

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



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>Barbara Fischer</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.

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 Welaz	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;

- c. Provide the department with ~~separate~~, audited financial statements as specified in subdivision a of this subsection for every other facility owned in whole or in part by an individual or entity which has an ownership interest in the facility;
 - d. Upon request, provide the department with ~~separate~~, audited financial statements as specified in subdivision a of this subsection for every organization with which the facility conducts business and which is owned in whole or in part by an individual or entity which has an ownership interest in the facility;
 - e. Provide the department with copies of leases, purchase agreements, appraisals, financing arrangements, and other documents related to the lease or purchase of the nursing facility, or a certification that the content of any such document remains unchanged since the most recent statement given pursuant to this subsection;
 - f. Upon request, provide the department with copies of leases, purchase agreements, and other documents related to the acquisition of equipment, goods, and services which are claimed as allowable costs; and
 - g. Permit access by the department to the certified public accountant's audit workpapers which support the audited financial statements required in subdivisions a, c, and d of this subsection.
2. Documents or information provided to the department pursuant to this chapter must be public. If the requirements of subsection 1 are not met, the reimbursement rate may be reduced to eighty percent of the rate in effect on the first day of the fourth calendar month after the close of the reporting year, and the reduction must continue until the requirements are met.

50-24.4-23 (Effective February 1, 2002) Reporting Requirements.

- 1. The department shall establish by rule reporting requirements for each nursing home that receives medical assistance payments from the department.
- 2. Documents or information provided to the department pursuant to this chapter must be public. If the reporting requirements

established under subsection 1 are not met, the payment rates may be reduced to eighty percent of the rates in effect on the first day of the fourth calendar month after the close of the reporting year, and the reduction must continue until the requirements are met.

SECTION 2. AMENDMENT. Section 50-24.4-08 of the North Dakota Century Code is amended and reenacted as follows:

50-24.4-08. Notice of increases to private-paying residents. No increase in nursing home rates for private-paying residents is effective unless the nursing home notifies the resident or person responsible for payment of the increase in writing thirty days before the increase takes effect. A nursing home may adjust its rates without giving the notice required by this section when the purpose of the rate adjustment is to reflect a necessary change in the category of care provided to a resident. ~~If the department fails to set rates at least forty days prior to the beginning of a rate year, the time required for giving notice is decreased by the number of days by which the department was late in setting the rates.~~

SECTION 3. REPEAL. Section 50-24.4-25 of the North Dakota Century Code is repealed effective January 31, 2002."

Renumber accordingly

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1-26-1
10f2

PROPOSED AMENDMENTS TO SENATE BILL NO. 2097

Amendments to SB 2097

HHS

1/26/01

Page 1, line 1, after "to" insert "create and enact a new section to chapter 50-24.4 of the North Dakota Century Code, relating to nursing home reporting requirements; to", replace "subdivision a of subsection 1 of section" with "sections", and 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 homes; to repeal sections 50-24.4-23 and 50-24.4-25 of the North Dakota Century Code, relating to extending reporting deadlines to nursing homes; to provide an effective date; and to provide an expiration date"

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. Reporting requirements.

1. No later than October first of each year, each nursing home ~~which~~ that 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;
 - c. Provide the department with ~~separate~~, audited financial statements as specified in subdivision a of this subsection for every other facility owned in whole or in part by an individual or entity which has an ownership interest in the facility;
 - d. Upon request, provide the department with ~~separate~~, audited financial statements as specified in subdivision a of this subsection for every organization with which the facility conducts business and which is owned in whole or in part by an individual or entity which has an ownership interest in the facility;
 - e. Provide the department with copies of leases, purchase agreements, appraisals, financing arrangements, and other documents related to the lease or purchase of the nursing facility, or a certification that the content of any such document remains unchanged since the most recent statement given pursuant to this subsection;
 - f. Upon request, provide the department with copies of leases, purchase agreements, and other documents related to the acquisition of equipment, goods, and services which are claimed as allowable costs; and

2072

- g. Permit access by the department to the certified public accountant's audit workpapers which support the audited financial statements required in subdivisions a, c, and d of this subsection.
2. Documents or information provided to the department pursuant to this chapter must be public. If the requirements of subsection 1 are not met, the reimbursement rate may be reduced to eighty percent of the rate in effect on the first day of the fourth calendar month after the close of the reporting year, and the reduction must continue until the requirements are met.

