2009 SENATE POLITICAL SUBDIVISIONS

SB 2167

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2167

Senate Political Subdivisions Committee

☐ Check here for Conference Committee

Hearing Date: 01/15/09

Recorder Job Number: 2167

Committee Clerk Signature Emily Sparling

Minutes:

Chairman Andrist: Called the meeting to order. Had the Clerk take the roll. Opened the hearing on SB 2167

Senator Lee: Introduced SB 2167. I am here to present the idea of reusing medical equipment. This bill says if the state is providing medical equipment they should develop some sort of plan to reuse or recycle it if at all possible. An incident was brought to my attention that some medical equipment had been sold on e-bay. I would like to avoid an onerous documentation program but I would like to see left over medical equipment reused. I look forward to Mr. Schweitzer's comments but I would like to have a plan or proposal to make sure equipment is used if possible.

Chairman Andrist: Is this equipment made available to people or just given?

Senator Lee: It is given to them.

Chairman Andrist: So it belongs to them and if they wish to dispose of it they get the money?

Senator Lee: That is what has been going on but I don't believe there is a lot of abuse happening. I think we as a state have a moral obligation to provide equipment to people who need it.

Chairman Andrist: What about scooters and diabetic equipment? Is that federal?

Senator Lee: That is primarily Medicaid and Medicare. It is primarily a federal issue. This is just stuff that the state has an investment in.

Senator Bakke: How does the process work? How is equipment given?

Senator Lee: I would appreciate if you waited for Mr. Schweitzer to answer that. When I have received calls about this I have always deferred to the Department of Human Services.

Chairman Andrist: Have you thought about making the approach that we donate but do not give the equipment so they would have to return it?

Senator Lee: That's a good idea, I hadn't thought of that. That's why we are here.

Chairman Andrist: The American Legion collects medical equipment and gives it out as free loans. They expect that someday they will get it back.

Senator Lee: There are some organizations like that. People do not always use equipment long term. I just don't want people selling for profit, but I don't want to make it difficult.

Chairman Andrist: Any further questions? Any more in favor of this bill?

Alex Schweitzer: Superintendant of the ND State Hospital and the ND Developmental Center. The ND Development does a great job of modifying and adapting equipment for special cases. I have no issue with the intent of this bill. It's actually very hit or miss as to whether or not we get equipment back. Equipment should be reutilized and I don't think it should be too hard to develop a policy to deal with this issue.

Chairman Andrist: You have no objections to the bill? Do you think it would work effectively?

Schweitzer: I think if there was some teeth in terms of the law in terms of getting the equipment back it would be helpful for us.

Senator Bakke: What is the process; is there a contract when you give equipment to someone?

Schweitzer: We have referrals from a variety of agencies. Most referrals come from counties, IPAT and DHS. We go in home and deal directly with the patients. The intent is to provide services so we do not have a contract. It is very informal. And we don't have any way to get the equipment back.

Senator Bakke: Would you need a formal contract to get it back?

Schweitzer: We could possibly do it that way, yes.

Chairman Andrist: That could conceivably be a part of this law to develop that policy/plan.

Senator Anderson: Should there be a standard form for everyone to use that went to a centralized place?

Schweitzer: We would simply develop a policy or some kind of written contract; that would help us get it back.

Senator Lee: I don't want to make it too complex. I trust the departments to come up with a good plan if we decide to move forward with this. Maybe your idea of lending instead of giving, Mr. Chairman, would be enough for 98% of the cases. At least it allows us to have some string attached to it.

Schweitzer: I think if you looked at many non-for-profits and how they do their loans it is a donation temporarily and it comes back. It would not set a precedent, it is pretty common.

Chairman Andrist: Thank you. Are there any other questions? Anyone else in support?

Maggie Anderson: Director of Medical Services for the Department of Human Services. I would like to provide information. We pulled some information of what Medicaid pays for in terms of what we call durable medical equipment-only items that we would see as reusable. Based on 2007-08 claims it's about 7-8000 pieces of equipment per year. We have always considered once we purchase a wheelchair that it is client owned. We have never considered getting the equipment back. We would have to check with our federal partners on that. 38% of our costs are state and the rest is federal.

