Prepared for the Government Administration Committee
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GOVERNMENT ADMINISTRATION COMMITTEE STUDY SUMMARY - REVENUE-GENERATING USES OF THE VETERANS' HOME

STUDY

Section 35 of Senate Bill No. 2015 (2019) provided for a study during the 2019-20 interim regarding the feasibility and desirability of developing other allowable revenue-generating uses of the Veterans' Home facilities and grounds in addition to the purposes identified in North Dakota Century Code Section 37-15-02. The study must include an analysis of potential revenue-generating activities for the Veterans' Home facilities and grounds, including a review of the effect on any federal requirements. The Legislative Management is required to report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the 67th Legislative Assembly. The Legislative Management assigned the responsibility for this study to the Government Administration Committee.

BACKGROUND

History and Eligibility

The Veterans' Home, originally called the Old Soldiers' Home, is owned and operated by the state. The Veterans' Home includes two basic-care pods that can house 98 residents and one skilled-care pod that can house 52 residents for eligible North Dakota veterans, including honorably discharged soldiers of the North Dakota National Guard, and spouses. Each pod includes four households designed for 12 to 13 residents in each household. The facility has 142 private rooms and 4 semi-private rooms, each room with its own private bathroom. Each household has a living room area, open kitchen, and dining area.

Section 13 of Article IX of the Constitution of North Dakota and Section 37-15-01 provide the Veterans' Home is to be located in Lisbon. Pursuant to Section 37-15-10, to be eligible for admission veterans must meet one of the following criteria:

- Bona fide resident of North Dakota verified 30-day residency;
- Served in a North Dakota regiment;
- Entered the armed services as a North Dakota resident; or
- Spouse or surviving spouse of an eligible veteran meeting the criteria above.

The basic-care unit requires potential residents to have total independence with personal care needs--bathing, dressing, eating, ambulating (walking), toileting, and transferring. The skilled-care unit requires a potential resident meet the North Dakota criteria for nursing home placement.

As of July 2019, there were 54 individuals in the basic-care unit, an occupancy rate of 55 percent and 52 individuals in the skilled-care unit, an occupancy rate of 100 percent. Of the Veterans' Home's eight basic-care pods, two pods are closed due to low census.

The North Dakota Long Term Care Association reported North Dakota has experienced a decrease of more than 900 skilled-care bed capacity, an increase of 726 basic-care bed capacity, and an increase of 1,490 of assisted living bed capacity since 2004. The state average occupancy rate for skilled care is 90 percent while the average basic-care occupancy is 70 percent.

Services

Residents of the Veterans' Home receive medical treatment, including 24-hour nursing care, and access to registered nurses, licensed practical nurses, medication technicians, household coordinators, and resident living specialists to provide personal care for each resident. The Veterans' Home also offers onsite pharmacy services (for veterans); transportation to the Fargo Veterans' Administration Medical Center; transportation to local medical appointments; dietary and nutritional services, including special diet menus; chaplain and spiritual care services;

mental health services; physical, occupational, and speech therapy services; social services; recreational therapy, including scenic drives, shopping trips, bingo, parties, card games, and access to an activity room; laundry services; therapeutic work program; and financial services.

Moratoriums

In House Bill No. 1355 (2019), the Legislative Assembly amended Section 23-09.3-01.1 to extend the moratorium on expansion of basic-care bed capacity in the state through July 31, 2021. The bill also amended Section 23-16-01.1 to extend the moratorium on expansion of long-term care, including skilled-care bed capacity in the state through July 31, 2021. These moratoriums preclude nursing facilities from adding basic-care or long-term care beds to the state's licensed bed capacity.

Revenue

Section 37-15-14 establishes a Veterans' Home operating fund, also known as the soldiers' home fund, to be maintained in the State Treasury. Revenue for the fund is derived from interest on the sale of lands, land rent, and federal funds provided for the support and maintenance of the Veterans' Home.

Section 37-15-14.1 allows the Veterans' Home Governing Board to establish fees to be paid by members of the Veterans' Home, which must be based on the adjusted income of each member, but not to exceed 49 percent of the average daily member cost. As of July 2020, the monthly maximum rent was $1,850 for basic-care residents. Because the fee is based on the adjusted income of each member, some residents pay the maximum rate while other residents pay $0 each month. In addition, the Veterans' Home receives federal funding of $47.36 for every day each resident is enrolled in basic care.

Skilled-care residents are charged a daily rate developed by the Department of Human Services' case mix system. The current skilled-care rate range is $227 to $681 each day. In addition, the Veterans' Home receives federal funding of $109.73 for every day each resident is enrolled in skilled care.