SECTION 2. A new section to chapter 50-24.4 of the North Dakota Century Code is created and enacted as follows:

Reporting requirements.

1. The department shall establish by rule reporting requirements for each nursing home that receives medical assistance payments from the department.
2. Documents or information provided to the department under this chapter are open records. If the reporting requirements established under subsection 1 are not met, the department may reduce the payment rates to eighty percent of the rates in effect on the first day of the fourth calendar month after the close of the reporting year, and the reduction must continue until the requirements are met.

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SECTION 4. REPEAL. Sections 50-24.4-23 and 50-24.4-25 of the North Dakota Century Code are repealed.

SECTION 5. EFFECTIVE DATE. Section 2 of this Act becomes effective on February 1, 2002, and section 4 of this Act becomes effective on January 31, 2002.

SECTION 6. EXPIRATION DATE. Section 1 of this Act is effective through January 1, 2002, and after that date is ineffective."

Renumber accordingly

1/24/01

Senate HUMAN SERVICES Committee

Motion Made By Sen Fischer Seconded By Sen Matheson

[illegible]

Barb Fisher's dept amendments

REPORT OF STANDING COMMITTEE

SB 2097: 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 2097 was placed on the Sixth order on the calendar.

Page 1, line 1, after "to" insert "create and enact a new section to chapter 50-24.4 of the North Dakota Century Code, relating to nursing home reporting requirements; to", replace "subdivision a of subsection 1 of section" with "sections", and after "50-24.4-23" insert "and 50-24.4-08"

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 - 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;
 - c. Provide the department with ~~separate~~, audited financial statements as specified in subdivision a of this subsection for every other facility owned in whole or in part by an individual or entity which has an ownership interest in the facility;
 - d. Upon request, provide the department with ~~separate~~, audited financial statements as specified in subdivision a of this subsection for every organization with which the facility conducts business and which is owned in whole or in part by an individual or entity which has an ownership interest in the facility;
 - e. Provide the department with copies of leases, purchase agreements, appraisals, financing arrangements, and other documents related to the lease or purchase of the nursing facility, or a certification that the content of any such document remains unchanged since the most recent statement given pursuant to this subsection;
 - f. Upon request, provide the department with copies of leases, purchase agreements, and other documents related to the acquisition

of equipment, goods, and services which are claimed as allowable costs; and

- g. Permit access by the department to the certified public accountant's audit workpapers which support the audited financial statements required in subdivisions a, c, and d of this subsection.
2. Documents or information provided to the department pursuant to this chapter must be public. If the requirements of subsection 1 are not met, the reimbursement rate may be reduced to eighty percent of the rate in effect on the first day of the fourth calendar month after the close of the reporting year, and the reduction must continue until the requirements are met.

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2. Documents or information provided to the department under this chapter are open records. If the reporting requirements established under subsection 1 are not met, the department may reduce the payment rates to eighty percent of the rates in effect on the first day of the fourth calendar month after the close of the reporting year, and the reduction must continue until the requirements are met.

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SECTION 4. REPEAL. Sections 50-24.4-23 and 50-24.4-25 of the North Dakota Century Code are repealed.

SECTION 5. EFFECTIVE DATE. Section 2 of this Act becomes effective on February 1, 2002, and section 4 of this Act becomes effective on January 31, 2002.

SECTION 6. EXPIRATION DATE. Section 1 of this Act is effective through January 1, 2002, and after that date is ineffective."

