

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2095

2001 SENATE HUMAN SERVICES

SB 2095

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2095

Senate Human Services Committee

☐ Conference Committee

Hearing Date January 15, 2001

Tape Number	Side A	Side B	Meter #
1	X		48.1
January 23, 2001 1		X	37
January 23, 2001 2	X		
January 24, 2001 1		X	13.4
February 5, 2001 2	X		26.6
Committee Clerk Signature <i>Carol Salodsky</i>			

Minutes:

The hearing was opened on SB 2095.

DAVID ZENTNER, Director of Medical Services for the Department of Human Services, introduced the bill and supports the bill. (Written testimony)

SENATOR LEE explained what has happened during the last legislature and how this all came about. She asked what would happen if we used the combination of the two and the lessor of the two. MR. ZENTNER answered that he thought that would work. There would be nothing in Federal law that would prevent us from doing that. We realize that self-employed income is fluctuating. We were thinking we would rather have it reflect the immediate. Using the average can cause problems. SENATOR MATHERN: What about making present income an option? MR. ZENTNER: Administratively that would get really difficult. We would have no previous circumstances and then we will use current, but we will ask them for their records for the

previous months. That may be detrimental as it would not show their true income. SENATOR POLOVITZ: What happens if the person is on it and goes off the next year? MR. ZENTNER: We have a twelve month continuous eligibility period, so if you are eligible in January, 2001, your children would be eligible through December, 2001. 60 days we send out a request for information and evaluate it again. If they no longer are eligible, we will refer them to the Caring Program. SENATOR LEE explained that the limit for families that are eligible for children's insurance program is 140% poverty and Caring Program provides both acute and preventive care for children vision and dental benefits up to 200% of poverty. SENATOR KILZER expressed favor with Senator Lee's proposal.

Neutral Testimony

GAIL ERICKSON, resident of Burleigh County, has concerns with the self-employed income calculated using adjusted gross income. Combining self-employed with other employment would be better system.

Opposition:

MARGARET KOTTRE opposes the bill. (Written testimony)

The hearing was closed on SB 2095.

SENATOR MATHERN asked Mr. Zentner how we determine the adjusted gross income.

MR. ZENTNER replied that if self-employment has a negative balance it is returned to \$0 only carrying the amount that is earned elsewhere. You are looking at self-employed income and then you are looking at other income. We are looking at it as a separate process, not a combined income. SENATOR MATHERN: Could you take the actual completed income tax report which would have been combined the off farm and on farm income. MR. ZENTNER: That would be a possibility. If there is any other income we subtract that off so it is not reflective, so it's kind of a

wash type of thing. SENATOR LEE: Does it include any self-employed income. MR.

ZENTNER: Yes. SENATOR MATHERN asked that an amendment considering the average of previous three years or previous year, whichever is less. SENATOR FISCHER would like to see the rules for determining income.

The committee was recessed.

The committee was reconvened on January 23, 2001, Tape 1, Side B, Meter 38.

Discussion was held. Requested amendment adjusted gross income be used as income from Federal Income Tax. Also either by previous year or average previous 3 year whichever is less. Mr. Zentner was asked to come down and answer some questions. SENATOR MATHERN moved to accept amendments. SENATOR FISCHER seconded. Roll call vote carried 6-0. The committee will wait with further action until the amendments are drawn.

January 24, 2001 Tape 1, Side B, Meter 13.4.

The committee began discussion with MR. ZENTNER on the way of figuring the income determining eligibility. The committee is under the impression that the rules are in violation of the law. We shouldn't have to restate the law. Our concern is the number used for the eligibility. We are suggesting the negative of a self employed income be subtracted from earned income of the other spouse. We want the negative number be used and not -0-. We want the most number of people on the eligibility on the roll. We need an amendment added to the amendment we already have and defining how to determine eligibility. Mr. Zentner was requested to bring an amendment to the table. The committee was adjourned.

February 5, 2001 Tape 2, Side A, Meter 26.6.

Discussion was held. SHELDON WOLF explained the amendments. They were discussed.

SENATOR FISCHER moved to reconsider the amendment on the table. SENATOR

Page 4

Senate Human Services Committee

Bill/Resolution Number SB 2095

Hearing Date ~~January 15, 2001~~

2-5-01

MATHERN seconded it. Voice vote carried. SENATOR FISCHER moved the amendments by Mr. Zentner. SENATOR MATHERN seconded the motion. Roll call vote carried. SENATOR MATHERN moved DO PASS AS AMENDED. SENATOR FISCHER seconded it. Roll call vote carried 6-0. SENATOR FISCHER will carry the bill.

