 1180.

OPPOSITION

Steve Reiser: Social Service Director for Dakota Central Social Services. I would like to have some things clarified in the bill. There appears to be a step missing. Can they authorize payment? If they can't, we will not improve our situation. If they can, who will enter into the data system? Audits will need to be done by the department. The 5% match, comes from the county. The state wanted the county to have a vested interest at 5% so they didn't get too many people eligible for SPED. Who is going to pay the 5%, of the clients if the independent workers come in? If you go by history it should be the agency they work for or the independent worker which seems a bit harsh. The solution would be to do away with the 5% match for counties and the workers. Those are my questions regarding this bill.

Nancy Miller: Executive Director of the ND Chapter of the National Association of Social Workers. (See Testimony #8)

1:28:26 Rep. Fehr: Looking at HB 1180 on page 1, line 14. It refers to the licensed social worker working for an agency other than the county social service agency. Isn't that agency by definition who provides this oversight?

Miller: If 1093 doesn't pass, yes. If you pass 1093 the independent social workers would be their own agency, that individual.

Rep. Fehr: They would still have to work for an agency.

Miller: It mentions in the bill about being directly related to the scope of private practice as in statute. It's in 43-41-05 for the private practice of social work. If that statute is changed by way of 1093, then you would have a pool of LSWs and LCSWs who could be working on their own in an independent practice.

Rep. Mooney: You do have concerns with 1093?

Miller: Yes we do and we submitted written testimony prior to Monday as Chairman Weisz recommended. We wanted to understand 1093 fully before we took a position on it.

Rep. Mooney: Have you been working in the past with people who write these bills to develop anything?

Miller: We were just made aware of this through the licensing board action at 1093.

Rep. Mooney: Has your organization been working to proactively come up with solutions that might come to the table?

Miller: We were not made aware of this.

Chairman Weisz closed the hearing on HB 1180.

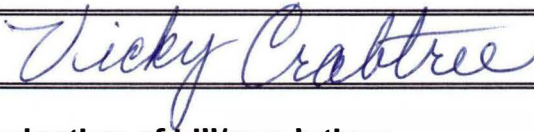
2013 HOUSE STANDING COMMITTEE MINUTES

House Human Services Committee Fort Union Room, State Capitol

HB 1180
February 4, 2013
Job #18234

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to qualifications, authority and duties of independent home and community based services case managers.

Minutes:

Chairman Weisz called the meeting to order on HB 1180. Technically 1180 is not contingent on HB 1093. They are two separate standalone bills. Maggie Anderson said the counties would still be liable for their 5% match. The independent QSP would enter the data. They would be able to authorize the payments and are subject to audits just like any social worker is now.

Rep. Oversen: The county directors are going to discuss this, but not this week.

Chairman Weisz: No one told me to hold this any longer.

Rep. Silbernagel: I didn't see any strong opposition on this bill. There were some concerns on creating some issues, but felt strong support to try and do something.

Rep. Laning: I move a Do Pass on HB 1180.

Rep. Fehr: Second.

Rep. Mooney: Don't sovereign nations have the ability to make their own rules outside of ours.

Chairman Weisz: They can make all the rules they want, but they won't get the funding.

ROLL CALL VOTE: 12 y 0 n 1 absent

MOTION CARRIED

Bill Carrier: Rep. Silbernagel

Date: 2-4-19
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1180

House Human Services Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Laning Seconded By Rep. Fehr

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN WEISZ	✓		REP. MOONEY	✓	
VICE-CHAIRMAN HOFSTAD	✓		REP. MUSCHA	✓	
REP. ANDERSON	✓		REP. OVERSEN	✓	
REP. DAMSCHEN	✓				
REP. FEHR	✓				
REP. KIEFERT	✓				
REP. LANING	✓				
REP. LOOYSEN	✓				
REP. PORTER	A				
REP. SILBERNAGEL	✓				

Total (Yes) 12 No 0

Absent 1

Floor Assignment Rep. Silbernagel

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

REPORT OF STANDING COMMITTEE

HB 1180: Human Services Committee (Rep. Weisz, Chairman) recommends **DO PASS**
(12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1180 was placed on the
Eleventh order on the calendar.

2013 SENATE HUMAN SERVICES

HB 1180

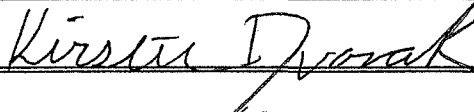
2013 SENATE STANDING COMMITTEE MINUTES

Senate Human Services Committee
Red River Room, State Capitol

HB 1180
3/19/13
20141

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to the qualifications, authority, and duties of independent home and community-based services case managers.

Minutes:

See "attached testimony."

Vice Chairman Larsen opens the hearing for HB 1180

Rep. Schmidt introduces HB 1180. It's to expedite services to the elderly and the handicapped so they can stay in their home. (Ends 414.)

Senator Schilble, Supports HB 1180 **Senator Anderson** asks for clarification on the tie in to HB 1093.

(0:6:18) Karen Tescher assistant director of the long term care continuum in medical services. Provided neutral testimony for HB 1180, the department helped provide language for the bill. Explained to the committee about what case managers can do by state law, this bill would open that up to also allow independent home and community based service case managers to provide those services. **Senator Anderson:** asked if there was a discussion about how to facilitate there be an independent for this purpose, but not other purposes.

(0:9:00) Scott Davis executive director of the North Dakota Indian Affairs Commission: Testifies in support of HB 1180. With the complex health systems that we have to deal with on the reservations, it's very hard to get long-term services from a federal side. The CHR programs that are in our communities, those are the folks that really know that know the ins and outs of our communities and what services are needed. **Senator Dever** asked about how services on Standing Rock differ from North Dakota and South Dakota. **Senator Larsen:** Asks about starting their own person that we are starting in legislation, and also who would transition into this position if passes. **Chairwoman J lee:** Asks about similar challenges on other reservations? There is a discussion about education, training and experience.

(0:27:33) Chuck Stebbins : a consumer of home and community based services. Testified on behalf of Chris Burd and Carol Lisney. See attached testimony #1 3130

(0:31:51) Jessie Taken Alive: testifies support HB 1180. 638 process, it's a public law from 1975 that was passed that allowed Indian tribes from the federal government that to contract services. These services are contracted that program from the United States government through the Indian Health service. Indian Health services are underfunded. CHR's budget has not increased in 20yrs; they are still doing quality work. Another challenge is Standing Rock has a large land base 2.8 million acres provides challenging situations for us. Challenges with CHR program are large land base, and lack of employees. **Senator Anderson:** Why not have the tribal council social service agency of their own, with those that are not yet independent that they could work within your community. **Senator Dever:** does having Sioux county being entirely on a reservation, are there implications and the delivery of social services make this a different issue for Standing Rock then for the other reservations in the state.

Elaine Keepseagle Testifies in support HB 1180. We have partnerships with other programs. There is a trust being built with these programs. We can work with the social worker.

John Eagle Shield: Director of community health representative program on Standing Rock, Testifies in support HB 1180 we have staff of 12 individuals if you add up the years of experience it's 161 years. We are currently meeting the requirements for the ND Medicaid state plan amendment; we are working with Sitting Bull Collage. We are also in the process of identifying all of our elderly that are on Standing Rock that are Medicaid eligible those that are most chronic. Those are the individuals that we need social workers to address their needs. **Senator Anderson:** would Sitting Bull Collage and staff to help in establishing an agency.

