MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M

ROLL NUMBER

DESCRIPTION

2085

2005 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2085

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2085

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 1-11-05

Tape Number	Side A	Side B	Meter #
1	xxx		150-2490
Committee Clerk Signature Lisa Van Berkom			

Minutes: **Chairman Mutch opened the hearing on SB 2085. All Senators were present.**

SB 2085 relates to biennial performance audits of Job Service North Dakota.

John Graham, Unemployment Insurance Dept. of Job Service North Dakota, introduced the bill. See written testimony.

Chairman Mutch: When was this audit put into effect?

John: In it's current form, it went in 1999.

Senator Klein : Wasn't the reason for that because the fund continued to fall and there were recommendations that we certainly saw in that audit? The legislature felt they needed to get a handle on the falling funds. It was important then to see that you were complying with this.

John: Correct. 1999 was the year in which HB 1135 passed, which is the seminal reason Unemployment Insurance got out of the politics of governor setting rates, which caused a hemorrhage in the fund.

Chairman Mutch : It wasn't the performance audit that did it?

John: No, I'm not hear to fault performance auditors, but we are not doing what we are doing in response to their recommendations. We are doing it because we are a planning organization.

Senator Klein : Are we hitting those recommendations as per the performance audit?

John: Their recommendations have pretty much either restated what our legal obligations were under HB 1135, or a recommendation to keep our records differently.

Senator Nething : When did the Federal requirements come into play?

John: They have been in place for probably a good 12 years.

Senator Nething : I'm speaking of the things that you are referring to as the reason you don't need these now.

John: Yes, 10 or 12 years.

Senator Nething : Since you had these Federal standards in place when the agency got into trouble, what's going to stop that from happening again?

John: The agency got into trouble because it had no legal requirement with the respect of the setting of rates and so rates became a political football.

Senator Klein : So John, you would still be under the oversight of committee and they could still call for a performance audit.

John: Our objection is the requirement. We spend $130,000 a year for the audit, let there be a reason for one before we spend the money on them.

Senator Fairfield : Do other agencies also have the last statement in here that it can only be quadrennial?

John: No, they do not. I'm trying to save money.

Senator Klein : The reason to strike that the executive director shall provide a copy of the audit report, is that just because there won't be one?

John: That seems to be nonsense to me because the auditor already has the copy of the Auditors book. It's not the way things work.

Chairman Mutch: This has nothing to do with your rate setting ability any ways.

John: No.

Senator Espegard : I see what you are doing and it makes good sense. The last part I would like to see out of there.

John: I put that in there solely to limit our potential expenditure in any case.

Senator Krebsbach: With the date of completion of the previous performance audit, isn't that standard practice?

John: Yes.

Senator Espegard : You always have an audit?

John: Yes, thank you for bringing that up. I am talking purely of the performance audit.

There was no opposition.

Senator Klein moves to amend the bill. Senator Espegard seconded. All Senators said Yes.

Senator Klein moved a DO PASS AS AMENDED. Senator Fairfield seconded.

Roll call vote: 6 yes, 0 no, 1 absent.

Carrier: Senator Klein.

FISCAL NOTE

Requested by Legislative Council
02/04/2005

Amendment to: SB 2085

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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	$0	$0	$0	$0	$0	$0
Expenditures	$0	$0	$0	($140,000)	$0	$0
Appropriations	$0	$0	$0	$0	$0	$0

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
$0	$0	$0	$0	$0	$0	$0	$0	$0

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

There should be no fiscal effect as a result of the legislation to change the frequency of agency performance audits. The agency's appropriation is funded by approximately 97.5 % federal resources. No resources are received that specifically fund the performance audit cost. While the most recent audit cost was $134,000, funding for this expenditure was provided out of the recurring federal resources provided by the Department of Labor. If the resources are not needed to fund the performance audit, they are redirected to fund other agency initiatives. A performance audit could be performed in the coming biennium, or any future biennium, at the request of the Legislative Audit and Fiscal Review Committee.

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.*

No dedicated federal resources are received by the agency to fund the performance audit cost.

   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.*

Any projected expenditure would affect the operating expense line item and would be charged to the agency's federal funds. The expenditure, if any, would be offset against another planned expenditure in order to stay within the available federal resources.

   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.*

Because the agency would not be receiving any additional federal resources to fund this expenditure, an offsetting decrease in another budgeted operating expense item would need to be accomplished. Therefore, there would not be any impact on the agency's appropriation.