**FISCAL NOTE**  
 Requested by Legislative Council  
 04/06/2001

Bill/Resolution No.:

Amendment to:           Engrossed  
                                   SB 2095

**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
<b>Revenues</b>						
<b>Expenditures</b>						
<b>Appropriations</b>						

**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 change the eligibility determination for the Healthy Steps program for self-employed individuals. Eligibility would be determined based on the lower of either:

1. The previous one-year of adjusted gross income or loss, less any earned or unearned income on the tax return, plus any current earned or unearned income.
2. The average of the previous three years of adjusted gross income or loss, less the average of earned or unearned income for each of the previous three years, plus any current earned or unearned income.

We do not anticipate a fiscal impact due to these changes. The net effect caused by individuals eligible for the program should be minimal due to this change.

**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.*

<b>Name:</b>	Debra A. McDermott	<b>Agency:</b>	Department of Human Services
<b>Phone Number:</b>	328-3695	<b>Date Prepared:</b>	04/09/2001



**FISCAL NOTE**  
 Requested by Legislative Council  
 03/21/2001

Bill/Resolution No.:

Amendment to:      Engrossed  
                              SB 2095

**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 change the eligibility determination for the Healthy Steps program for self-employed individuals. Eligibility would be based on the average of the previous three years of adjusted gross income or loss, less any earned income on the tax return for each of the three years, plus any current earned or unearned income. We do not anticipate a fiscal impact due to these changes. The net effect caused by individuals eligible for the program should be minimal due to this change.

**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.*

<b>Name:</b>	Brenda M. Welsz	<b>Agency:</b>	Department of Human Services
<b>Phone Number:</b>	328-2397	<b>Date Prepared:</b>	03/21/2001

**FISCAL NOTE**  
 Requested by Legislative Council  
 02/14/2001

Bill/Resolution No.:

Amendment to: SB 2095

**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
<b>Revenues</b>						
<b>Expenditures</b>						
<b>Appropriations</b>						

**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 change the eligibility determination for the Healthy Steps program for self-employed individuals. Eligibility determination would change from a three year income average to the lower of:

1. the lower of the previous one year, or the average of the previous three years of adjusted gross income.
2. the lower of the previous one year, or the three year adjusted gross income, less any earned income on the tax return, plus any current earned or unearned income.

We do not anticipate a fiscal impact due to these changes. The net effect caused by individuals eligible for the the program should be minimal due to this change.

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

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

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

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

*appropriations.*

Name:	Brenda M. Welsz	Agency:	Department of Human Services
Phone Number:	328-2397	Date Prepared:	02/16/2001

**FISCAL NOTE**  
Requested by Legislative Council  
01/02/2001

Bill/Resolution No.: SB 2095

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 change the Healthy Steps eligibility determination for self-employed individuals from a three year income average to the previous year's adjusted gross income. It is anticipated that any increases in eligibility will be offset by corresponding decreases in eligibility. Based on these assumptions, it is anticipated that the proposed bill will no fiscal impact.

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

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

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

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

Name:	Brenda Weisz	Agency:	Department of Human Services
Phone Number:	328-2397	Date Prepared:	01/04/2001

PROPOSED AMENDMENTS TO SENATE BILL NO. 2095

Page 1, line 8, after the first "the" insert "lessor of the previous year or the"

Renumber accordingly

Date: 1/23/01

Senate	<b>HUMAN SERVICES</b>	Committee
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Motion Made By \_\_\_\_\_ Seconded By \_\_\_\_\_

[illegible]

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

page 1 line 8 - lesser of the previous year or average of previous three years.

Date: 2/5/01

**Senate HUMAN SERVICES Committee**

Legislative Council Amendment Number \_\_\_\_\_

Motion Made By Senator Nathan Seconded By Sen Fischer

[illegible]

Absent 0

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



Date: 2/5/01

**Senate HUMAN SERVICES**

☐ Subcommittee on \_\_\_\_\_  
or  
☐ Conference Committee

### Action Taken

Dº Pass ao Arrendat

Senator Matheson

By

Senator Fischer

[illegible]

Total (Yes) 6 No 0

Absent D

## Floor Assignment

Den Fischer

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

**REPORT OF STANDING COMMITTEE**

**SB 2095: Human Services Committee (Sen. Lee, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2095 was placed on the Sixth order on the calendar.