Steve Reiser Director of Dakota Central Social Services and member of the North Dakota Social Service Director's Association. Testified in opposition of HB 1180. See attachment #2. **Senator Anderson:** it's only the county that can approve people to receive these services that an independent or clinical social worker now couldn't do that. **Senator Anderson:** asked for clarification of section 1 and section 3 of HB 1180.

Dough Wegh Director of Hettinger County Social Services and a member of the North Dakota County Social Service Director Association. Testifies in opposition for HB 1180 See attached testimony #3 **Chairwoman J Lee** asked about public health units. **Chairwoman J lee:** asks about partnerships between or among other current agencies.

Lindsey fuller, a full-time student of Social Work and is neutral on HB 1180. The problem with the bill is to expand LSW to LSCW. **Chairwoman J lee** asks for clarification. **Chairwoman J lee** asks about students that would likely to work in a rural area.

Recess

Chairwoman Reopens the hearing on HB 1180

Kim Jacobson. Testifies in opposition to HB 1180. Senator Dever: as a member of the association working with counties for a solution. There is a discussion about services.

Nancy Miller: testifies in opposition to HB 1180. There is a discussion about HB 1180 and HB 1093. Discussion about proposed amendments to HB 1093.

Anderson: should pass as a pilot project for Sioux County only. 2312. There is discussion about a pilot project. Senator Dever: could this be done through tribal government.

Nancy social workers examiners: is neutral about HB 1180. Testified that information that was shared to the committee was not the information that the board was given at the time from the tribe. There is a discussion about HB 1093.

2013 SENATE STANDING COMMITTEE MINUTES

Senate Human Services Committee Red River Room, State Capitol

HB 1180
3/19/13
20189

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

"Click here to type reason for introduction of bill/resolution"

Minutes:

You may make reference to "attached testimony."

Chairwoman J. Lee reopens the public hearing on HB 1180

Kim Jacobson, County Director at Trail County Social Services, and a member of the ND county directors association. Testifies in opposition to HB 1180. The bill as it is written would allow case managers who have been terminated from county Social Services to enter into independent practice. Ms. Jacobson explains the different job tasks of QSP and that of a social worker case manager. **Chairman J Lee**: asks Ms. Jacobson if this would be an open ended reimbursement. **Senator Dever**: is wondering as a member of the association is able to work with them to come up with solutions in their area. **Senator Larsen** asked Ms. Jacobson for clarification on job tasks of a social worker. **Senator Larsen**: asked if they had enough staff for those that testified earlier. **Senator Axness**: asks if one social worker approving all the services for the QSP?

Nancy Miller with the North Dakota chapter of National Association of Social Workers. Testifies in opposition to HB 1180. I am not comfortable with licensing law changes associated with this that would LSW and LCSW to practice privately. We have concern about a slippery slope, about these private social workers who could be putting themselves in a situation as well as their clients, there is a potential of fraud, and abuse. The QSP audit system that is handled through DHS, it's and checks and balance and does catch things and remedy those. There is a concern that when you take the LSW and LCSW out of the

county preview what authority do they have to follow up with these individuals if there are problems. This is a very targeted issue concerning the reservations. Maybe a compromise to pass 1180 without expanding the scope of the licensure allow to expand into other agencies, give them an opportunity over the next 2yrs to set the agency route, and study and work with the licensing board to look at changes that might be made at the LSW and LCSW level later. There is a discussion about HB 1180 and HB 1093. Discussion about proposed amendments to HB 1093.

Senator Anderson: the committee should pass HB 1180 as a pilot project for Sioux County, since Sioux County is one the reservation all of Sioux County is encompassed by the reservation. There is discussion about a pilot project. **Senator Dever:** could this be done through tribal government.

Rhonda Allry, Lakes Social Services district director: Today the tribal government has the ability to form an entity to employee social workers and qualified services providers, they have them in place they have the CHR people; they could not do authorize those that are not fully eligible. 100% paid. They could not authorize the 5% the counties are paying.

There is a discussion about how to put together the amendments for HB 1180.

There is a discussion about voting on HB 1180 and HB 1093 on the House Floor.

Nancy Kleingartner, Vice President of the North Dakota board of Social Worker Examiners: is neutral about HB 1180. Testified that information that was shared to the committee was not the information that the board was given at the time from the tribe. There is a discussion about HB 1093.

There is no other testimony.

Chairwoman J. Lee closes the hearing.

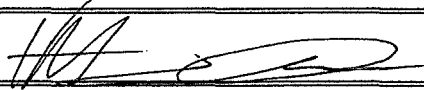
2013 SENATE STANDING COMMITTEE MINUTES

Senate Human Services Committee Red River Room, State Capitol

HB 1180
3/20/2013
20229

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to the qualifications, authority, and duties of independent home and community-based services case managers.

Minutes:

You may make reference to "attached testimony."

Chairwoman J. Lee opens Committee work.

Karen Tescher with DHS discusses with committee about the pilot project for Sioux County, Demonstration waiver. **Senator Anderson**: asked about SPED and expanded SPED. Karen clarifies CHR's for the committee. **Senator Anderson**: asked about the Sioux County social services director. **Senator Larsen** asked about the social worker in the county or if it would be part of the agency. **Senator Larsen** asks for clarification on rolls of CHR. There is a discussion about HB 1093 and HB 1180 and how they relate. **Senator Dever**: who would be the resource person at DHS?

There is a discussion about fears about the pilot project and how to make it successful. **Senator Larsen** asked how large would the agency be. There is a discussion about staff.

There is discussion about funding for the project.

There is a discussion about how to draft amendments. There is a discussion about have the DHS draft the proposed amendment.

Senator Axness asks about the sunset clause date is long enough. There is a discussion about the sunset clause.

There is a discussion about 1180 going first on the floor.

Chairwoman J. Lee reopens the discussion on HB 1180

Kim Jacobson director Trail County Social Services discusses proposed amendments.
#1A

Senator Dever asked if the in to addition to existing language or replacement.

2013 SENATE STANDING COMMITTEE MINUTES

Senate Human Services Committee Red River Room, State Capitol

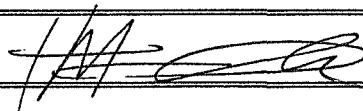
HB 1180

3-22-13

20341

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to the qualifications, authority, and duties of independent home and community-based services case managers.

Minutes:

Chairwoman J. Lee opens the discussion

Maggie Anderson with DHS discusses with the committee about concerns expressed by Sioux County. **Senator Anderson** asked about reimbursement.

Chairwoman J. Lee closes the discussion on HB 1180

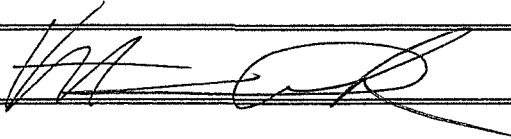
2013 SENATE STANDING COMMITTEE MINUTES

Senate Human Services Committee
Red River Room, State Capitol

HB 1180
3-25-13
20398

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to the qualifications, authority, and duties of independent home and community-based services case managers.

Minutes:

Attachments.

Chairwoman J. Lee opens the committee discussion for HB 1093 & HB 1180

Chairwoman J. Lee. Talks about roadblocks and details of HB 1093 & HB 1180

Karen Tescher from DHS goes over the proposed amendments for HB 1180 with the committee. See attachment #1B

Senator Dever: Asks about clarification about language of HB 1093 and HB 1180.

Scott Davis from Indian affairs is recognized, and discusses the proposed amendments to HB 1180. Talks about the counties and the tribes working together on the proposed pilot project. **Senator Anderson:** discusses about the tribes setting up their own agency. **Chairwoman J. Lee** talks about the role of the social workers and a quality service provider and the pilot project.

