

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

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ROLL NUMBER

DESCRIPTION

2097

2001 SENATE HUMAN SERVICES

SB 2097

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2097

Senate Human Services Committee

Conference Committee

Hearing Date January 10, 2001

Tape Number	Side A	Side B	Mcter #
1	X		4.4
1	X		18.4
January 15	1	X	42
January 24, 2001	1 X		28.9
Committee Clerk Signature <i>Paul Klosejchuk</i>			

Minutes:

SENATOR LEE called the Committee to order and opened the hearing on SB2097.

BARBARA FISCHER introduced the bill; see written testimony.

SENATOR KILZER asked why the annual audit was required in the past.

MS. FISCHER:: Originally in 1987 this provision was included as a statutory requirement for rate setting and it dealt with how the facilities had to report. The Veteran's Home has been doing an annual audit and this year, 1999, was the first year Grafton had a nursing facility and they did not realize they had to have an audit done until they sent in the cost report. It was a housekeeping

portion for rate setting that was included and normally it was included in administrative rules.

SENATOR KILZER asked if all nursing homes are subject to an annual audit. The answer was yes.

Is the nursing home in Dunseith have to go through a state audit annually?

MS. FISCHER answered that they would have an independent CPA audit because they aren't a state owned facility.

SENATOR KILZER asked why wouldn't all the nursing homes want to have a audit every two years?

MS. FISCHER: I'm sure that all nursing homes would like one; the reason we need an annual audit for most facilities is that it maintains the integrity of the rate setting system. We rely on the financial statement to ensure that the expenditures that are used for setting rates are appropriately reported. We have a mechanism should there be errors or corrections that need to be made to the audit for these because we can correct rates for two years should errors be found. It would not be an additional administrative burden for state owned facilities, but to do it for all 84 nursing facilities it could require a lot of back rates reports.

SENATOR KILZER: What is the difference between the other nursing facilities and these two.

MS. FISCHER The difference is that they are state owned. These are the only two facilities - The Veteran's Home and Grafton that are required to have an audit in the off year.

SENATOR LEE: The other homes are having yearly audits too, in order for the rate setting. These would be paid for independently.

MS. FISCHER: That is correct; they have independent CPA firms doing their audits every year.

SENATOR MATHERN: In your testimony you talked about the rules and regulations that would normally address this. Should we eliminate this section of the law? Maybe it would be better under rules than law.

MS. FISCHER: We hadn't thought of this option, but there are areas that have clause problems in rate setting because of the need to have amendments made every two years. There is a combination of statutory requirements and administrative code and sometimes it does cause

problems to just repeal the entire section without making the exemption; I would have to look at all the other rules and regulations to see how that would negatively or positively impacts something. To take care of the problem that we encountered especially with the state owned facilities because that is general fund dollars and we cannot treat the state owned facilities different than the others, we do need the exemption not to have that in there. We also have that included in the state plan or we might affect Medicaid expenditures.

SENATOR FISCHER: If we eliminated the entire section, would we not also eliminate the rules under this section of law?

MS. FISCHER: I don't believe so because administrative rules can be more restrictive than the statutory requirements. I don't think it would eliminate it. We have tried to incorporate the rules with the statutory language, but by repealing this section would not repeal the administrative code.

SENATOR LEE asked that Ms. Fischer check on flexibility of law and rule.

The hearing was tabled.

The committee was reconvened.

SENATOR MATHERN: We should ask our intern to look into an amendment for this bill to better state line 6 "Except for state owned facilities". It gives the implication of a separation of facilities and wouldn't the privates want to do it less too. Whatever can be done to make changes as rapidly as possible. Maybe this should be rules and not a statute. We wouldn't have to change the law three years down the road if the Feds come in with an change.

SENATOR FISCHER: I agree with that. The time line is the same. I hate to put something in code that could be done through a rule. Are Dunseith and McVile community owned? How are they affected.

SENATOR MATHERN? Good point. We are running Fed money through these facilities and they are going to make some rules about that. We should put in a rule making authority.

These questions will be discussed with Barbara Fischer.

Discussion was closed.

The committee was reconvened on January 15. BARBARA FISCHER, Department of Human Services met with the committee to answer questions. One question was about putting this requirement in rule instead of statute and how Dunseith and McVile community owned homes were affected since they are not state owned and not privately owned.

MS. FISCHER: Addressing Dunseith and McVile. These facilities come to light as government home facilities because of the inter government transfer fund. The Federal requirements identify state owned and that would be state agencies. City owned or county owned were actually treated as private facilities. The city owned facilities are actually managed by private firms - Dunseith has contracted somebody to manage it for them. McVile just had some recent ownership changes and in 1998 they became city owned. The operation might be some kind of contractual arrangement there also. They are considered public nonprofit but not state owned.