Page 1, line 8, after "the" insert "lower of the previous one year or the", remove the overstrike over "~~average of the~~", remove the overstrike over "~~three years~~", and remove "year"

Page 1, line 9, overstrike "which" and insert immediately thereafter "or the lower of the previous one year or three years of adjusted gross income, less any earned income on the tax return, plus any current earned or unearned income. Adjusted gross income"

Renumber accordingly

2001 HOUSE HUMAN SERVICES

SB 2095

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2095

House Human Services Committee

☐ Conference Committee

Hearing Date March 6, 2001

Tape Number	Side A	Side B	Meter #
Tape 1		X	870 to 2520
Committee Clerk Signature <i>Courne Easton</i>			

Minutes:

Chairman Price, Vice Chairman Devlin, Rep. Dosch, Rep. Galvin, Rep. Klein, Rep. Pollert, Rep. Porter, Rep. Tieman, Rep. Weiler, Rep. Weisz, Rep. Cleary, Rep. Metcalf, Rep. Niemeier, Rep. Sandvig

Chairman Price: Open hearing on SB 2095.

David Zentner: Director of Medical Services for the Department of Human Services. (See written testimony.) The department is concerned about the amendment that was added to this bill. We believe it will result in a double standard for determining eligibility and will increase the complexity of determining eligibility for the program. We are unable to support the bill in its present form and respectfully request that you consider removing the language added by the Senate. If the amendment is not removed, we would recommend a DO NOT PASS for this bill.

Rep. Niemeier: On page 4 where you're talking about allowing self-employment losses - you are using that provision now under rule?

Zentgraf: We are not. The rule specifically said that we will not offset losses. If there is a real issue with that, we can change that in rule. What we are trying to do is match current income with the program requirements.

Janelle Johnson: North Dakota "Covering Kids" Coordinator representing Community HealthCare Association. (See written testimony.) I am testifying today in support of SB 2095 in it's intent to consider self-employed losses when determining eligibility for Health Steps. Additionally, we support using a single year of adjusted gross income versus a three-year average when appropriate.

Vice Chairman Devlin: When we put that in, it was really to protect our Ag sector whose income so dramatically varied from one year to the next. They may have a tremendous income in say the year 2000 after huge losses two years before, and much of the income they gather in 2000 is used to say pay back the bank or whatever, they aren't actually getting living money. I am not convinced we have to change it but I'm willing to listen.

Johnson: I think the intent of the Senate was to allow flexibility for that three-year average or the previous year. Another concern that has come out loud and strong is that they look at the fact that farm losses, whether they are due to depreciation or actual farm losses, are not figured into the equation. Right now if they have farm losses, that is netted out as a zero. In the off farm income that may be used to subsidize the farm losses it is actually counted as income rather than subsidy.

Vice Chairman Devlin: If they are only be allowed to bring depreciation to zero I would question whether that was the intent of the legislature in the last sessions.

Johnson: The intent was to allow for flexibility. Also, we are concerned they look at farm losses.

Chairman Price: Do you support the bill in the original form or the engrossed form?

Johnson: 98% of the time it wouldn't have made a difference if you look at previous year or three-year.

Chairman Price: You appreciate the position we are in. We can't legislate for every situation. We're trying to find something - particularly if we do the eligibility in the county level - and if part of the problem is that we are requiring too much information both here and Medicaid. We are trying to simplify it, so we don't keep people from applying.

Johnson: I would suggest then that you only consider the previous year because of the paper complication, but that farm losses would be considered as farm losses and not as a net of zero.

Kathy Pfeifle: North Dakota Conference of Social Welfare. (See written testimony.) One of our priority issues identified in the RP&L Committee is CHIPS. The NDCSW supports citizens in NEED in North Dakota. Please consider supporting SB 2095 to allow for the choice to help the families the most. Our future is in your hands.

Chairman Price: My question has to do with are we keeping any out because of all the information we're asking for, and if it comes down to just going with the one year to make it simpler to get more applications in - would you be in support of that?

Pfeifle: We are in support of which ever helps the most, but I realize the process is also a problem. What is the most workable.

Chairman Price: Close hearing on SB 2095.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2095 A

House Human Services Committee

☐ Conference Committee

Hearing Date March 14, 2001

Tape Number	Side A	Side B	Meter #
Tape 2	X		5430 to end
Tape 2		X	0 to 645
Committee Clerk Signature <i>Corinne Easton</i>			

Minutes:

**COMMITTEE WORK:**

CHAIRMAN PRICE: I'd like to get your feedback from SB 2095. This has to do with the CHIPs determination of income. One of the questions, and Mr. Zentner brought this up in his testimony, that when they've been looking at the self-employed and the farmer that if there has been a loss in any given year, that they take that back to zero. Do we want them to continue to do that, or do we want them to subtract the loss out of the three years?