Chairwoman J. Lee asks those in the room if there are any obstacles or barriers for the program.

Karen Tescher: The only problem would be the Social worker that is needed for the proposed pilot project. **Chairwoman J. Lee** asks if there unintended consequences without passing HB 1093.


Senator Dever motions to adopt amendment HB 1180

Senator Anderson seconds

Senator Dever discusses about not limiting anything, as creating a method to bring services.

Amendment passes 5-0-0 for HB 1180

March 25, 2013


3/25/13

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1180

Page 1, line 2, remove "the qualifications, authority, and"

Page 1, line 3, replace "duties of" with "a pilot program for"

Page 1, line 3, after "managers" insert "; and to provide an expiration date"

Page 1, line 8, after "manager" insert "- Pilot program"

Page 1, line 9, replace "Under" with "The department shall establish a pilot program for the provision of independent case management services under"

Page 1, line 9, replace ", an" with "within a county located entirely within an Indian reservation for the biennium beginning July 1, 2013, and ending June 30, 2015. An"

Page 1, line 11, remove "licensed"

Page 1, line 11, after "worker" insert "licensed under section 43-41-04"

Page 2, line 4, after "manager" insert "- Pilot program"

Page 2, line 5, replace "Under" with "The department shall establish a pilot program for the provision of independent case management services under"

Page 2, line 5, replace ", an" with "within a county located entirely within an Indian reservation for the biennium beginning July 1, 2013, and ending June 30, 2015. An"

Page 2, line 7, remove "licensed"

Page 2, line 7, after "worker" insert "licensed under section 43-41-04"

Page 2, line 23, after "manager" insert "- Pilot program"

Page 2, line 24, replace "Under" with "The department shall establish a pilot program for the provision of independent case management services under"

Page 2, line 24, replace ", an" with "within a county located entirely within an Indian reservation for the biennium beginning July 1, 2013, and ending June 30, 2015. An"

Page 2, line 26, remove "licensed"

Page 2, line 26, after "worker" insert "licensed under section 43-41-04"

Page 3, after line 7, insert:

"SECTION 4. EXPIRATION DATE. This Act is effective through June 30, 2015, and after that date is ineffective."

Renumber accordingly

Date: 3-25-13
Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1180

Senate Human Services Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Dever Seconded By Anderson

Senators	Yes	No	Senator	Yes	No
Chairman Judy Lee	✓		Senator Tyler Axness	✓	
Vice Chairman Oley Larsen	✓				
Senator Dick Dever	✓				
Senator Howard Anderson, Jr.	✓				

Total (Yes) 5 No 0

Absent _____

Floor Assignment _____

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

10/00/

Date: 3-25-13
Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1180

Senate Human Services Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 13.0430.01001 Title 0200

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Dever Seconded By Anderson

Senators	Yes	No	Senator	Yes	No
Chairman Judy Lee	✓		Senator Tyler Axness	✓	
Vice Chairman Oley Larsen	✓				
Senator Dick Dever	✓				
Senator Howard Anderson, Jr.	✓				

Total (Yes) 5 No 0

Absent _____

Floor Assignment SEN Dever

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

REPORT OF STANDING COMMITTEE

HB 1180: 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). HB 1180 was placed on the Sixth order on the calendar.

Page 1, line 2, remove "the qualifications, authority, and"

Page 1, line 3, replace "duties of" with "a pilot program for"

Page 1, line 3, after "managers" insert "; and to provide an expiration date"

Page 1, line 8, after "manager" insert "**- Pilot program**"

Page 1, line 9, replace "Under" with "The department shall establish a pilot program for the provision of independent case management services under"

Page 1, line 9, replace ", an" with "within a county located entirely within an Indian reservation for the biennium beginning July 1, 2013, and ending June 30, 2015. An"

Page 1, line 11, remove "licensed"

Page 1, line 11, after "worker" insert "licensed under section 43-41-04"

Page 2, line 4, after "manager" insert "**- Pilot program**"

Page 2, line 5, replace "Under" with "The department shall establish a pilot program for the provision of independent case management services under"

Page 2, line 5, replace ", an" with "within a county located entirely within an Indian reservation for the biennium beginning July 1, 2013, and ending June 30, 2015. An"

Page 2, line 7, remove "licensed"

Page 2, line 7, after "worker" insert "licensed under section 43-41-04"

Page 2, line 23, after "manager" insert "**- Pilot program**"

Page 2, line 24, replace "Under" with "The department shall establish a pilot program for the provision of independent case management services under"

Page 2, line 24, replace ", an" with "within a county located entirely within an Indian reservation for the biennium beginning July 1, 2013, and ending June 30, 2015. An"

Page 2, line 26, remove "licensed"

Page 2, line 26, after "worker" insert "licensed under section 43-41-04"

Page 3, after line 7, insert:

"SECTION 4. EXPIRATION DATE. This Act is effective through June 30, 2015, and after that date is ineffective."

Renumber accordingly

2013 SENATE APPROPRIATIONS

HB 1180

2013 SENATE STANDING COMMITTEE MINUTES

Senate Appropriations Committee Harvest Room, State Capitol

HB 1180
April 1, 2013
Job # 20705

☐ Conference Committee

Committee Clerk Signature

Rose Kening

Explanation or reason for introduction of bill/resolution:

A bill for an Act relating to a pilot program for independent home and community-based services case managers.

Minutes:

Legislative Council - Becky J. Keller
OMB - Lori Laschkewitsch

Chairman Holmberg opened the hearing on HB 1180. All committee members were present.

Chairman Holmberg started the hearing a few minutes early and asked if there was anyone willing to testify. No one was present.

Senator Robinson moved Do Pass on HB 1180

Senator O'Connell seconded the motion.

Scott Davis, Director of Indian Affairs, entered the room and **Chairman Holmberg** asked if he had any problems if they passed out the bill. He had none.

A roll call vote was taken. Yea: 13 Nay: 0 Absent: 0

The bill goes back to the Human Services committee and Senator Dever will carry the bill on the floor.

FISCAL NOTE
Requested by Legislative Council
03/26/2013

Amendment to: HB 1180

- 1 A. **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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$0		
Expenditures			\$0	\$0		
Appropriations			\$0	\$0		

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

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

HB1180 requires the department to establish a pilot program for the provision of independent case management services under SPED, Medical Assistance HCBS, & Expanded-SPED, within a county located entirely within an Indian reservation beginning and ending in 13-15 biennium.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1 requires the department to establish a pilot program for the provision of independent case management services under the service payments for elderly and disabled program(SPED), within a county located entirely within an Indian reservation beginning and ending in 13-15 biennium. Section 2 requires the department to establish a pilot program for the provision of independent case management services under the Medical assistance Home and Community-Based Services(HCBS), within a county located entirely within an Indian reservation beginning and ending in 13-15 biennium. Section 3 requires the department to establish a pilot program for the provision of independent case management services under the Expanded service payments for elderly and disabled program(Expanded SPED), within a county located entirely within an Indian reservation beginning and ending in 13-15 biennium. The department believes there will be no fiscal impact as case management services are currently available through the county social service agency and the pilot is only offering a choice of case management providers. This bill will allow case management services to be provided by licenced social workers other than those who work at the county social service agency.