The audit requirement came to light when Grafton Development center was approved for a nursing facility. Persons with severe behavior problems and medical needs have had to go out of state. The department chose to open a nursing facility at Grafton for those individuals difficult to place. They were Medicaid certified and received Medicaid funding. The Veteran's Home has always had their audit. They were basic care and chose to have nursing facility. We just missed it on Grafton. Statute states audits be done biennial audits, not annual audits. No statute requirement for private. These have own requirements for audits done by private CPA firms.

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Senate Human Services Committee

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SENATOR LEE asked is we shouldn't put this in the rulemaking process and not into statute so we wouldn't have to wait until the next legislation session if there was a Federal change. MS.

FISCHER: There is no Federal problem. No Federal law requiring audits. If you make other changes it will delay our process another year because we will have to go through rule changes because the language would say that the department has the authority to establish rules to do that.

SENATOR LEE: Even though we are well intended we are better off if we just leave it the way we are having it requested here, would that be true? MS. FISCHER: I think so; that puts it nicely. There is one provision that says there has to be separate audit financial statements for other entities that are owned and operated by the same facility. We have allowed for consolidated audits with separate audits on facilities within our state.

Ms. Fischer will bring down the amendment that will meet that requirement. SENATOR

FISCHER: Does the state audit nursing homes or do they ask for the nursing homes to provide

audits? MS. FISCHER: There are actually two different audits. The state provider audit

through the Dept. Of Human Services does a cost report which is not a financial audit. The dept relies on the financial statement as audited to support the information that is in the cost report.

The cost report asks - You have claimed certain costs; are they allowable. Are they nursing facility related. Different type of audit done through provider audits.

Senator Mathern and Ms. Fischer will bring an amendment.

January 24, 2001, Tape 1, Side A, Meter 28.9.

BARBARA FISCHER explained the amendments. Discussion followed. SENATOR FISCHER moved the accept the amendments. SENATOR MATHERN seconded the motion. Roll call vote carried 6-0. SENATOR FISCHER moved a DO PASS AS AMENDED. SENATOR

MATHERN seconded it. Roll call vote carried 6-0. SENATOR ERBELE will carry the bill.

FISCAL NOTE
 Requested by Legislative Council
 12/26/2000

Bill/Resolution No.: SB 2097

Amendment to:

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

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

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

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

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

This bill would eliminate the statutory requirement for a financial audit in each year of the biennium for the Developmental Center in Grafton and the Veteran's Home at Lisbon which are considered state owned nursing facilities. Current NDCC requires a biennial audit of all state agencies rather than an annual audit. Eliminating the annual audit requirement for state owned nursing facilities would have no fiscal impact as the time saved by the State Auditor's Office in conducting annual audits at these facilities as their time will be redirected to other audits. **Potential fiscal impact exists should this bill fail to pass since current federal regulations state that the federal funding of the facility's daily rate can be reduced to 80% of the established rate should the audits not be completed on a timely basis.** This potential impact could result in a total reduction of \$377,248 of federal funds for a biennium if both of the nursing facilities failed to include an annual audit report with their annual cost report which are necessary in establishing the facility rate. This reduction of federal revenue would then need to be replaced with general funds.

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

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

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

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

Name:	Brenda Welsz	Agency:	Department of Human Services
Phone Number:	328-2397	Date Prepared:	01/02/2001

PROPOSED AMENDMENTS TO SENATE BILL NO. 2097

Page 1, line 1, replace "subdivision a of subsection 1 of section" with "sections"

Page 1, line 1, after "50-24.4-23" insert "and 50-24.4-08"

Page 1, line 2, replace "state-owned human service facility audits" with "reporting requirements for nursing home; and to repeal section 50-24.4-25 of the North Dakota Century Code, relating to extending reporting deadlines to nursing homes for good cause"

Page 1, line 4, replace "Subdivision a of subsection 1 of section" with "Section"

Page 1, replace lines 6 through 12 with:

"50-24.4-23. (Effective through January 31, 2002) Reporting requirements.

1. No later than October first of each year, each nursing home which receives medical assistance payments from the department shall:
 - a. ~~Provide~~ Except for state-owned facilities, provide the department with a copy of its audited report that meets the reporting standards of the American Institute of certified public accountants and includes an audited statement of the rate or rates charged to private-paying residents. The examination by the certified public accountant must be conducted in accordance with generally accepted auditing standards as promulgated and adopted by the American Institute of certified public accountants;
 - b. Provide the department with a statement of ownership for the facility or a certification that ownership has not changed since the most recent statement given pursuant to this subsection;