Renumber accordingly

Date: 3/12/01

Senate HUMAN SERVICES Committee

Legislative Council Amendment Number _____

Motion Made By Sen Fischer Seconded By Sen Mathern

[illegible]

Absent 0

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

2001 HOUSE HUMAN SERVICES

SB 2097

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2097

House Human Services Committee

☐ Conference Committee

Hearing Date March 5, 2201

Tape Number	Side A	Side B	Meter #
1		x	1069 to 1905
Committee Clerk Signature <i>Corinne 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: I will open the hearing on SB 2097 and the clerk will read the title.

Barbara Fischer - Manager Long Term Care and Hospital Services the Department of Human

Services: I am here in support of SB 2097 (See written testimony).

Chairman Price: Does the department support the original bill or the amended bill?

Fischer: We would support the engrossed bill.

Chairman Price: Other questions?

Rep. Deylin: I am surprised that the Senate won't take something out of statutes and put it into rules. Those of us who know how ambiguous rules are once in a while prefer the certainty of the statute.

Page 2
House Human Services Committee
Bill/Resolution Number SB 2097
Hearing Date March 5, 2001

Fischer: We would support either. The original bill as it was written, we could keep it in statute, but the amendments were prepared at the request of the Human Services Committee.

Chairman Price: Any other questions? Anyone else testifying in favor? Any opposition to SB 2097?

Shelly Peterson - President of the North Dakota Long Term Care Association: I am here today in opposition to SB 2097. (See written testimony).

Chairman Price: Anyone else in opposition? Close the hearing on SB 2097.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2097

House Human Services Committee

☐ Conference Committee

Hearing Date March 5, 2001

Tape Number	Side A	Side B	Meter #
4	x		218 to 1027
Committee Clerk Signature <i>Corinne Easton</i>			

Minutes:

COMMITTEE WORK

Chairman Price: Let's go to SB 2097. (some discussion on missing representatives). This is the reporting deadline. Any comments?

Rep. Devlin: I have some serious reservations about removing the certainty they have in statute. I have dealt with the Dept. Of Human Services administrative rules. It isn't much fun. I think if we have it in statue where it is pretty significant, I would hate to take it out.

Chairman Price: Rep. Devlin, how would you feel about leaving Section 1 amendment. Even if we are only talking about state owned, like Grafton?

Rep. Devlin: That wouldn't be a problem, it is Section 2 that I really needed.

Chairman Price: In talking to Barb Fischer and Dave Zentner.. The only thing they would really like is to have Section 1 of the engrossed bill. They have no problem with deleting the rest of the bill. (some more discussion).

Rep. Pollert: In its original form, why was this so grossly amended?

Chairman Price: Senate Human Services decided it was good for everybody.

Rep. Pollert: Originally, it doesn't look so bad.

Chairman Price: C and D where it says separate, they need that word taken out and just do auditing... Leave all of Section 1 of the engrossed bill in, separate are the only two changes after that. What would happen if the Senate does not agree with what we do, obviously we will not confer and then we will be in conference committee on it. But...

(more discussion)

Rep. Porter: I would move that we would amend the bill to remove Section 2 and Section 3.

Chairman Price: And actually 4, 5, and 6. We don't need any of it.

Rep. Porter: 2, 3, 4, and 5.

(more discussion)

Chairman Price: The motion is to delete Sections 2, 3, 4, and 5. Is there a second?

Rep. Sandvig: I second.

Chairman Price: If they don't like it they can fight it out in conference committee.

Rep. Niemeier: Why do we need this stuff, I like the original bill better?

Chairman Price: Because, if we leave C and B in there, the department would get an audited financial statement without having a separate audit. It would allow a little more flexibility. The state office normally does it for a two year period, this makes it a little easier for the two state owned facilities. The impact of Section 1 would happen after a sale, because then we are going to make up for Fed dollars we are going to lose. Anybody else? All those in favor of the amendment signify by saying Aye. Opposed? Amendment carries.