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, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name: Debra A McDermott

Agency: Department of Human Services

Telephone: 701-328-1980

Date Prepared: 03/27/2013

Date: 4-1-13Roll Call Vote # 12013 SENATE STANDING COMMITTEE
ROLL CALL VOTESBILL/RESOLUTION NO. 1180Senate Appropriations Committee☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☐ Adopt Amendment ☒ Do Pass
☐ Do Pass as Amended ☐ Do Not Pass

Motion Made By _____ Seconded By _____

Senators	Yes	No	Senator	Yes	No
Chairman Ray Holmberg	✓		Senator Tim Mathern	✓	
Co-Vice Chairman Bill Bowman	✓		Senator David O'Connell	✓	
Co-Vice Chair Tony Grindberg	✓		Senator Larry Robinson	✓	
Senator Ralph Kilzer	✓		Senator John Warner	✓	
Senator Karen Krebsbach	✓				
Senator Robert Erbele	✓				
Senator Terry Wanzek	✓				
Senator Ron Carlisle	✓				
Senator Gary Lee	✓				

Total (Yes) 13 No 0Absent 0Floor Assignment Dever

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

Go Back to H/S

REPORT OF STANDING COMMITTEE

HB 1180, as amended: Appropriations Committee (Sen. Holmberg, Chairman)
recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
HB 1180, as amended, was placed on the Fourteenth order on the calendar.

2013 TESTIMONY

HB 1180

#1

TESTIMONY

HB 1180

BY REP. JIM SCHMIDT

The language in the bill allows for two new sections to chapter 50-06-.2 and a new section to chapter 50-24.7 of the ND Century Code to permit individual case managers to provide home and community based case management services in the services payments for elderly and disabled (SPED), the medical assistance home and community based services and expanded service payments for the elderly and disabled (ExSPED) programs.

Currently the language in ND Century Code specifies only county case managers can provide case management. Passage of the bill would allow independent case managers to provide case management across all the home and community based programs which include Medicaid state plan personal care, the home and community based services waiver, SPED and ExSPED. This bill would work in conjunction with the passage of HB 1093 brought forward by the ND board of social worker examiners, which would allow a licensed social worker with five years of experience in social work to provide individuals case management. Without passage of HB 1093, they must be a licensed independent clinical social worker to practice independently.

Passage of HB 1180 would allow more choice for individuals seeking home community based services in all areas of the state including Reservations.

Sixty-Third Legislative Assembly
House Human Services Committee
Testimony in Support of H.B. 1180
January 23, 2013

Chairman Weisz and Human Services Committee members:

My name is John Eagle Shield. I have been the Director for the Community Health Representative (CHR) Program for the Standing Rock Sioux Tribe for over 25 years. I am asking for your support for H.B. 1180 to improve our ability to better serve the people of our Tribal Communities.

House Bill # 1180 is important to us for many reasons:


1. We have hundreds of elderly people who live on our reservation. Many of our people are not receiving home-based services, but would definitely benefit from them. We also see our elderly & disabled populations growing, and we know many of them will need home-based services in the future.
2. After years of effort, the CHR programs in ND were approved in 2012 to provide "targeted case management" under an Amendment to the ND Medicaid State Plan. We look forward now to building partnerships and a "system" of HCBS programming with social workers and other health care providers to help our people remain in their own homes in a healthy way
3. Having additional social workers available to consult with us and partner with us in our communities will provide more "timely" access to ALL home & community-based programs when our elders and disabled Tribal members need them

4. At Standing Rock, we know of at least 44 people who have been placed in institutional settings, away from their communities. This is not how our people wish to live, away from their families, friends, and traditions.
5. We are very interested in building a "system" of home-based services that will increase the effectiveness of our current outreach to the community. We believe with the help of additional social workers under H.B. 1180, we can assure the "quality" home-based services for our elders and disabled Tribal members.
6. We understand that the average cost of nursing homes is estimated at \$73,000 per year. We know we can offer many people quality care in their own homes at a fraction of this cost, by developing a system of community partnerships and having increased access to the many good home & community-based programs offered in the state of ND.

Thank you for your kind consideration of my testimony in relation to supporting H.B. 1180.

Respectfully,
John Eagle Shield, Director
Community Health Representative Program
Standing Rock Sioux Tribe

Signature: _____

 Date: 1-23-13

#3

Two Bills to Improve Access to Home & Community-Based Services

H.B. 1180 and H.B. 1093

(Fiscal Note not required on either Bill)

Sixty-Third Legislative Assembly of ND 2013

House Human Services Committee

Hearing January 23, 2013 @ 9:15 AM in Fort Union Room

Chairman Weisz:

- 1) Both H.B. 1093 and H.B. 1180 will improve access to case management services which will allow elders and people with disabilities to remain in their own homes and connected to their communities & families, while preventing institutionalization.
- 2) H.B. 1093 was heard last week, Tuesday January 15. Because key people from Tribal communities were not notified of the hearing in time to arrive in Bismarck, we understand that action on H.B. 1093 will be delayed until today, January 23, when H.B. 1180 is heard. We were very appreciative of this consideration!
 - a. H.B. 1093 will allow Licensed Social Workers who have a Bachelor's degree and 5 years of supervised experience, to serve as Independent Case Managers who can be reimbursed for case management services. (Currently, a social worker who wishes to practice as an Independent Case Manager must have advanced certification with an LICSW designation). The Social Work Board of Examiners has indicated they are in support of H.B. 1093.
- 3) H.B. 1180 will depend on the passage of H.B. 1093.
 - a. H.B. 1180 will allow Independent Case Managers to assess clients for ALL possible home-based programs (Medicaid State Plan, HCBS Waiver, ND SPED/ExSPED). (Currently, only LSWs employed by the Counties may provide case management services across all programs.) Passage of H.B. 1180 will allow LSW independent case managers to assist elders and people with disabilities to access all home-based programs, regardless of funding source. The independent case managers will provide quality follow-up to clients through (reimbursable) case management services

Respectfully Submitted by Christine M. Burd, Ph.D., R.N.

 1/23/13

✓

H.B. 1180 and H.B. 1093

63rd Legislative Assembly of ND 2013

House Human Services Committee Hearing January 23, 2013

Dear Chairman Robert Weisz:

My name is Chenille Condon. I am an enrolled member of Standing Rock Sioux Tribe. My husband and I have four children, with our last son born last summer. Within weeks after our baby was born, I had serious complications from a medical procedure. As a result, I suffered a major stroke, and needed a lot of help to be able to return home.

I am familiar with the Home-Based services in ND, since I also have been a Qualified Service Provider for several years, and have taken care of others. Last summer, I needed help myself. The situation was severe, with my left side seriously paralyzed. Many arrangements had to be made for our family, including our newborn son, but we mostly ended up “on our own” getting things set up. I turned to the County for services to allow me to live at home with my children and husband, while I was continuing to have to have therapies in Bismarck 2-3 times every week. I am still continuing with physical therapy.

During the time I most needed help from a Qualified Service Provider, it turned out to be very difficult to get that help. I had friends and family who tried to assist me, and the hospital even trained one of my friends to help me at home before I was even discharged.

Despite all this planning, it was two months before my caregivers were able to have all their paperwork in order, and to start to receive any compensation for work they were doing every day. My husband missed many days of work to care for me, even though I was fully eligible on Medicaid funding for home services. Our financial struggle, in addition to the emotional struggle was very hard on us.

When we asked about having a “Medicaid” driver who could be reimbursed to take me to Bismarck regularly for therapy, no one at the County helped us, even after my friend filled in all the required paperwork to become certified as a Medicaid driver. We had to have several other people help us to get money we needed for gas for me to get to therapy in Bismarck. We also had a mentor from the Next Steps program try to find out the correct information for how a person becomes a Medicaid driver, and she was given wrong information also in a Bismarck County office. She had to insist that the Bismarck personnel find the correct information.