VICE CHAIRMAN DEVLIN: All of us understood when we were talking that adjusted gross income for income taxes purposes - those losses are all reflected in there. They never stop at zero. Are we misunderstanding what you did here.

DAVID ZENTNER: Department of Human Services. If you only have self-employment income, it is not a problem. It is where you have other income is where we've had this issue. What we thought the intent was, and the way the rules were, is you would determine

self-employment income using adjusted gross income. If there were other income, you would add that based on what is currently happening. If someone had off-farm income, what we're doing is subtracting that off to determine what their net adjusted gross income is. We were trying to mirror what was going on with the Medicaid program.

REP. PORTER: If that person has lost \$30,000 in the previous year and even if their Social Security income - their child support and their other income add up to say \$23,000, you wouldn't show that as a minus \$7,000, you would show it as a plus \$23,000.

DAVID ZENTNER: That is correct. Using income tax for self-employment is the closest you can get without trying to go through a lot of gyrations to figure out whether their actual income is.

CHAIRMAN PRICE: The self-employed is getting the benefits for their child support not being added in, and Social Security is not being added in?

DAVID ZENTNER: Not the way we do it today.

CHAIRMAN PRICE: (Further discussion.)

REP. NIEMEIER: I think we would be in good shape if we go with this portion of the bill that was added on page 9 and 10 - which gives you the lower of the previous one year or the average of the three years of adjusted gross, less these earned income things - but then we need to amend this to add on that we would figure any loss. They are just bottoming out at zero.

DAVID ZENTNER: If you want to do that, it is fine.

CHAIRMAN PRICE: Do you have any proposed language for that?

DAVID ZENTNER: (Read language.) If the legislative intent is there to get rid of it, we'll get rid of it. We can get language down to you.

CHAIRMAN PRICE: You can e-mail it to me or give it to Annette (Intern).



2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2095 B

House Human Services Committee

☐ Conference Committee

Hearing Date March 19, 2001

Tape Number	Side A	Side B	Meter #
Tape 1	X		Tape didn't work
Committee Clerk Signature <i>Corinne Weston</i>			

Minutes:

**COMMITTEE WORK:**

REP. WEISZ: Presented amendments and moved amendments.

REP. PORTER: Second.

(14 Yes, 0 No, 0 Absent)

REP. WEISZ: Moved a **DO PASS** as amended.

REP. METCALF: Second.

**14 YES 0 NO 0 ABSENT CARRIED BY REP. WEISZ**

VR  
3/19/01

HOUSE AMENDMENTS TO SB 2095

HOUSE HS

3-19-01

Page 1, line 8, remove "lower of the previous one year or the"

Page 1, line 9, after "Income" insert "or loss" and remove "or the lower"

Page 1, line 10, remove "of the previous one year or three years of adjusted gross income."

Page 1, line 11, after "return" insert "for each of the three years"

Renumber accordingly

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

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2095

House Human Services Committee

☐ Subcommittee on \_\_\_\_\_  
or  
☐ Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Moved Amendments

Motion Made By Rep. Weisz Seconded By Rep. Porter

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

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

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

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2095

House Human Services Committee

☐ Subcommittee on \_\_\_\_\_  
or  
☐ Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken DO PASS as Amended

Motion Made By Weisz Seconded By Metcalf

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

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep. Weisz

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

**REPORT OF STANDING COMMITTEE**

SB 2095, as engrossed and amended: Human Services Committee (Rep. Price, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2095, as amended, was placed on the Sixth order on the calendar.

Page 1, line 6, remove "lower of the previous one year or the"

Page 1, line 9, after "income" insert "or loss" and remove "or the lower"

Page 1, line 10, remove "of the previous one year or three years of adjusted gross income."

Page 1, line 11, after "return" insert "for each of the three years"

Renumber accordingly

2001 SENATE HUMAN SERVICES  
CONFERENCE COMMITTEE

SB 2095

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. CC SB 2095

Senate Human Services Committee

☐ Conference Committee

Hearing Date April 2, 2001

Tape Number	Side A	Side B	Meter #
1	X		
Committee Clerk Signature: <i>Carol K. Rodriguez</i>			

Minutes:

The conference committee was called to order by SENATOR FISCHER. Other members present were SENATOR KILZER, SENATOR MATHERN, REPRESENTATIVE WEISZ, REPRESENTATIVE GALVIN, REPRESENTATIVE SANDVIG.

REPRESENTATIVE WEISZ reported on the House amendments. Employees don't get 3 year option. They have only one year. The House didn't want a loss (minus income) to be set at 0. The adjusted gross income must be used as from IRS reports.