Page 3
House Human Services Committee
Bill/Resolution Number SB 2097
Hearing Date March 5, 2001

Vice Chairman Devlin: In section 6 of this bill, it has an effective date that runs out next January so this is only going to be in effect for six months. I am not so sure....

(more discussion on expiration date of bill.)

Chairman Price: Okay we have an amendment proposed to remove Section 6. All those in favor signify by saying Aye. Opposed? Now we have an amended bill. What are your wishes?

Rep. Metcalf: I move a Do Pass on the amended bill.

Rep. Pollert: I second.

Chairman Price: I have Do Pass as Amended on SB 2097. The clerk will take the roll.

MOTION FOR A DO PASS AS AMENDED

YES, 11 NO, 0

3 ABSENT AND NOT VOTING

CARRIED BY REP. NIEMEIER

VR
3/6/01

HOUSE AMENDMENTS to ENG.SB 2097 HOUSE HUMAN SERVICES 3-7-01
Page 1, line 1, remove "to create and enact a new section to chapter 50-24.4 of the North Dakota"

Page 1, line 2, remove "Century Code, relating to nursing home reporting requirements;" and replace "sections" with "subsection 1 of section"

Page 1, line 3, remove "and 50-24.4-08"

Page 1, line 4, replace "; to repeal sections 50-24.4-23 and 50-24.4-25 of the North" with a period

Page 1, remove lines 5 and 6

Page 1, line 8, replace "Section" with "Subsection 1 of section"

Page 1, remove line 10

HOUSE AMENDMENTS to ENG.SB 2097 HOUSE HUMAN SERVICES 3-7-01
Page 2, remove lines 19 through 31

HOUSE AMENDMENTS to ENG. SB 2097 HOUSE HUMAN SERVICES 3-7-01
Page 3, remove lines 1 through 18

Renumber accordingly

Date: 3-5-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2097

House Human Services Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken move to amend bill to remove Section 2, 3, 4 & 5

Motion Made By Rep. Porter Seconded By Rep. Sandvig

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) 11 No 0

Absent 3

Floor Assignment _____

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

Date: 3-5-01
Roll Call Vote #: 2

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2097

House Human Services Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken move to further amend - delete Sec. 1

Motion Made By Rep. Devlin Seconded By Rep. Poller

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) 11 No 0

Absent 3

Floor Assignment _____

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

Date: 3-5-01
Roll Call Vote #: 3

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2097

House Human Services Committee

☐ Subcommittee on _____

or

☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken move DO PASS as amended

Motion Made By Rep. Metcalf Seconded By Rep. Pollert

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) 11 No 0

Absent 3

Floor Assignment Rep. Niemeier

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

REPORT OF STANDING COMMITTEE

SB 2097, as engrossed: Human Services Committee (Rep. Price, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (11 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). Engrossed SB 2097
was placed on the Sixth order on the calendar.

Page 1, line 1, remove "to create and enact a new section to chapter 50-24.4 of the North Dakota"

Page 1, line 2, remove "Century Code, relating to nursing home reporting requirements;" and
replace "sections" with "subsection 1 of section"

Page 1, line 3, remove "and 50-24.4-08"

Page 1, line 4, replace "; to repeal sections 50-24.4-23 and 50-24.4-25 of the North" with a
period

Page 1, remove lines 5 and 6

Page 1, line 8, replace "Section" with "Subsection 1 of section"

Page 1, remove line 10

Page 2, remove lines 19 through 31

Page 3, remove lines 1 through 18

Renumber accordingly

2001 SENATE HUMAN SERVICES
CONFERENCE COMMITTEE
SB 2097

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2097

Senate Human Services Committee

☐ Conference Committee

Hearing Date March 28, 2001

Tape Number	Side A	Side B	Meter #
1	X		
Committee Clerk Signature <i>Carol Hendrich</i>			

Minutes:

The conference committee was called to order by SENATOR FISCHER. All members were present: SENATOR ERBELE, SENATOR MATHERN, REPRESENTATIVE DEVLIN, REPRESENTATIVE TIEMAN, REPRESENTATIVE NIE:MEIER. Discussion on what the Senate Human Services Committee did and how the House changed the bill. BARB FISCHER, Department of Human Services explained what the Dept would like to have changed. In this bill, private pay is penalized because rates are not on time; the reason being back with the long term care facilities asking for extensions of time to get their cost report in.