I have recovered quite a lot of function now. I have continued my classes at United Tribes Technical College, mainly through the Next Steps mentor’s help. I am not a “complainer”, but was very disappointed that me and my family did not receive the help we needed from the state in-home service programs, even though I was fully eligible, right at the beginning of my disability. We had been planning for how to get me home, talked about what kinds of help I was going to need, etc. even before I was discharged from the hospital last summer. For example, I

could not cook at all when I was paralyzed, but the QSP was not allowed to cook for my family she was only allowed to make food for me but not my kids. The services just had too many barriers for me to get the help I needed quickly when I got home. One of my main caregivers almost gave up trying to receive her paycheck, until we finally got outside help to go to the State HCBS Department to look into the trouble with her QSP salary not coming to her.

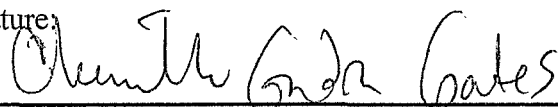
I know there are other people who have had difficulty with trying to use the home services provided by ND Medicaid. I hope that the two bills, # 1093 and #1180 will be passed. If I had a social worker who could have focused on my case right from the start with the hospital staff, and worked with me and my family right away, and followed-up with us, we would have been so much better off to deal with the serious situation we found ourselves in.

Thank you for listening to my testimony in support of H.B. #1093 and H.B. # 1180. I think it will be very helpful to other people like me, who get seriously disabled to have help more quickly when they get home. Signing up my QSPs right away, getting their paperwork done quickly, following up with them to be sure they were paid, would have helped my family at a very sad and difficult time. There is only one social worker for all of our County, so she did the best she could. But, my story could have been much better by having more social workers to help the Standing Rock people. Thank you.

Respectfully,

Chenille (Condon) Gates and Shawn Gates

Signature:



Date:

1-23-13

Signature:

Date:

Testimony on HOUSE BILL 1180

Mr. Chairman and members of the committee, my name is Carole Lysne from Minnewaukan, North Dakota. I am present to speak in favor of House Bill 1180. The enactment of House Bill 1180 would:

- a) Require independent home and community-based services case managers to meet the same standards and program requirements as a county social service agency case manager, thereby providing quality assurance under the direction of the state agency.
- b) Allow the independent home and community-based case manager the ability to provide case management services for **all** home and community based service programs, regardless of funding source, thereby eliminating the potential for two social workers providing case management services to the same individual/recipient.
- c) Allow individuals seeking/receiving home and community-based services a choice of, and increased access to, home and community-based services case management service providers.
- d) Enhance home and community based service delivery, which includes case management, to all North Dakota residents, with an emphasis on rural residents and Tribes.

Thank you for the opportunity to testify in regard to House Bill 1180.

Respectfully submitted,

Carole Lysne 1/23/2013

Carole Lysne, Licensed Social Worker

6

Sixty-Third Legislative Assembly
House Human Services
Testimony on HOUSE BILL 1180
January 23, 2013

Chairman Weisz and Human Services Committee members: My name is Mary Langley, and I have had recent experience as a Home & Community-Based Services (HCBS) Case Manager for Benson County. As a Licensed Social Worker, I have had an ongoing interest in improving HCBS programming for several years, and I am asking for your support for H.B. 1180.

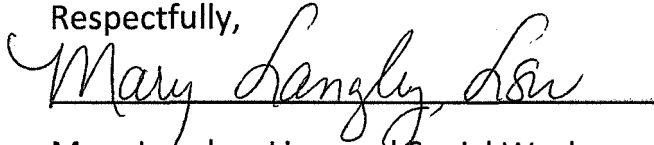
I believe that H.B. 1180 will improve access for people who are in need of home & community-based services in ND. H.B. 1180 (which will be closely linked to H.B. 1093 which had its hearing last week) will:

- allow additional qualified licensed social workers (LSWs) to assist older people, as well as adults who are disabled, to receive services in their homes, thereby preventing costly institutionalization
- make the **full** range of home and community-based services more accessible to citizens of ND (especially in rural communities) by having additional LSWs who can provide referrals, assessments, and ongoing case management related to **all** home & community-based programs in ND
- increase the availability of services to people who are eligible to enter home & community-based programs, but who are not currently receiving these services which may allow them to avoid placement in a nursing home setting prematurely

- make it possible to provide home & community-based services in a *more timely way* to people who need them

I appreciate your consideration of my testimony in relation to H.B. 1180.

Respectfully,

A handwritten signature in cursive script that reads "Mary Langley, LSW". The signature is written in black ink and is positioned above a horizontal line.

Mary Langley, Licensed Social Worker

H.B. 1180 & H.B. 1093:

- **Why Are They Needed? They will improve access to home-based services by increasing access to Licensed Social Workers who can offer case management.**
- ND has a wonderful range of Home & Community-Based Services (HCBS) and similar in-home programs for elders and people with disabilities. With these programs, many people with health problems can remain in their own homes even when they need help with bathing, dressing, toileting, transferring, going to the doctor, getting groceries, making meals, doing laundry, etc.
- After three years of intensively exploring options for how Tribes could best use these services, it was found that there were *many delays and gaps in access and follow-up* of actual care delivery. Although there are many recommendations to make the system more “user-friendly” and “quality-driven”, the *most important recommendation is to have additional access to licensed social workers* in Tribal communities, who would be allowed to work with Tribal programs, and especially CHRs.
- Once a person is determined to be eligible for services, a social worker becomes the case manager who can actually get services started AND can follow up the delivery of services to clients. At this time, *only* County social workers are allowed the case management role for HCBS and other in-home services. **H.B. 1093** would allow independent practice by licensed social workers (LSWs) who already have 5 years of supervised experience. **H.B. 1180** would allow LSWs to provide case management services for all HCBS programs, and similar in-home programs offered in ND.

Reasons for ND to focus on home-based care of elders & people with disabilities

- Aging of America, and especially in ND will require a proactive approach to help elderly people to meet their chronic health needs in a cost-effective manner that reflects quality care
- ND is one of 11 states where 14% or more of the population is already over the age of 65¹, & ND now ranks in the top 2-6 of states with the highest percentage of the population over age 65²
- The “overwhelming majority of people want to remain in their own homes and communities for as long as possible”² (nearly 90% wish to remain in own homes)¹
- National *average* Institutional long term costs range from \$73,000 to \$81,000 per year
- *Average* nursing home cost in ND is \$75,000 annually³. Even “intensive” HCBS (40 hours/week of 1:1 care) by a QSP (Qualified Service Provider) would be estimated at \$35,000.

- *“ND ranks consistently near the bottom among states for providing options for the services and support seniors need to live in their own homes. In fact, the 2011 Long-term Care Scorecard ranked ND 41st out of the 50 states and the District of Columbia in ‘choice of setting or provider’ Further, ND ranked last among the states for the percent of Medicaid spending going to home- and community-based services for older people and adults with physical disabilities”⁴ (pg. 3)*
- Nationally, home-based personal care programs invite fraudulent billing practices and lack of appropriate care for clients⁵. This problem has also been seen frequently in ND.
- The current ND HCBS system also poses significant barriers to the availability of well-qualified QSPs to provide care. Training is marginal and inconsistent, there is no oversight for QSPs who provide care independently, & little to no support in documentation/billing requirements. They also have inconsistent support from health professionals for consultation on the care of clients when needed. Errors have even been found in the “mailed instructions” for documentation that QSPs receive, which is their only training for this task.

WHO will benefit?