Name:	Don Bitz	**Agency:**	Job Service
Phone Number:	701-328-3105	**Date Prepared:**	02/04/2005

FISCAL NOTE
Requested by Legislative Council
12/20/2004

Bill/Resolution No.: SB 2085

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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	$0	$0	$0	$0	$0	$0
Expenditures	$0	$0	$0	($140,000)	$0	$140,000
Appropriations	$0	$0	$0	$0	$0	$0

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
$0	$0	$0	$0	$0	$0	$0	$0	$0

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

There should be no fiscal effect as a result of the legislation to change the frequency of agency performance audits. The agency's appropriation is funded by approximately 97.5 % federal resources. No resources are received that specifically fund the performance audit cost. While the most recent audit cost was $134,000, funding for this expenditure was provided out of the recurring federal resources provided by the Department of Labor. If the resources are not needed to fund the performance audit, they are redirected to fund other agency initiatives.

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.*

No dedicated federal resources are received by the agency to fund the performance audit cost.

   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.*

Any projected expenditure would affect the operating expense line item and would be charged to the agency's federal funds. The expenditure, if any, would be offset against another planned expenditure in order to stay within the available federal resources.

   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.*

Because the agency would not be receiving any additional federal resources to fund this expenditure, an offsetting decrease in another budgeted operating expense item would need to be accomplished. Therefore, there would not be any impact on the agency's appropriation.

Name:	Don Bitz	**Agency:**	Job Service
Phone Number:	701-328-3105	**Date Prepared:**	12/23/2004

58077.0101
Title.0200

Adopted by the Industry, Business and Labor Committee
January 11, 2005

1-11-05

PROPOSED AMENDMENTS TO SENATE BILL NO. 2085

Page 1, line 2, remove "biennial"

Page 1, line 23, remove "No more than one performance audit may be requested or performed pursuant to"

Page 2, remove lines 1 and 2

Renumber accordingly

Date: 1-11-05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2085

Senate Industry, Business and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken move to Amend

Motion Made By Klein Seconded By Espegard

Senators	Yes	No	Senators	Yes	No
Senator Mutch, Chairman	X		**Senator Fairfield**	X	
Senator Klein , Vice Chairman	X		**Senator Heitkamp**		X
Senator Krebsbach	X				
Senator Nething		X			
Senator Espegard					

Total (Yes) 4 No 2

Absent 1

Floor Assignment —

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

Date: 1-11-05
Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2085

Senate Industry, Business and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass As Amended

Motion Made By Klein Seconded By Fairfield

Senators	Yes	No	Senators	Yes	No
Senator Mutch, Chairman	X		Senator Fairfield	X	
Senator Klein , Vice Chairman	X		Senator Heitkamp	X	
Senator Krebsbach	X				
Senator Nething	X				
Senator Espegard	A				

Total (Yes) 6 No 0

Absent 1

Floor Assignment Klein

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

REPORT OF STANDING COMMITTEE

SB 2085: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2085 was placed on the Sixth order on the calendar.

Page 1, line 2, remove "biennial"

Page 1, line 23, remove "No more than one performance audit may be requested or performed pursuant to"

Page 2, remove lines 1 and 2

Renumber accordingly

2005 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2085

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2085

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 2-23-05

Tape Number	Side A	Side B	Meter #
1	x		0-9.8
Committee Clerk Signature			

Minutes:

Chairman Keiser: Opened the hearing on SB 2085. All committee members were present.

John Graham, Job Service North Dakota: Appeared in support of SB 2085 and provided a written statement (SEE ATTACHED TESTIMONY).

We believe that it is no longer necessary or cost effective to have a required biennial performance audit. The statute which the bill amends has been in place in the current state since 1999. And in that time we have expended almost $400,000.00 for performance audits that are required, including over $132,000.00 in this last 2004 audit, in that same time period from 1999 to the last current federal fiscal year our two largest federal grants went up a total over a 5 year period over 131,000.00 or 1%. Not only are we coming out in the hole with respect for the fiscal cost, the last 2 performance audits have really focused on the

unemployment insurance program, so its grant has paid the bulk of the cost for both of those audits, and the unemployment insurance program for the last 3 fiscal years has been declining so we are hoping that you will follow the Senate and approve this bill, we have a excellent record for provisional services and have been recognized nationally for provisional services to our job seeker clients and for provision of unemployment insurance we rank first in the nation in many of these 13 tier one performance standards, so we feel there isn't a need at the present time for a mandated performance audit.