Revenue collected in the fund for the 2011-13 through 2017-19 bienniums is as follows:

	2011-13 Biennium	2013-15 Biennium	2015-17 Biennium	2017-19 Biennium
Federal funding	$4,740,347	$5,081,942	$5,660,005	$5,341,234
Interest income	461	371	323	429
Donations	6,964	8,085	6,793	4,453
Pharmacy copayments	150,922	208,544	180,539	101,382
Meal sales and miscellaneous sales and services	57,938	87,787	132,686	133,933
Care and treatment - Medical assistance	3,616,320	2,779,692	3,265,251	2,974,125
Care and treatment - Medicare	7,774	383,939	337,664	280,986
Care and treatment - Blue Cross Blue Shield	3,847,721	5,796,853	6,596,734	6,855,651
Care and treatment - Other	1,736,893	1,675,770	1,749,841	1,626,177
Mineral royalties	4,770			5,456
Insurance recoveries		400,000	32,500	
Other	3,919	18,275	16,003	13,766
Transfer to the Melvin Norgard memorial fund	(258,966)			
Transfer from the state lands permanent fund	279,429	325,428	434,000	711,984
Total	$14,194,492	$16,766,686	$18,412,339	$18,049,576

In addition to the soldiers' home fund, the Veterans' Home maintains the Melvin Norgard memorial fund and the Veterans' Home custodial funds. Revenue deposited in the Melvin Norgard memorial fund is derived from mineral lease income, royalties, and sale proceeds from land gifted to the Veterans' Home from Melvin Norgard. Revenue deposited in the custodial funds is derived from donations, gifts, or bequests given to the Veterans' Home. During the 2017-19 biennium, revenue deposited in the Melvin Norgard memorial fund was $178,014 while $198,092 was deposited in the custodial funds.

VETERANS' HOME

The committee received testimony regarding a history of the Veterans' Home and its facilities, occupancy rates for basic care and skilled care, and potential uses of Veterans' Home facilities and grounds for other revenue-generating uses and any concerns regarding these activities, including the effect of federal funds requirements and on the availability of federal funds. The committee also received testimony regarding the resident pharmacy program, costs of the program, and federal per diem funding provided from the United States Department of Veterans Affairs (VA) for the program.

As of September 2017, there were nearly 20 million veterans nationwide, of which 51,677 were North Dakota veterans. Of this number, 22,033, or 42.6 percent, were age 65 or older. The VA estimates the number of veterans in 2045 will decrease to 12 million nationwide and 42,000 in North Dakota.

Basic Care

The committee was informed basic-care rent is calculated at 55 percent of a veterans' monthly income, less medical expenses. The current maximum chargeable rent is $1,850 for basic care. Spouses of veterans pay the maximum rate regardless of income or expenses. The Veterans' Home average cost of care for a basic-care resident is between $4,000 to $4,500 each month, which is paid by a combination of federal funds, state funds, and resident rent collections.

The VA pays a daily per diem rate of $47.35 on behalf of each Veterans' Home resident, but the VA will not pay the per diem if a resident is absent from the Veterans' Home for more than 96 consecutive hours. The per diem rate of $47.35 is provided by the VA and used by the Veterans' Home for pharmacy costs of residents. If a resident is absent from the Veterans' Home for more than 96 hours and the VA does not provide the daily per diem for the resident, the Veterans' Home does not have another revenue source to replace the reduction in VA per diem funding, which has resulted in a Veterans' Home policy of requiring residents to pay the daily per diem rate to cover their pharmacy costs if they exceed the allowable 96-hour absence policy. An average of five residents exceed the 96-hour allowable absence period each year.

Other states with veterans' homes also have experienced low basic-care occupancy, including Minnesota (60 percent), Massachusetts (57 percent), Pennsylvania (55 percent), Iowa (50 percent), Ohio (45 percent), New Mexico (40 percent), and Kansas (33 percent).

Testimony indicated obstacles to filling basic-care beds include a declining number of World War II and Korean War veterans, community in-home care programs, the VA hospice care program, and the VA in-home care program. The VA hospice care program covers a veteran's hospice care costs if the veteran is a resident of a private nursing home, but not a state's veterans' home. The VA in-home program provides family caregivers $26,500 each year to care for a family member veteran at home rather than admitting the veteran in a nursing home. Other obstacles for the Veterans' Home include lack of funding for advertising and staff education, and staff turnover due to private sector salaries being higher than state employee salaries.

Changes to the basic-care fee structure would require an amendment to Section 37-15-14.1. The fee structure is based on the adjusted income of each member but may not exceed 49 percent of the average daily per member cost.

The committee received information indicating increasing the maximum monthly basic-care rent of $1,850 would affect only 10 to 15 residents. If the 49 percent of adjusted income calculation for basic-care rent is increased, the Veterans' Home may experience an increase in revenue. Increasing the basic-care rent also could result in lower basic-care census because the cost of renting an off-campus apartment may be less costly than the new basic-care rent at the Veterans' Home, causing the Veterans' Home to lose revenue.

OTHER REVENUE-GENERATING USES OF THE VETERANS' HOME

The committee received information stating in addition to changing the basic-care rent rate calculation, potential revenue-generating uses of the Veterans' Home that would be eligible for federal VA funding include:

- Adding additional skilled-care beds;
- Adding an adult day care program; and
- Remodeling basic-care areas into independent assisted living units.

Additional Skilled Care

Skilled-care residents are charged a daily rate developed by the Department of Human Services' case mix system. The monthly rent for skilled care can range from $6,800 to $20,000.

