

FISCAL NOTE
Requested by Legislative Council
01/21/2019

Amendment to: SB 2347

- 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.*

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$1,000,000	\$0
Expenditures	\$0	\$0	\$181,733	\$1,635,593	\$310,601	\$1,464,264
Appropriations	\$0	\$0	\$181,733	\$1,635,593	\$310,601	\$1,464,264

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

	2017-2019 Biennium	2019-2021 Biennium	2021-2023 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).*

This bill provides for a false claims act needed prior to the state having a Medicaid Fraud Control Unit. It also provides for a Medicaid Fraud Control Unit in the Office of Attorney General.

- 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.*

On December 19, 2017, the Department of Human Services received a letter from the US Department of Health & Human Services Centers for Medicare and Medicaid Services indicating the state's request for a continued waiver from having a state MFCU was denied. North Dakota is the only state without a MFCU.

Section 4 requires the Medicaid Fraud Control Unit (MFCU) in the Office of Attorney General to investigate alleged false medical assistance claims and to possibly file a civil action, a criminal action, or both against any person that violated or is violating this Act.

Section 14 establishes the MFCU in the Office of Attorney General.

The person bringing the Medicaid Fraud claim to the attention of the state is eligible for a percentage of the Medicaid proceeds recovered and may also recover reasonable expenses necessarily incurred plus reasonable attorney's fees and costs.

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.*

It is unclear at this time the amount of recoveries under this Act. South Dakota has averaged \$2.6 million in recoveries during the last eight years. Other neighboring states have seen recoveries ranging between \$9-23 million over a six year period. North Dakota may see Medicaid recoveries of at least the lower part of the range although this is speculative. It is likely the recoveries will be realized in the 2021-23 biennium given the startup time needed for investigations and adjudications. Estimated general fund revenues may be \$1 million in the 2021-23 biennium.

- 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.*

As reported to the interim Human Services committee, 7 staff members are needed to carry out the requirements of a Medicaid Fraud Control Unit. These staff members would be 2 attorneys, 2 criminal investigators, 2 auditors, and 1 administrative assistant. The 2019-21 biennium estimated expenses include \$1,333,716 for salaries, \$398,809 for operating expenses and \$84,800 for needed equipment. The 2021-23 biennium estimated expenses include \$1,412,965 in salaries and \$361,900 in operating expenses.

For the first three years the federal government will pay 90% of the expenses. After three years the federal government will pay 75% of expenses.

- 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 or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

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