Discussion ensued. REPRESENTATIVE WEISZ moved to recede from House amendments and to amend. The two main points are loss is not set at zero and 2. Have the option of previous one year or previous 3 year average. SENATOR KILZER seconded the motion. Discussion was that the setup may be more easily understood if it was put in 2 points. The intern will draw up the amendments. Roll call vote carried 6-0. SENATOR FISCHER will carry the bill on the Senate floor. REPRESENTATIVE WEISZ will carry the bill on the House floor.

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2095

That the House recede from its amendments as printed on page 937 of the Senate Journal and pages 1002 and 1003 of the House Journal and that the Senate Bill No. 2095 be amended as follows:

Page 1, line 8, after "applicants" insert ", where adjusted gross income means the adjusted gross income as computed for an individual for federal income tax purposes under the Internal Revenue Code,", replace the first "the" with "either

a. The", and remove "or the"

Page 1, line 9, overstrike "average of the previous three years", overstrike the comma, and replace "the lower" with "loss, less any earned or unearned income on the tax return, plus any current earned or unearned income; or

b. The average"

Page 1, line 10, remove "one year or", after "income" insert "or loss", and after "earned" insert "or unearned"

Page 1, line 11, replace "on the tax return" with "for each of the previous three years" and remove "Adjusted"

Page 1, line 12, remove "gross income" and overstrike "means the adjusted gross income as computed for an individual for"

Page 1, overstrike line 13

Renumber accordingly



4/2/01

**Roll Call Vote #:**

**2001 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
/ **BILL/RESOLUTION NO. 2095**

Human Services

## Committee

Subcommittee on

**or**

## Conference Committee

**Legislative Council Amendment Number**

House Recessed from House Amendments & Amend

Rep Weiss

By

den Eltern

[illegible]

(Yes) 6

No 0

**Absent** 

Den Fischer / Rep. Weiss

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

**REPORT OF CONFERENCE COMMITTEE**

**SB 2095, as engrossed:** Your conference committee (Sens. Fischer, Kilzer, T. Mathern and Reps. Welsz, Galvin, Sandvig) recommends that the **HOUSE RECEDE** from the House amendments on SJ page 937, adopt amendments as follows, and place SB 2095 on the Seventh order:

That the House recede from its amendments as printed on page 937 of the Senate Journal and pages 1002 and 1003 of the House Journal and that Engrossed Senate Bill No. 2095 be amended as follows:

Page 1, line 8, after "applicants" insert ", where adjusted gross income or loss means the adjusted gross income or loss as computed for an individual for federal income tax purposes under the Internal Revenue Code," and remove "lower of the previous one year or the"

Page 1, line 9, overstrike "average of the previous three years of adjusted gross income," and remove "or the lower"

Page 1, remove lines 10 and 11

Page 1, line 12, remove "gross income" and overstrike "means the adjusted gross income as computed for an individual for"

Page 1, line 13, overstrike "federal income tax purposes under the Internal Revenue Code" and insert immediately thereafter "lower of either:

- a. The previous one year of adjusted gross income or loss, less any earned or unearned income on the tax return, plus any current earned or unearned income; or
- b. The average of the previous three years of adjusted gross income or loss, less the average of earned or unearned income for each of the previous three years, plus any current earned or unearned income"

Renumber accordingly

Engrossed SB 2095 was placed on the Seventh order of business on the calendar.

2001 TESTIMONY

SB 2095

SB  
2095 - 10:15am Red River Room

Chairman, let's mbrs of the Committee, my name is Margaret Kottre. I am an active mbr of R-KIDS. I am opposed to SB2095. I feel that this change ~~will~~ <sup>will</sup> impact the children in need for health ins. When self-employed you can not get a true picture of their financial status from one year. Child support for self-employed is based on the last five years and I believe when self-employed people apply for loans they take the last three years. ~~as~~ So why when the needs of children are involved <sup>would</sup> they want to use just the previous year?

Margaret Kottre  
758-8437  
rmkottre@brigade.com

75-02-02.2-13. Determining household income.

1. Income other than self-employment income must be calculated as follows:

- a. Gross household income must be determined prospectively for each twelve-month certification period at the time of application and at each annual recertification to determine continuation of eligibility.
- b. Gross income of all household members that is not excluded is counted as household income.
- c. An average monthly adjusted gross income must be calculated for the twelve-month eligibility period based on reported monthly income adjusted for any known changes in expected future income at the time of application.
- d. Income that is received more often than monthly must be prorated over the certification period to determine average monthly income.
  - (1) Income that is received weekly must be averaged and multiplied by 4.3 to arrive at a monthly amount.
  - (2) Income that is received every other week must be averaged and multiplied by 2.15 to arrive at a monthly amount.
- e. After all countable non-self-employment gross income is determined, the following deductions must be allowed to determine adjusted gross income:
  - (1) For household members with earned income: actual mandatory payroll deductions, including federal, state, social security taxes, mandatory retirement and mandatory union dues, or ninety dollars per month, whichever is greater;
  - (2) Reasonable child care expenses, not otherwise reimbursed by third parties if necessary to engage in employment or training; and
  - (3) Court-ordered child and spousal support payments if actually paid by a parent on behalf of an individual who is not a member of the household.