SHELLY PETERSON explained how they misunderstood that it is really the fault of the facilities for not getting reports in. REPRESENTATIVE DEVLIN moved that the House recede from the House amendments and amend. REPRESENTATIVE TIEMAN seconded the motion. The amendment 18144.0201 was the original House amendment; we deleted the part page 3, remove lines 1-18 and added to remove the overstrike and after rates insert except when a facility

Page 2

Senate Human Services Committee

Bill/Resolution Number SB 2097

Hearing Date March 28, 2001

fails to file cost report by October 1. Discussion. Roll call vote carried 6-0. SENATOR

FISCHER will carry the bill on the Senate floor. REPRESENTATIVE DEVLIN will carry the

bill on the House floor.

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2097

That the House recede from its amendments as printed on page 758 of the Senate Journal and pages 827 and 828 of the House Journal and that ^{Engrossed} Senate Bill No. 2097 be amended as follows:

Page 1, line 1, remove "to create and enact a new section to chapter 50-24.4 of the North Dakota"

Page 1, line 2, remove "Century Code, relating to nursing home reporting requirements;" and replace "sections" with "subsection 1 of section"

Page 1, line 3, after "and" insert "section"

Page 1, line 4, replace "; to repeal sections 50-24.4-23 and 50-24.4-25 of the North" with a period

Page 1, remove lines 5 and 6

Page 1, line 8, replace "Section" with "Subsection 1 of section"

Page 1, remove line 10

Page 2, remove lines 19 through 31

Page 3, remove lines 1 and 2

Page 3, line 10, remove the overstrike over "~~If the department fails to set rates at least forty days~~"

Page 3, remove the overstrike over line 11

Page 3, line 12, remove the overstrike over "~~number of days by which the department was late in setting the rates~~" and insert immediately thereafter "except when a facility fails to file a cost report by October 1" and remove the overstrike over the period

Page 3, remove lines 13 through 18

Renumber accordingly

Roll Call Vote #:

Senate

Human Services

Committee

☐ Subcommittee on

or

☒ Conference Committee

Legislative Council Amendment Number

Action Taken

Accede from House Amendments & Amend.

Motion Made By

Rep Berlin

Seconded
By

Rep Kemana

[illegible]

Total (Yes) 6 No 0

Absent 0

Floor Assignment

Den Fischer

Rep. Venturi

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

REPORT OF CONFERENCE COMMITTEE

SB 2097, as engrossed: Your conference committee (Sens. Fischer, Erbele, T. Mathern and Reps. Devlin, Tieman, Niemeler) recommends that the **HOUSE RECEDE** from the House amendments on SJ page 758, adopt amendments as follows, and place SB 2097 on the Seventh order:

That the House recede from its amendments as printed on page 758 of the Senate Journal and pages 827 and 828 of the House Journal and that Engrossed Senate Bill No. 2097 be amended as follows:

Page 1, line 1, remove "to create and enact a new section to chapter 50-24.4 of the North Dakota"

Page 1, line 2, remove "Century Code, relating to nursing home reporting requirements;" and replace "sections" with "subsection 1 of section"

Page 1, line 3, after "and" insert "section"

Page 1, line 4, replace "; to repeal sections 50-24.4-23 and 50-24.4-25 of the North" with a period

Page 1, remove lines 5 and 6

Page 1, line 8, replace "Section" with "Subsection 1 of section"

Page 1, remove line 10

Page 2, remove lines 19 through 31

Page 3, remove lines 1 and 2

Page 3, line 10, remove the overstrike over "~~if the department fails to set rates at least forty days~~"

Page 3, remove the overstrike over line 11

Page 3, line 12, remove the overstrike over "~~number of days by which the department was late in setting the rates~~" and insert immediately thereafter "except when a facility fails to file a cost report by October first" and remove the overstrike over the period

Page 3, remove lines 13 through 18

Renumber accordingly

Engrossed SB 2097 was placed on the Seventh order of business on the calendar.