Chairman Andrist: So you don't think the bill would apply to you?

Anderson: Actually we do think it would apply to us since state moneys go into each piece of equipment. About 63% of the cost is covered by federal and the rest is state.

Chairman Andrist: Does the prospect of tracking equipment use and returns present a formidable problem from your perspective?

Anderson: We did not understand from the bill if there would be a tracking mechanism. Tracking would be difficult. Our system does track some equipment. For example we have a five year tracking program for wheelchairs. Perhaps through the process we can understand what tracking would look like.

Chairman Andrist: The equipment you work with is primarily federal?

Anderson: We are at about 63% federal.

Senator Anderson: When you say 7-8000 pieces a year, would those be the type that relate to this bill?

Anderson: Yes, when we pulled our data we limited it to reusable items.

Senator Anderson: There must be a certain life expectancy for each piece of equipment which would require a major tracking program, which I don't have a problem with. Is there a shelf life for some of this equipment where you would discard the records?

Anderson: Yes, there is definitely a shelf life. We also have a lot of specialized cases. Wheelchairs are tailored to each individual and each individual uses it differently. Alex's staff does a great job of modifying this equipment. Certainly we would want to come up with some sort of policy where if we knew that wheelchair was more than 4 years old we wouldn't add it to the program.

Chairman Andrist: It is worth pointing out that Senator Lee's bill asks for a policy.

Senator Bakke: What about storage? Where will we keep all of it?

Anderson: That was one of our unknowns about this bill. The ND Association for the Disabled has a loan program and we would try and cooperate with them. We certainly don't have the room currently for storage.

Senator Bakke: I think what I like about this bill is that the wording about the <u>possible</u> reuse of the equipment. I think that is important.

Schweitzer: I would like to answer Senator Bakke's question about storage. That is certainly not a problem from our standpoint. We have plenty of room.

Anderson: We have not gone to the point of developing a storage plan per se.

Chairman Andrist: Would there be ways that you would fine tune the bill?

Anderson: I came to provide information. I don't have any changes or proposed changes. I think it reads clearly about developing a policy and how we could possible reuse equipment. I think we could work within the replacement guidelines that we have now to develop something there.

Chairman Andrist: Alex thought it could be a little more clear about it not being a free gift but a loan, would that be helpful?

Anderson: I would really have to talk to my federal partners about that as we do typically see the equipment as client owned.

Chairman Andrist: Is the federal agency accessible?

Anderson: It depends, but I will try the appropriate contacts after this hearing.

Senator Bakke: Do we have a contract or obligation or requirement from the federal government as to what we can do with this equipment? They are providing 2/3rds of the funding. Do they have any policy that would prevent us from doing this?

Anderson: That's exactly what I think we need to follow up with them about.

Senator Dotzenrod: We have been talking about adaptive equipment but are there other things included such as wrist responders and blood pressure cuffs?

Anderson: Those are possible, often in the short term we rent equipment that won't be used in the long term.

Chairman Andrist: Are there any other questions?

Senator Anderson: Would a listing of all the equipment made available to the public under public records?

Anderson: No, that is private information. When it is client specific—it is protected health information. When the equipment is no longer in use, we could develop a list of what's available.

Teresa Larsen: Executive Director with the Protection and Advocacy Project. We are a state agency. We have a group of people that meet and discuss bills. There was some overreaction on the part of the families about how they will track this. Will they be in trouble if we have only had the wheelchair for two years and it is damaged and it shouldn't have been and now we are in trouble? I would just encourage agencies to consult families when they start developing policies. The bill is drafted in such an open manner and it will actually end up benefitting more people with disabilities in the long run.

Chairman Andrist: The way I read this bill is that each agency will develop its own policies.

Senator Lee: Complimented the presenters.

Sherry Neas: Director of Central Services at OMB. I am here to present information. I wanted to bring it to your attention that OMB deals with surplus property and there is a law 54-44 that requires state agencies to report to OMB any surplus property. The agency simply provides surplus property to other agencies and eligible non-profits, and then makes it available to the public.