According to testimony while the VA will provide funding to convert basic-care beds to skilled-care beds, that approach may not be desirable given the recent statewide reduction of skilled-care beds. The Veterans' Home has had fluctuating demand for skilled-care services, including having a waiting list of up to 10 individuals and having vacant skilled-care beds due to decreases in skilled-care demand.

Adult Day Care

The Minnesota Veterans Homes added an adult day care program, but the program has not been successful and is losing revenue. Testimony suggested the North Dakota Veterans' Home may have difficulties having success with an adult day care program in a small town due to a lack of demand for adult day care services in areas near Lisbon.

Independent Assisted Living

The committee was informed the VA may provide federal funding to the Veterans' Home for a portion of the operating costs of assisted living services if the Veterans' Home converted basic-care beds to assisted living. The program would need to be implemented and successful before any federal funding would be received. If the program is successful, the Veterans' Home would be placed on a national waiting list with other state agencies requesting federal funding for veterans programs, which means it may be several years before the Veterans' Home would receive federal funding for an assisted living program. The Veterans' Home has relatively new facilities, which may result in the Veterans' Home being placed low on national federal funding waiting lists.

Testimony indicated if the Veterans' Home remodeled basic-care areas to assisted living units, the VA will provide 65 percent of the remodel cost with the state providing the 35 percent match. An assisted living remodel would include adding a kitchenette to rooms and adding larger rooms and spouse rooms. Assisted living services would include resident fees for housekeeping, medication, meal plans, and nursing care. Disadvantages of a potential remodel would be the loss of eight rooms and rent structure changes.

VETERANS' HOME GOVERNING BOARD

The committee received testimony from the Veterans' Home Governing Board regarding suggestions for other revenue-generating uses of the Veterans' Home.

The Veterans' Home Governing Board has determined an adult day care program would not be profitable because of the lack of demand for adult day care services in the areas near the Veterans' Home. The Veterans' Home Governing Board indicated increasing the number of skilled beds would not be profitable because the Veterans' Home has vacant skilled beds and no skilled-care waiting list. According to testimony, these options also may be challenging because the Veterans' Home has several vacant positions it is unable to fill.

Basic-Care Census Concerns

Testimony indicated the Veterans' Home's low census is due to a lack of area workers available to work at the Veterans' Home and a lack of veterans applying for residency. Although the basic-care census was nearly 100 percent 4 years ago, several World War II and Korean War residents have died. The Veterans' Home anticipates more Vietnam War veterans will start applying for residency at the Veterans' Home, which will increase the number of basic-care and skilled-care residents.

The committee was informed an increase in the Veterans' Home budget for advertising costs may promote awareness of the Veterans' Home and the services provided, and potentially result in increasing its basic-care occupancy rate.

The Veterans' Home Governing Board hired a consultant to develop a strategic plan for the Veterans' Home which will include study options and recommendations for filling vacant basic-care beds.

Federal Funding Concerns

According to testimony, other revenue-generating uses of the Veterans' Home may include leasing a portion of the Veterans' Home to third parties; however, if the facility, which was constructed using federal VA funds, would be used for non-veteran related programs, the state would have to reimburse the VA for all federal funding used to construct the Veterans' Home. In addition, the Veterans' Home is not allowed to have less than 75 percent veteran occupancy in the facility or the Veterans' Home will lose federal per diem payments, which accounts for approximately 33 percent of the Veterans' Home revenue.

Any violation of these VA regulations may trigger a federal recapture clause, which could result in the state having to repay the federal government $14,684,000 for the federal portion of the Veterans' Home construction costs and $670,000 for the amount the federal government contributed for the Veterans' Home art studio and wood shop addition. An alternative option is for the state to pay the federal government approximately $15,354,000, resulting in the entire facility being owned by the state, which would allow the state to use the facility for non-veteran programs.

Workforce Concerns

The committee was informed converting basic-care areas to skilled care or adult day care may be challenging because the Veterans' Home has several vacant positions it is unable to fill, primarily due to Veterans' Home wages being lower than those of medical facilities in the area.

Testimony also stated it is difficult for the Veterans' Home to recruit nurses near Lisbon, and it is common in the medical profession for workers to move between organizations in pursuit of higher paying jobs. This combination has led to a worker shortage at the Veterans' Home.

The committee received testimony stating the Veterans' Home wages are less than nearby facilities in part because state employees did not receive salary increases during the 2017-19 biennium. Although, the Veterans' Home has competitive employee benefits, private organizations are beginning to offer benefits comparable to the state. According to testimony, nurses living near Lisbon are willing to drive to a larger city, such as Valley City or Fargo, for a higher salary.

POTENTIAL STUDY RECOMMENDATION

Based on the information the committee has received to date, potential recommendations for the committee to consider related to the study of other revenue-generating uses of the Veterans' Home facilities and grounds include:

- Convert basic-care areas to additional skilled-care areas;
- Establish an assisted living program and convert basic-care areas into independent assisted living units;
- Establish an adult day care program and convert basic-care areas to accommodate the program;
- Delay any changes to the basic-care and skilled-care areas of the Veterans' Home until additional information is available regarding the number of Vietnam War veterans that may apply for residency at the Veterans' Home; or
- No recommendation.