- Elderly and people with disabilities in ND who wish to remain in their own homes & live in their own communities as they age
- Family caregivers and working families of people who require care to remain in their homes, but who do not know of the HCBS resources in their communities.
- Rural communities who will be able to pursue stable “workforce development” by focusing on the development of QSP caregivers (Qualified Service Providers) and QSP Agencies
- Community Caregivers who want to have meaningful employment while continuing to live in their own rural communities, and who wish to work as QSPs
 - The improvement of the current infrastructure & training process for the QSP Program will have a significant impact on the successful development of HCBS i
 - Cankdeska Cikana (Little Hoop) College at Spirit Lake has taken a leadership role in developing & training QSPs with a “standard training” under grant funds
- CHRs have insight and responsibility in Tribal communities for the needs of elders and those who are home-bound. Having access to LSWs for consultation be very helpful.
 - CHRs in ND have now been approved under one of the home-based programs (Medicaid State Plan) to assist as “targeted case managers” (TCMs)
 - Sitting Bull College at Standing Rock has led in the development & training required for ND CHRs to become TCMs, also under grant funding

References Supporting Need for Increased HCBS in ND

January 23, 2013

1. Cirilio, A. Aging Trends Point to Business Opportunities. Retrieved 12/4/12 from <http://assistedliving.about.com/od/startingabusiness/a/agingtrends.htm>
2. Administration on Aging. U.S. Population Estimates for States by Age: July, 2009. Retrieved 12/5/12 from http://www.aoa.gov/AoARoot/Aging_Statistics/Census_Population/Population/2009/index
3. Skilled Nursing Facilities.org: Nursing Home Costs. Retrieved 12/4/12 from <http://www.skillednursingfacilities.org/articles/nursing-home-costs.php>
4. AARP. Caring for Caregivers: AARP launches new resource center for family caregivers. AARP, North Dakota News, December, 2012, Vol. 10, Issue 11.
5. Eaton, J. (11/15/2012). Medicaid personal-care programs are targets for fraud, investigators say. Received from Region VIII CMS via e-mail. Reported by The Center for Public Integrity. www.publicintegrity.org

Human Services Committee

HB 1180 and HB 1093

Testimony from Chuck Stebbins

For the record my name is Chuck Stebbins and I am here in support of HB 1180 and HB 1093. I am a user of in-home services and so my interest here is mostly on behalf of me but is not purely selfish. I have worked in the past with people who want to stay in their own homes and communities and have advocated for Improvement of the home and Community Based Service (HCBS) system in North Dakota for a number of legislative sessions.

These two Bills represent a fundamental change in the system that I hope will bring about a better and more user friendly delivery of services. By user friendly I mean the people working as independent Qualifies Service Providers (QSP). It is my hope that these Bills will begin to create an environment that will allow QSP's to be better able to connect with the consumers. This legislation will not only benefit the people on the reservations but people across the state of ND who want to stay in their own homes and communities.

As you may already know ND is one of 11 states where 14% or more of the population is already over the age of 65. If you were to ask that 14% where they want to live and spend their golden years I would guarantee you that the answer would be to remain in their own homes and communities for as long as possible. You have heard the argument that there is health and safety issues to mconsider whernonje is faced with going to man institution or remaining in their own home. I would argue that it is much safer to live in ones own home with the proper supports than irt is to go to a nuraing home or other institution.

The current ND HCBS system currently poses significant barriers to the availability of well-qualified QSPs to provide care. Training is marginal and inconsistent, there is no oversight for QSPs who provide care independently, & little to no support in documentation/billing requirements. They also have inconsistent support from health professionals for consultation on the care of clients when needed. I have personally talked to QSP's in some counties who have an excellent relationship with county workers while others have a nightmare relationship. Errors have even been found in the "mailed instructions" for documentation that QSPs receive, which is their only training for this task. By establishing an independent LSW to work as a case manager qith independent QSP's it will beginj to address some of the inconsistancies and provide more oversight for QSP's thus giving better support to inependnt QSP's so they can do the main thing their want to do which is to provide personal care servies to those that need them

H 8

House Human Services Committee
January 23, 2013
HB 1180

Chairman Weisz and members of the House Human Services Committee:

My name is Nancy Miller and I am the Executive Director of the North Dakota Chapter of the National Association of Social Workers (NASWND). NASW is the largest membership organization of professional social workers in the world. We work to enhance the professional growth and development of our members, to create and maintain professional standards, and to advance sound social policies. NASWND stands in opposition of and recommends a DO NOT PASS of HB 1180 (relating to the qualifications, authority, and duties of independent home and community-based services case managers) as it was introduced.

It is our understanding that this bill is related to another pending bill, HB 1093. Our opposition to this bill is also related - as we feel it is the first example of possible unintended consequences that could result from the passage of HB 1093.

Prior to this hearing, we were invited to, and welcomed the opportunity to sit down with Chuck Stebbins, from the Qualified Service Provider Association of North Dakota (QSPAND), and some other individuals who were involved in the development of this bill. The purpose of the meeting was to better understand the rationale behind it, and see if common ground could be found. Due to unforeseen circumstances, not all of the proponents were able to attend the meeting. Even so, we had dialogue with Mr. Stebbins, and we look forward to continuing the discussion. As of right now, though, the bottom line is that while we believe there may be good intentions behind this bill, we do not feel this is the way in which to solve the problems at hand.

As it was explained to us HB 1180 was created to increase access to services by increasing the number of professionals who can

- a. determine eligibility for Home and Community Based Services (HCBS);
- b. access QSP funds; and
- c. coordinate HCBS services.

Part of the rationale given was that under the current structure, there are inconsistencies in how counties interact with the QSPs, resulting in barriers between the QSPs and the people in need of services.

The solution, as presented in HB 1180, would be to circumvent county social services by allowing social workers who do not work for the county to determine eligibility, access QSP funding and coordinate those HCBS services. On the surface, that removal of the county "gatekeeper" sounds like a logical solution. However, in an attempt to remove barriers, this bill allows social workers who are independent of the county (and granted 'private practice' status under the proposed licensing change) to provide those services and distribute those funds without any sort of oversight or supervision.

If passed, this bill will not guarantee increased access to services, and it has the potential to cause additional problems within the system - including a decrease in the quality of the services provided. A few examples of those problems:

- What entity, if any, would be available to these newly empowered social workers to make sure that the QSP providers they are working with are indeed qualified and providing the services they claim to be?
- Who would overlook the distribution of QSP funds by the various social workers to ensure that they are being distributed appropriately and equitably?

What does that look like in the real world? While LSW social workers are licensed to follow ethical standards, what protection does the public have that without supervision, the social worker who is being utilized as a funding source is not more inclined to appropriate funding to those which they may have a personal connection - rather than those who have a genuine need. Under the current structure, there are safeguards for that, by way of the supervised nature of the county social workers.

As stated in our other testimony on HB 1093, we recognize that there are inherent issues when dealing with the rural areas of our state. And, we support increasing access to services for all, including the elderly and persons with disabilities. However, we do not see this legislation as the way to accomplish that. Rather than increasing consistency of services provided, this could increase inequitable distribution of services and decrease the quality of services to consumers.

Alternatives to HB 1180

Are there better ways to address these problems?

- With all of the resources available within the realm of DHS, are there administrative changes that could be implemented?
- Shouldn't legislative change be a change of last resort?
- Could the inconsistencies of implementation be addressed through joint training of the QSPs and the County social service HCBS coordinators?