Representative Dosch: If this bill passes, the frequency of the audits will be what?

John Graham: We would be like any other state agency, subject to a audit by the legislation or review committee.

Representative Dosch : I **MOVE A DO PASS** on SB 2085.

Representative N. Johnson: **SECOND** the **DO PASS** motion.

VOTE: 13-YES 1-NO 0-Absent.

Representative Vigesaa will carry the bill on the floor.

Hearing adjourned.

Date: 2-23-05

Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2085

House **INDUSTRY, BUSINESS AND LABOR** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass

Motion Made By Rep. Dosch Seconded By Rep. Johnson

Representatives	Yes	No	Representatives	Yes	No
G. Keiser-Chairman	X		Rep. B. Amerman		X
N. Johnson-Vice Chairman	X		Rep. T. Boe	X	
Rep. D. Clark	X		Rep. M. Ekstrom	X	
Rep. D. Dietrich	X		Rep. E. Thorpe	X	
Rep. M. Dosch	X				
Rep. G. Froseth	X				
Rep. J. Kasper	X				
Rep. D. Nottestad	X				
Rep. D. Ruby	X				
Rep. D. Vigesaa	X				

Total (Yes) 13 No 1

Absent 0

Floor Assignment Rep. Vigesaa

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

REPORT OF STANDING COMMITTEE

SB 2085, as engrossed: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends **DO PASS** (13 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed SB 2085 was placed on the Fourteenth order on the calendar.

2005 TESTIMONY

SB 2085

Senate Bill No. 2085

Testimony of John A. Graham
Unemployment Insurance
Job Service North Dakota

Same given to House on 2-23-05

Before the Senate Industry, Business, and Labor Committee
Senator Duane Mutch, Chairperson
January 11, 2005

Chairman Mutch: My name is John Graham, and I am representing the Unemployment Insurance program of Job Service North Dakota. Job Service caused Senate Bill No. 2085 to be introduced as we believe it is no longer necessary or cost effective to have a **required** biennial performance audit.

This statute (NDCC Sec. 52-02-18) has been in effect, in its current form, since 1999. In that time, Job Service has spent $395,895 on three biennial performance audits. In that same time period, two of our major federal grant sources, available to fund two of the Agency's major programs (Unemployment Insurance and Wagner-Peyser employment services) have grown from a Federal Fiscal Year 1999 total of $12,251,827, to a FFY2004 total of $12,382,920. That is a 1% increase ($131,903) over the last five years. Less than we spent on the most recent (2004) performance audit.

Additionally, the last two performance audits have been primarily focused

on Unemployment Insurance issues, thus the Unemployment Insurance grant paid the bulk of the direct costs of both those audits (80% for the 2002 audit; and 67% for the 2004 audit)

During the last three federal fiscal years, the Unemployment Insurance grant has decreased from $7.2 million to $6.5 million, and that trend may continue. Thus, our administrative resources for operation of the program were reduced by $700,000 during that period. We anticipate that the performance audit focus on Unemployment Insurance (UI) will continue. We cannot afford to have the UI grant be paying from 67-80% of a $130,000 plus billing with no significant benefit to the Agency.

Job Service has an excellent record in provision of services to our customers. We are recognized nationally for our performance in reemployment of Unemployment Insurance claimants, services to jobseekers who are eligible under the Workforce Investment Act, and performance in operating the UI program. All of those recognitions are the result of a commitment to excellence on the part of our staff, and to the Agency's commitment to strategic planning. None of those outcomes, or our major future plans, are the result of recommendations put forth in performance audit reports.

In addition to being nationally recognized for the quality of our work, the

performance auditors, in our 2004 performance audit report said:

> "Overall, we find JSND to be a well run organization that continues to improve its delivery of services to the citizens of North Dakota. JSND's management and staff is highly focused on providing excellent customer service and on implementing the directives of the Legislature and the U.S. Department of Labor with a high degree of efficiency and competency." (Performance Audit Report, Brady Martz, September 14, 2004, p. V.)

In summary, Mr. Chairman, Job Service urges a "do pass" recommendation on this bill. We have not received value commensurate with the costs of the recent performance audits, and want to be relieved of this unfunded mandate. We, of course, will be fully engaged in any future performance audits which the Legislative Audit and Fiscal Review Committee, or the Legislature itself, deems necessary, in the same manner as are other State agencies.

Mister Chairman, I would be happy to answer the Committee's questions.