2001 TESTIMONY
SB 2097

TESTIMONY ON SB 2097
HUMAN SERVICES COMMITTEE
JANUARY 10, 2001

Chairman Lee and members of the committee, I am Barbara Fischer, Manager Long Term Care and Hospital Services with the Department of Human Services. I appear before you today in support of SB 2097.

This bill will provide an exemption to the requirement to have an annual audit report submitted by October 1 for state-owned nursing facilities.

The annual audit requirement is included as part of the provisions for rate setting for nursing facilities. State agencies are normally audited, by the State Auditor's Office, for a two-year period. The current requirement in 50-24.4-23 adds an additional audit for the off year for the Veterans Home and The Developmental Center nursing facilities and requires that the audit report be submitted with the cost report no later than October 1 of each year.

Nursing facilities which do not meet the cost reporting requirements can have their rates reduced to 80% of their established rate until they comply with the reporting requirements. For state-owned nursing facilities a reduction of the established rate would mean revenues which are derived from federal funds would have to be supplanted with general fund dollars. For the current rate year a reduction in the rates to 80% would result in an annual loss of federal funds of \$109,143 for the Veteran's Home and \$79,481 for the Developmental Center

If the State Auditor's Office cannot complete an audit by the October 1 deadline, the facilities would have to have an audit done by a CPA firm or run the risk of having the rates reduced to 80%. It is estimated that the cost of an audit done by other than the State Auditor's Office would at least double the costs to the

facilities. The cost of an audit by the State Auditor's Office for each of the nursing facilities is estimated at \$6,000 for the off-biennium audit.

I would be happy to answer any questions.

TESTIMONY ON SB 2097
HUMAN SERVICES COMMITTEE
MARCH 5, 2001

Chairman Price and members of the committee, I am Barbara Fischer, Manager Long Term Care and Hospital Services with the Department of Human Services. I appear before you today in support of SB 2097.

This bill will provide an exception to the reporting requirement to have an annual audit report submitted by October 1 for state-owned nursing facilities for the next report year and gives the department the authority to establish reporting requirements for future report years.

The annual audit requirement is included as part of the statutory provisions for nursing facility rate setting. State agencies are normally audited, by the State Auditor's Office, for a two-year period. The current requirement in 50-24.4-23 adds an additional audit for the off year for the Veterans Home and The Developmental Center nursing facilities and requires that the audit report be submitted with the cost report no later than October 1 of each year.

Nursing facilities which do not meet the cost reporting requirements can have their rates reduced to 80% of their established rate until they comply with the reporting requirements. For state-owned nursing facilities a reduction of the established rate would mean revenues which are derived from federal funds would have to be supplanted with general fund dollars. For the current rate year a reduction in the rates to 80% would result in an annual loss of federal funds of \$109,143 for the Veteran's Home and \$79,481 for the Developmental Center.

The original bill only included the exception for the state-owned facilities, contained in section 1 on line 13. The Senate Human Services committee requested the department provide amendments which would remove the

technical reporting requirements from statute and allow the department to establish the requirements by rule.

Section 2 gives the department the authority to establish report requirements by rule and continues the current provisions with respect to facilities who do not meet reporting requirements.