As stated above, NASWND opposes and recommends a DO NOT PASS of HB 1180, as it was introduced. As with HB 1093, this may have stemmed from good intentions, but more work needs to be done. How large is the scope of the problem attempting to be solved by this bill? How many of the QSPs across the state are encountering the barriers at the county level, and how many constituents are truly having their needs go unmet because of this specific issue? Rather than push this legislative change through, we would like to see completion of a more thorough assessment; and bring all of the partners involved together to analyze and develop more effective solutions by way of administrative changes. NASWND would be willing to participate in and/or help facilitate such a process - as we believe that the end result would benefit everyone - service providers and citizens alike.

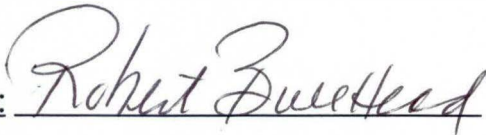
H.B. 1093 and H.B. 1180
63rd Legislative Assembly of ND 2013
Senate Human Services Committee Hearing March 12, 2013

Chairwoman Judy Lee & Members of the Senate Human Services Committee:

As elders of the Standing Rock Sioux Tribe, a Tribal Nation, we would like to ask for your support for H.B. 1093 and H.B. 1180. Having help from social workers to plan for our health care needs in our homes as we get older is very important to us. We do not wish to leave our homes or family ties and communities. We wish to be able to have social workers helping us, who know us, and also know of our way of life as Native people. We want to be able to learn how to access the home-based services that are available in ND. H.B. 1093 will make it possible for us to have more social workers who can be our case managers when we receive home services. H.B. 1180 will make it possible for us to know about all the home-based services in ND, that will help us to remain in our homes, and avoid being put into nursing homes. We hope you will support H.B. 1093 and H.B. 1180.

Respectfully,

Signature:



Date: March 12, 2013

H.B. 1093 and H.B. 1180

63rd Legislative Assembly of ND 2013

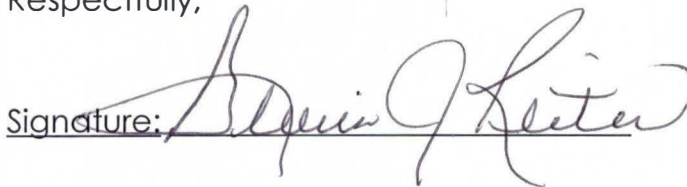
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Respectfully,

Signature:

A handwritten signature in dark ink, appearing to read "Delvin J. Kester", written over a horizontal line.

Date: March 12, 2013

H.B. 1093 and H.B. 1180
63rd Legislative Assembly of ND 2013
Senate Human Services Committee Hearing March 12, 2013

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Respectfully,

Signature: Mary S. Azme

Date: March 12, 2013

H.B. 1093 and H.B. 1180
63rd Legislative Assembly of ND 2013
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Respectfully,

Signature: Barbara Porras

Date: March 12, 2013

H.B. 1093 and H.B. 1180
63rd Legislative Assembly of ND 2013
Senate Human Services Committee Hearing March 12, 2013

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Respectfully,

Signature: *Ruby Shoettinger*

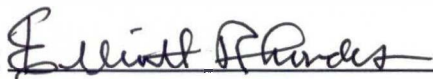
Date: March 12, 2013

H.B. 1093 and H.B. 1180
63rd Legislative Assembly of ND 2013
Senate Human Services Committee Hearing March 12, 2013

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Respectfully,

Signature: 

Date: March 12, 2013

H.B. 1093 and H.B. 1180
63rd Legislative Assembly of ND 2013
Senate Human Services Committee Hearing March 12, 2013

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Respectfully,

Signature: Emma Jean Blue Heart

Date: March 12, 2013

1

H.B. 1180 (with references to H.B. 1093)

63rd Legislative Assembly of ND 2013

Senate Human Services Committee Hearing March 19

(No fiscal note attached)

To Chairwoman Judy Lee and members of the Human Services Committee:

My name is Christine Burd, and I am submitting my testimony to you in writing again this week again, this time to ask your support for H.B. 1180 which will be heard by your committee on March 19, 2013. My interest in H.B. 1180 is in its ability to assist in streamlining and improving access to the full range of ND home-based programs for elders and those with disabilities. At this time, “bottle-necks” exist in the current system, essentially blocking both timely and user-friendly access to Home & Community-Based Services (HCBS). H.B. 1180 would help.

My written testimony to you last week (by email) related to H.B. 1093 is very much related to H.B. 1180, as well as to my testimony which was given to the Interim Committee for Human Services at their meetings on July 31, 2012 and August 30, 2012. I respectfully ask that you may consider the written copies of my previous testimonies, as they would help to explain our long-term goals of improving the HCBS system in ND. I would have liked to be present at the hearings for H.B. 1093 last week and for 1180 this week, however, I unexpectedly need to remain the caregiver for my father-in-law in a rural town in eastern CO. There are limited home-based services here in this small agricultural community, and our family is truly struggling to help “Grandpa” to remain in his own home.

Simply put, ND has the potential at this point in time to significantly improve HCBS for the future. There is no “one fix” that will create a successful long-term care system that includes an emphasis on community options. However, over the past few years of working together with rural Tribal communities, a community-based model for quality HCBS care that would work in rural areas has been developed. The passage of H.B. 1180 and H.B. 1093 are two critically important steps in successfully building the rest of the community-based system model that has been designed. As mentioned in previous testimonies, these two bills could benefit ALL rural ND communities well into the future!

I am conscious of the limited amount of time and space for review of my testimony, so I will condense my comments into the following bullets:

- Our experience has sadly shown many gaps in HCBS programming when help was essential, yet services were not made available in a timely manner
- We have developed a *system model* that could “fill the gaps” that have been clearly identified over the past three (I have also been informed that similar gaps in HCBS clearly exist in both urban and other rural non-Native communities)
- ND will increasingly face dilemmas in providing *quality-driven* HCBS due to our increasing demographic of elders and people with disabilities
- The time and expertise to work on improving the HCBS system in a focused manner is currently available, but will not be in the near future
- The current system is decades old, and has been quite “unfriendly” and actually unfair to many caregivers in the Qualified Service Provider (QSP) registry. Trying to be a QSP is very difficult *not because of the work*, but because of: 1) complicated paperwork requirements; 2) inflexible, and sometimes “punitive” policies; 3) lack of sufficient numbers of social workers in rural areas; 4) policies *not allowing social workers* to partner as health care team members with local QSP workers who need help
- The current system can be grossly unfair to QSPs who provide quality care, but who do make serious errors in their documentation. ***But the QSPs are not allowed to request help from County social workers, nor is it allowed by policy for the County Social workers to help them***
- The current system **invites fraud**, in many cases “rewarding” people who are adept at “paperwork” but who do *not provide the services*. **Again, no county social workers “supervise” the QSPs nor the care they deliver**
- A well-functioning HCBS system would save many millions of dollars annually in Medicaid expenditures in ND for long-term care

Please support the passage of H.B. 1180 and H.B. 1093. Thank you very much.

Sincerely,

Christine M. Burd, R.N., Ph.D.

North Dakota Senate Human Services Committee

March 19, 2013

House Bill 1180

By Steven J. Reiser, Director – Dakota Central Social Services

Chairman Lee and members of the Senate Human Services Committee, my name is Steven J. Reiser, Director of Dakota Central Social Services and member of the North Dakota County Social Service Director's Association. I speak in opposition of House Bill 1180.

First let me say that I believe that the intent of the bill was to provide more services and to provide clients with a choice of case managers, with that intent I would not have any opposition but as the bill is written now it would have a negative financial affect on county social services.