2. Self-employment income must be calculated as follows:

- a. The average net income after expenses of self-employment must be calculated based on the average of the previous three years of adjusted gross income, which means adjusted

2095 ✓  
gross income as computed for an individual for federal income tax purposes under the Internal Revenue Code.

- b. If the self-employed individual does not have three years of self-employment history, the actual number of years of self-employment must be used to calculate the average yearly income.
  - c. If the self-employed individual has not been self-employed long enough to have filed any self-employment federal income tax return in the last year, the best information available must be used to estimate revenue and business expenses to calculate adjusted gross self-employment income.
  - d. The adjusted gross self-employment income must be divided by twelve to determine the monthly income for the upcoming recertification period or the number of months the data represents.
3. If the household has self-employed income and other earned or unearned income, the two must be added together to arrive at total adjusted gross income. The monthly income from self-employment must be calculated first. If the average self-employment income is zero or less, no amount may be subtracted from other earned or unearned family income.

History: Effective October 1, 1999.

General Authority: NDCC 50-29

Law Implemented: NDCC 50-29-02; 42 USC 1397aa et seq.

75-02-02.2-14. Eligibility period. The coverage effective date is the first day of the month following the determination of eligibility. The coverage period ends at the earliest of:

1. The last day of the twelfth month after enrollment, or if the enrollee is recertified, the last day of the twelfth month after recertification;
2. The end of the month the enrollee turned nineteen years of age;
3. The end of the month in which the child has obtained other health insurance coverage; or
4. The end of the month in which the child leaves the household unless waived by the department.

History: Effective October 1, 1999.

General Authority: NDCC 50-29

Law Implemented: NDCC 50-29-04; 42 USC 1397aa et seq.

**TESTIMONY BEFORE THE SENATE HUMAN SERVICES COMMITTEE**  
**REGARDING SENATE BILL 2095**  
**JANUARY 15, 2001**

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

The 1999 Legislative Assembly passed enabling legislation that implemented the State Children's Health Insurance Program in North Dakota. The program known as Healthy Steps was implemented in October 1999. As of January 1, 2001, 2,175 children are enrolled in the program.

One of the provisions contained in current law requires the Department to determine eligibility for the program for self employed families based on the previous last three-year average adjusted gross income. In order to meet this requirement the Department requires families with self-employment income to provide copies of the last three years income tax forms. Staff of the Department calculate eligibility by determining the adjusted gross income for each year adding them and then dividing by 36 to arrive at a monthly income that is used to determine eligibility for the program.

The Department believes that the use of the three year average does not always reflect current family circumstances and can cause families that had low income in the previous year from accessing needed insurance coverage for their children.

For example, a farm family with off farm income and three children were denied Healthy Steps coverage because income was too high. Farm income for 1999 was only \$9,647. In the previous two years, farm income averaged \$37,857. Although this farmer did have adequate income in 1997 and 1998, his recent

Income took a dramatic drop and is most reflective of the family's current circumstances and its ability to afford insurance coverage in 2000.

Another example concerns a farm family with off farm income and two children who were also denied coverage. This farmer had only \$5,426 of self-employed income in 1999, but was denied because of income earned in 1997 and 1998. Another similar example concerned a family with three children who had self-employment income of \$5,001 in 1999. The off farm income plus the three year average income made the family ineligible.

In all of these examples, if only the previous year income had been used, these children would have been eligible for Healthy Steps coverage.

The fiscal note does not anticipate any additional costs to the Healthy Steps Program because the net affect of this change should be minimal.

The Department supports this bill and requests that you consider a do pass.

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



**PROPOSED AMENDMENTS TO SENATE BILL NO. 2095**

Page 1, line 8, after the first "the" insert "lower of the previous one year or the", remove the overstrike over "~~average of the~~", remove the overstrike over "~~three years~~", and replace "year of" with "adjusted gross income or the lower of the previous one year or three years of adjusted gross income, less any earned income on the tax return, plus any current earned or unearned income."