Senator Bakke: So are you saying that you feel this equipment would fall under that surplus property?

Neas: After an agency determines that it no longer has need of equipment it would go to us. If it is still in use between agencies it is not surplus property. OMB is simply a warehouse so it is not a sterile

environment. We would not have the expertise to determine if equipment is reusable. From the business end of it is useful to have a place to get rid of equipment when it is no longer in use.

Senator Bakke: Is there a lot of book keeping involved to evaluate the value of the equipment?

Neas: There is a simple form that talks about the purchase price and if there is another entity interested in it. OMB surplus then facilitates the sale.

Senator Lee: I do not want to make this challenging and cumbersome by adding in the surplus office. If there is not an easier way to make this stuff available we do not have to follow through with this bill.

Vice Chairman Olafson: Do you think we need to amend 54-44 to clear up your involvement with this bill?

Neas: I don't think this needs to be a burdensome process as you do not even need to bring the equipment over. We are simply an avenue for sale.

Vice Chairman Olafson: It seems to me that we are trying to get equipment that has been used for a special purpose back to a specific unique group. I see this as quite a bit different from what you usually do. So I see this as burdensome because we are bringing another state agency into the mix.

Neas: At the point when this medical is no longer needed by any agency, it will go to us for its final disposition.

Chairman Andrist: So part of the policy can be that if they no longer want to have the equipment they could get rid of it by giving it to you.

Neas: That is correct.

Chairman Andrist: As long as they are not required to bring you into the process...Any further questions?

Senator Bakke: That's what I wanted to make sure of, they do not have to bring you into the process unless they want to get rid of it.

Neas: Yes, we are the **final** sale. People are required to file surplus property with us. If it is determined that it is in poor condition it might end up in the dumpster.

Schweitzer: It is very rare that we would ever trash anything. We follow the OMB policy, but it doesn't happen often. I don't think this would be a problem. We use everything.

Senator Lee: If the department works at developing a policy, does this permit you to put it in place? If you are able to come up with a policy do you think you can move forward without waiting to 2011?

Anderson: The only thing that I can think of is if there was anything that needs to go through administrative rules. But aside from that and any legal counsel we might get, DHS has no problem.

Senator Lee: We would like to enable them to move forward.

There was no opposition given.

Chairman Andrist: My sense is that we are on to something good but it needs a bit of tweaking. I would like to give it some more time so that we can communicate with the federal government. The one change I might like to see is moving from "providing free medical equipment" to "medical equipment provided at no cost to the individual." Senator Lee, I want you in on this as you have a good background in this. Let's meet again on next Friday at 10:00.

Chairman Andrist: Closed the hearing.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2167

Senate Political Subdivisions Committee

☐ Check here for Conference Committee

Hearing Date: 01/23/09

Recorder Job Number: 7629

Committee Clerk Signature Emily Sparling

Minutes:

Chairman Andrist: Reopened the hearing on SB 2167.

Senator Lee: We are ready to move. Everyone is in support. I move **Do Pass.** (additional testimony submitted on 01/22/2009, see attachment #1).

Senator Bakke: Second.

Clerk called the role on the motion to **Do Pass. Yes: 6, No: 0, Absent: 0.**

Senator Lee will carry the bill.

Date: 1/23/09
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2167

Senate **Political Subdivisions** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☑ Do pass ☐ Do not pass ☐ Amend

Motion Made By D. Lee Seconded By Bakke

Senators	Yes	No	Senators	Yes	No
Chairman John M. Andrist	✓		Senator Arden C. Anderson	✓	
Vice Chairman Curtis Olafson	✓		Senator JoNell A. Bakke	✓	
Senator Judy Lee	✓		Senator Jim Dotzenrod	✓	

Total (Yes) 6 No 0

Absent 0

Floor Assignment D. Lee

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

REPORT OF STANDING COMMITTEE

SB 2167: Political Subdivisions Committee (Sen. Andrist, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2167 was placed on the Eleventh order on the calendar.