First issue is the 5% match on SPED and Expanded SPED. This may be addressed in other bills but currently counties are responsible for 5% of the cost of SPED and Extended SPED cases they authorize. This was to make sure that counties would have some buy in to the program. Counties should not have to pay the match for cases they do not authorize.

Another issue is that any case management services that are paid to another case manager increase the costs for county social services by taking cases management payments away from counties. These increases in costs can only be recovered by county funds which in most cases mean property taxes.

Currently counties are the DHS designee to provide Home and Community Based Services. HB 1180 does not change the designee. That means that counties are required to have the staff to provide the service in their counties. If an independent case manager came into my district and took over a certain percentage of case load I would not be able to reduce my staff any even though I have experienced a loss of revenue. The expectation is there that I would have staff available if for some reason the independent case manager could no longer carry these cases. The counties would have to be ready with staff to pick up these cases so that clients aren't left with no one to provide service.

Currently any agency can become licensed as a QSP agency and could hire staff to provide case management and in home services. This could include hospitals, home health agencies, nursing homes public health, etc. These agencies could work together with DHS and counties to determine who should be the designee for these services. Then if a certain region needed more services and if more choices were needed to be made available these situations could be worked out. Under these circumstances counties then could make adjustments in their staffing to react to what services are being provided by another QSP agency. I believe that there may have to be some legislation to allow these QSP agencies to authorize SPED and Expanded SPED.

In conclusion I believe that having independent case managers will not improve services but it will cost counties more county dollars. If there are needs that need to be addressed they need to be addressed through QSP agencies working with each other rather than independent case managers.

Thank you for your time and consideration in this matter.

North Dakota Senate Human Services Committee

Tuesday March 19th, 2013

**Testimony regarding Qualifications, Authority, and Duties of
Independent Home and Community-Based service Case managers
House Bill 1180**

Chairperson Lee and members of the Senate Human Services Committee, my name is Doug Wegh, Director of Hettinger County Social Services and a member of the North Dakota County Social Service Directors Association.

In the middle 1960's Home and Community Based services began in North Dakota counties, with a pilot project in Grand Forks and Walsh Counties. By 1971, 19 counties were providing Homemaker Services and by the end of the year, it had expanded to 31 counties. The initial program was funded with 75% Federal Dollars (referred to as Title XX) and 25% county dollars. By the early 1980's Title XX was replaced with Federal Block Grants and it was the decision that counties would continue to match with county funds. In 1983, the Optional Services Program (later changed to Service Payments for the Elderly and Disabled) and the Medicaid Waiver programs were developed which offered state funds and new federal funds that expanded the services to elderly and disabled. The HCBS programs were set up to be a social model of service delivery. In 1987 legislation was enacted to assure that Home and Community Based services would be available in all North Dakota Counties. Counties became the core of public

Home and Community Based Services for the Elderly and Disabled. County case managers (licensed Social Workers) coordinated referrals, completed assessments, determined eligibility, developed service plans and authorized service payments for in-home services. Counties became Qualified Service Providers and offered services from Homemaker (cleaning, laundry, shopping) through Case management. In the early 2000's money available for in-home care became tight and pools were established as a means to decrease the number of clients receiving services. Many counties came forward and provided services using county dollars until the client was able to come out of the pool and receive services under the Home and Community Based system. Other means of controlling State supported HCBS costs were to develop different fees scales based on assets and to mandate that someone apply for Medicaid, even if it meant that they would have to pay a cost whereas under SPED they had no cost. Some clients discontinued services as they could not afford the recipient liability and struggled til they ended up going to the nursing home.

In many ways, Counties provided a one stop shop. In addition to the experienced case managers, County Social Service Offices also house the eligibility workers who administer programs like Supplemental Nutrition Assistance Program (SNAP), Low Income Home Energy Assistance Program (LIHEAP), and the Medicaid Program. Case Managers and Eligibility workers worked hand in hand to meet the clients need to stay as independent as possible and at home. Case managers make timely referrals, often assisting with the completion of the paperwork and the gathering of data needed to process the Economic Assistance Applications. Eligibility workers aware of In-home

care services often refer their elderly or disabled clients to case managers. County social service case managers are required to act on every referral, no matter where the client lives, providing assessments, knowing that sometimes their agency will not be paid, as the client isn't eligible for the Home and Community Based Program. North Dakota's present system of case management under the HCBS program has provided uniformity from the smallest of counties to the largest of counties. Error rates are low, there is an excellent working relationship with the State, all residents are currently treated equally, and assessments are provided in a timely manner.

Our emphasis is to provide care to people in the least restrictive environment. If citizens are able to move from funding stream to funding stream or from institutional setting to home setting easily, more will be able to return to or remain at their home.

County Social Service Agencies are committed to providing services to the elderly and disabled. As a County Social Service Director, I ask that this bill House Bill 1180 and its companion bill House Bill 1093 be studied further and acted upon at a future legislative session.

Thank you for your time. I am willing to answer any questions.

3/20

Kim Jacobson - (1A)
Trail County Soc. Sec.

PROPOSED AMENDMENTS FOR HOUSE BILL No. 1180

Page 1, line 1, replace "two" with "three"

Page 1, line 2, after "to" insert "the creation of a pilot program for, and"

Page 1, after line 4, insert:

"SECTION 1. A new section to chapter 50-06.2 of the North Dakota Century Code is created and enacted as follows:

Community-based services – independent home and community-based services case manager – pilot program.

A pilot program is hereby created to authorize a tribal government of a reservation encompassing an entire county of the state to contract with independent home and community-based services case managers to provide the services authorized by this act.

Page 1, line 8, after "manager" insert "- pilot program"

Page 2, line 4, after "manager" insert "- pilot program"

Page 2, line 23, after "manager" insert "- pilot program"

Page 3, after line 7, insert:

SECTION 5. EXPIRATION DATE. This Act is effective through June 30, 2015, and after that date is ineffective.

Renumber accordingly

Amendments to 13.0430.01000

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1180

Page 1, line 2, after "to" insert "the creation of a pilot program for, and"

Page 1, line 3, after "of" insert " ,"

Page 1, line 3, after "managers" insert "; and to provide an expiration date"

Page 1, line 8, after "manager" insert "**- Pilot program**"

Page 1, line 9, replace "Under" with "The department shall establish a pilot program for the provision of independent case management services under"

Page 1, line 9, replace ", an" with "within a county located entirely on an Indian reservation for the biennium beginning July 1, 2013, and ending June 30, 2015. An"

Page 1, line 11, remove "licensed"

Page 1, line 11, after "worker" insert "licensed under section 43-41-04"

Page 2, line 4, after "manager" insert "**- Pilot program**"

Page 2, line 5, replace "Under" with "The department shall establish a pilot program for the provision of independent case management services under"

Page 2, line 5, replace ", an" with "within a county located entirely on an Indian reservation for the biennium beginning July 1, 2013, and ending June 30, 2015. An"

Page 2, line 7, remove "licensed"

Page 2, line 7, after "worker" insert "licensed under section 43-41-04"

Page 2, line 23, after "manager" insert "**- Pilot program**"

Page 2, line 24, replace "Under" with "The department shall establish a pilot program for the provision of independent case management services under"

Page 2, line 24, replace ", an" with "within a county located entirely on an Indian reservation for the biennium beginning July 1, 2013, and ending June 30, 2015. An"

Page 2, line 26, remove "licensed"

Page 2, line 26, after "worker" insert "licensed under section 43-41-04"

Page 3, after line 7, insert:

Amendments to 13.0430.01000

"SECTION 4. EXPIRATION DATE. This Act is effective through June 30, 2015, and after that date is ineffective."

Renumber accordingly