Page 1, line 9, replace "adjusted" with "Adjusted", and remove ", which"

Renumber accordingly

**TESTIMONY BEFORE THE HOUSE HUMAN SERVICES COMMITTEE  
REGARDING SENATE BILL 2096  
MARCH 6, 2001**

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

The 1999 Legislative Assembly passed enabling legislation that implemented the State Children's Health Insurance Program in North Dakota. The program known as Healthy Steps was implemented in October 1999. As of March 1, 2001, 2,323 children are enrolled in the program.

One of the provisions contained in current law requires the Department to determine eligibility for the program for self employed families based on the previous last three-year average adjusted gross income. In order to meet this requirement the Department requires families with self-employment income to provide copies of the last three years income tax forms. Staff of the Department calculate eligibility by determining the adjusted gross income for each year adding them and then dividing by 36 to arrive at a monthly income that is used to determine eligibility for the program.

Those of you who served on this committee during the last session remember the reason you included specific language in the bill to use the federal adjusted gross income for self-employed individuals was because the Medicaid Program uses a percent of gross income to calculate available net income for each family. For example, gross farm income is multiplied by 25% to arrive at net self-employment income. That amount is then added to any other earned or unearned income the family may have to establish eligibility. The committee concluded that if that method were used for the Healthy Steps Program many self-employed families would not qualify.

The Department proposed to make a simple change in the law to require self-employed families to submit only the previous year income tax for eligibility determination purposes. When determining eligibility, we are trying to determine the amount of actual income a family has available at the time of the application. While the use of the previous year's income tax to calculate self-employment income may not always be reflective of actual income, it provides the most reasonable method to calculate this type of income. The Department believes that the use of the three year average does not always reflect current family circumstances and can cause families that had low income in the previous year from accessing needed insurance coverage for their children.

The Department also promogated rules that describe how eligibility for self-employed families would be calculated. We first calculate the amount of the self-employment income using the adjusted gross income on the income tax form as required by law. We then separately calculate any other earned or unearned income the family may have and add that to the self-employment income. Currently, self-employment losses do not offset other income the family may have because we are trying to determine how much actual income a family has available at the time of the application. The Department believes that the method approved in the rules met the intent of the current legislation.

The Senate added language to the bill that will require the Department to make up to four different eligibility determinations for self-employed families. First, we would calculate income for the last previous year using only the adjusted gross income from the previous year income tax. If that method did not result in eligibility, we would use a three-year average using only the adjusted gross income from the previous three-year's income tax forms. In both of these cases, changes in actual circumstances would not be recognized and because of tax law some types of income that we count in all cases for individuals who are not self-employed will not be counted for self-employed families.

If neither of these methods result in eligibility, we would then calculate eligibility using the previous year income tax form based on the method currently be used to determine eligibility. If that process did not result in eligibility, the previous three years income taxes would be used to determine eligibility. If the family failed all four scenarios, the family would be denied coverage.

While the Department agrees we can modify our process to determine eligibility using the four methods, it will complicate the process and take additional administrative resources. However, the bigger concern is that it creates a double standard for determining eligibility between those who are self-employed and those that are not. Three examples of this problem are detailed below.

1. A self-employed family receives social security income. In most instances these payments are not included when determining payment of federal income taxes. The first two methods of determining eligibility would never count this income. All social security income for other families is counted when determining eligibility for Healthy Steps.
2. A member of a self-employed family receives child support payments. Child support payments are not considered as taxable income for federal income tax purposes. The first two methods of determining eligibility would never count this income. All child support payments received for other families is counted when determining eligibility for Healthy Steps.
3. A parent in a self-employed family decides to supplement self-employment income by going to work for a salary in the current year. Previously, the family had no earned income. The first two methods of determining eligibility would not count this income in the current year. All earned income received for other families are counted when determining eligibility for Healthy Steps.

The Department is concerned that all families have the same opportunity to become eligible for Healthy Steps based on their current circumstances. We believe the current method of counting income results in an equitable determination of eligibility for all families applying for Healthy Steps coverage.

The Department has received criticism for not allowing self-employment losses to offset other income. We put that provision in rule because we were trying to base eligibility on the most current income available to each family at the time they apply for services.

We originally proposed the change from using three years income taxes to the last year's income tax because some families whose circumstances had changed were not eligible for Healthy Steps. For example, a farm family with off farm income and three children were denied Healthy Steps coverage because income was too high. Farm income for 1999 was only \$9,647. In the previous two years, farm income averaged \$37,857. Although this farmer did have adequate income in 1997 and 1998, his recent income took a dramatic drop and is most reflective of the family's current circumstances and its ability to afford insurance coverage in 2001.