2009 HOUSE HUMAN SERVICES

SB 2167

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2167

House Human Services Committee

☐ Check here for Conference Committee

Hearing Date: March 3, 2009

Recorder Job Number: 10106

Committee Clerk Signature Vicky Crabtree

Minutes:

Chairman Weisz opened the hearing on SB 2167.

Sen. Judy Lee sponsored and introduced the bill: Testified in support. A friend of mine had a relative who had received some medical equipment from the state and saw on E Bay that some of the medical equipment was for sale and she was ticked that this could be possible. That brought about SB 2167.

Rep. Holman: When equipment is provided is ownership then transferred to the recipient of the equipment?

Sen. Lee: Yes, it is given to them. Some other people may be donating it to entities that accept medical equipment.

NO OPPOSITION.

Chairman Weisz closed hearing on SB 2167.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2167

House Human Services Committee

☐ Check here for Conference Committee

Hearing Date: March 3, 2009

Recorder Job Number: 10111

Committee Clerk Signature Vicky Crabtree

Minutes:

Chairman Weisz Let's take up 2167.

Rep. Uglem: Medical equipment is expensive and I don't see anything wrong with people recycling it rather than sell it.

Rep. Hofstad: Makes good sense to me if it is state's property, it ought to be sold to the state.

Rep. Pietsch: How does the state get it back from the family that they gave it to? Is that a condition when they (dropped sentence).

Rep. Porter: They have to set up a policy.

Rep. Hofstad: Motion a Do Pass.

Rep. Uglem: Second.

Roll Call Vote: 13 yes, 0 no, 0 absent.

MOTION CARRIED DO PASS.

BILL CARRIER: Rep. Uglem.

Date: 3-3-09

Roll Call Vote #:

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2167

House HUMAN SERVICES Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ Do Pass ☐ Do Not Pass ☐ Amended

Motion Made By Rep. Hofstad Seconded By Rep. Uglem

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN ROBIN WEISZ	✓		REP. TOM CONKLIN	✓	
VICE-CHAIR VONNIE PIETSCH	✓		REP. KARI L CONRAD	✓	
REP. CHUCK DAMSCHEN	✓		REP. RICHARD HOLMAN	✓	
REP. ROBERT FRANTSVOG	✓		REP. ROBERT KILICHOWSKI	✓	
REP. CURT HOFSTAD	✓		REP. LOUISE POTTER	✓	
REP. MICHAEL R. NATHE	✓				
REP. TODD PORTER	✓				
REP. GERRY UGLEM	✓				

Total (Yes) 13 No 0

Absent 0

Bill Carrier Rep Uglem

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

REPORT OF STANDING COMMITTEE

SB 2167: Human Services Committee (Rep. Weisz, Chairman) recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2167 was placed on the Fourteenth order on the calendar.

2009 TESTIMONY

SB 2167

#1

Senate Political Subdivisions Committee
SB 2167
January 19, 2009

Submitted by:
Judie Lee
IPAT Executive Director
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Chairman Andrist, members of the Political Subdivisions Committee, I am Judie Lee, Executive Director of the Interagency Program for Assistive Technology (IPAT). I am submitting comment on SB 2167. IPAT was established in 1994 to ensure people with disabilities of all ages and those experiencing the effects of aging, have access to the assistive technology devices and services they need for work, school, and home.

One of the statewide services IPAT provides is an equipment exchange program, "AT Swap & Shop" which was established in 1996. This service allows individuals to buy, sell, swap, or give away used AT equipment through the IPAT website. We get many inquiries regarding what to do with used equipment that is no longer needed.

Reutilization of equipment is an important topic as we strive to be good stewards of dollars and resources. It has been IPAT's experiences with several statewide re-use efforts, that people in ND appreciate the cost of items, want someone else to benefit from the used equipment, and will usually follow directives if provided. A policy addressing *"...the possible reuse, recycling, or resale value..." (SB 2167)* could give them that direction.

There is a way to reuse AT equipment and there is a supply of it in North Dakota. Thoughtful policies identifying procedures could connect the supply and demand within our state.