Section 3 removes the language relating to private pay notice requirements when the department is late in setting rates. It is a well-established practice that private pay residents must receive a thirty day notice for all rate increases in all instances. The department is very cognizant of the thirty day requirement and makes every effort to ensure that facilities receive notices in adequate time to inform residents of rate increases and has never been late in setting rates when a nursing facility submits the cost report by the October 1 deadline. If a nursing facility does not follow reporting requirements, it is actually the facility that adversely effects the notice required for private pay residents by not allowing for sufficient time for the department to establish a rate.

Section 4 repeals sections relating to reporting requirements and Section 5 provides the effective date for the repeal of the statutory provisions.

Section 6 provides that section 1 becomes ineffective after January 1, 2002. This language is superfluous since Section 4 which repeals section 1 is effective as of January 31, 2002.

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

Testimony on SB 2097

House Human Services Committee

March 5, 2001

Chairman Price and members of the House Human Services Committee, thank you for the opportunity to testify on SB 2097. My name is Shelly Peterson, President of the North Dakota Long Term Care Association. I am here today on behalf of our members: nursing facilities, basic facilities and assisted living facilities.

I am here today in opposition of SB 2097 and respectfully request a "DO NOT PASS." We have reviewed the merits of SB 2097 thoughtfully and carefully and after much discussion and input do not find any support for it. We did not take a position on this bill when it was in the Senate as we were still evaluating the bill.

It is our belief that the legislature is the policy making branch of government and the bureaucracy creates rules to implement the law. SB 2097 removes from statute all the reporting requirements of nursing facilities. The Department intends to create rules to replace the statute.

We think this is backwards. Nursing facilities are complying with the reporting requirements and they are not burdensome. We are concerned that the Department wants to remove important sections of law and under their broad rule making authority, create new rules. If something is working effectively now why would we change it?

We are also concerned the Department wants to eliminate an important item in Section 3 of the bill. Currently if the Department fails to set rates at least forty days prior to the beginning of a rate year, the time required for giving notice is decreased by the number of days by which the Department was late in setting the rates. We absolutely believe all residents are entitled to a 30 day notice on any rate increase, however if the Department doesn't deliver the rate information to the nursing facility on time, it's impossible to provide adequate notice. We believe if the Department is late, nursing facilities shouldn't be penalized on the 30 day notice requirement and that is what you would be doing by removing lines 10, 11 and 12 on page 3 of the bill.

Thank you for your thoughtful consideration of SB 2097. We ask for your support in voting against this bill.

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

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

50-24.4-23. 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 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;
 - c. Provide the department with separate, audited financial statements as specified in subdivision a of this subsection for every other facility owned in whole or in part by an individual or entity which has an ownership interest in the facility;
 - d. Upon request, provide the department with separate, audited financial statements as specified in subdivision a of this subsection for every organization with which the facility conducts business and which is owned in whole or in part by an individual or entity which has an ownership interest in the facility;
 - e. Provide the department with copies of leases, purchase agreements, appraisals, financing arrangements, and other documents related to the lease or purchase of the nursing facility, or a certification that the content of any such document remains unchanged since the most recent statement given pursuant to this subsection;
 - f. Upon request, provide the department with copies of leases, purchase agreements, and other documents related to the acquisition of equipment, goods, and services which are claimed as allowable costs; and
 - g. Permit access by the department to the certified public accountant's audit workpapers which support the audited financial statements required in subdivisions a, c, and d of this subsection.
2. Documents or information provided to the department pursuant to this chapter must be public. If the requirements of subsection 1 are not met, the reimbursement rate may be reduced to eighty percent of the rate in effect on the first day of the fourth calendar month after the close of the reporting year, and the reduction must continue until the requirements are met.

Source: S.L. 1987, ch. 582, § 23.

50-24.4-25. Extensions. The department may grant an extension of the reporting deadline, not to exceed thirty days, to a nursing home for good cause.

Source: S.L. 1987, ch. 582, § 25; 1995, ch. 471, § 1.

section 1 of chapter 471. S.L. 1995 became effective August 1, 1995

Effective Date.

The 1995 amendment of this section by