Another example concerns a farm family with off farm income and two children who were also denied coverage. This farmer had only \$5,426 of self-employed income in 1999, but was denied because of income earned in 1997 and 1998.

In these examples, if only the previous year income had been used, these children would have been eligible for Healthy Steps coverage.

The original fiscal note did not anticipate any additional costs to the Healthy Steps Program because the net affect of the change should be minimal.

The Department is concerned about the amendment that was added to this bill. We believe it will result in a double standard for determining eligibility and will increase the complexity of determining eligibility for the program. We are unable to support the bill in its present form and respectfully request that you consider removing the language added by the Senate. If the amendment is not removed, we would recommend a do not pass for this bill.

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

SB 2095  
Testimony before the  
Senate Human Services Committee  
By Janelle Johnson  
Community HealthCare Association  
March 6, 2001

Chairman Price and members of the Committee,

I am Janelle Johnson, North Dakota "Covering Kids" Coordinator, representing the Community HealthCare Association. The Community HealthCare Association's mission is to promote healthcare access across the Dakotas.

I am testifying today in support of SB 2095 in it's intent to consider self-employed losses when determining eligibility for Healthy Steps. Additionally, we support using a single year of adjusted gross income verses a three-year average when appropriate.

Concerns have been expressed by self-employed families that they needed to report the last three years of income based on income tax returns, whereas, a payroll employee need only provide one month's worth of payroll stubs for income verification. Farm families have indicated to the NDSU Extension Staff providing outreach to rural and farm families that they feel uncomfortable sending in three year's worth of returns, when the last year indicates their current economic status.

A study was conducted by the Community HealthCare Association on a random sample of Healthy Steps applications received from October 1999 to November 2000. The sample indicated that 25.8% of the applicants were self-employed. By using only the previous year adjusted gross income, nearly 98% of the applicants would still be income eligible for Healthy Steps. Therefore the majority of the self-employed applicants would benefit from reducing the income verification to a single year of the federal income tax return. For the remaining families (approximately 2%) that would be harmed by using only the previous year, we support the fact that this bill would continue to allow consideration of a three-year income average.

## **North Dakota Conference of Social Welfare**

Chairperson Price, and House Human Services Committee.

I am Kathy Pfeifle and am speaking to you on behalf of the North Dakota Conference of Social Welfare and to provide testimony on SB 2095. One of our priority issues identified in the RP&L Committee is CHIPS. The NDCSW supports citizens in NEED in North Dakota. Representative Niemeier testified yesterday on a different CHIPS bill saying, "The children of North Dakota are our future." That is true. They are our future TODAY and NOW! They deserve appropriate and adequate health care coverage to become responsible healthy adult North Dakota citizens for tomorrow. Families are tested and stressed trying to juggle the immediate financial needs for their families to live. Because of the cost, health insurance becomes an option available only if there are resources left.

Providing the option as amended in SB 2095 helps the families by looking at their financial situation several different ways. This helps meet the needs. It doesn't matter if it is only two children out of a hundred that it affects. If you take those children times the 2095 children on CHIPS statewide, it then affects 42 children in need. If the program is expanded it will affect even more children. Please consider supporting SB 2095 to allow for the choice to help the families the most. Our future is in your hands.



Prepare, submit, and implement the plan that includes eligibility determinations for self-employed applicants, where adjusted gross income means the adjusted gross income as computed for an individual for federal income tax purposes under the Internal Revenue Code, based on the lower of either:

a. The previous one year average of the previous three years of adjusted gross income, which or loss, less any earned or unearned income on the tax return, plus any current earned or unearned income; or

b. The average of the previous three years of adjusted gross income or loss, less any earned or unearned income for each of the previous three years, plus any current earned or unearned income. means the adjusted gross income as computed for an individual for federal income tax purposes under the Internal Revenue Code;

Page 1, line 8, after "applicants" insert ", where adjusted gross income means the adjusted gross income as computed for an individual for federal income tax purposes under the Internal Revenue Code," and replace the first "the" with "either:

a. The", and remove "or the"

Page 1, line 9, overstrike "average of the previous three years", overstrike the comma, and replace "the lower" with "loss, less any earned or unearned income on the tax return, plus any current earned or unearned income; or

b. The average"

Page 1, line 10, remove "one year or" and after "income" insert "or loss" and after "earned" insert "or unearned"

Page 1, line 11, replace "on the tax return" with "for each of the previous three years" and remove "Adjusted"

Page 1, line 12, remove "gross income" and overstrike "means the adjusted gross income as computed for an individual for"

Page 1, overstrike line 13