

1999 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2046

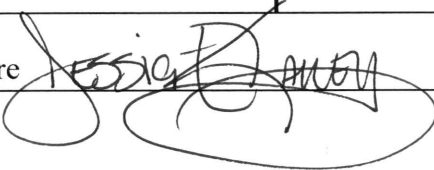
1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2046

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date January 6, 1999

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

Minutes:

Senator Mutch called the meeting to order. All senators present.

Senator Mutch opened the discussion for SB2046.

Jennifer Clark, Legislative Council, appeared in favor of the bill. Testimony attached.

Senator Mutch called for questions from the committee.

Senator Sand: I have been reading the bill here and it says that my long-term care insurance, and I have some, is not assessable by the state or anybody else in case I become sick does it not say that? The bill? The one you want to repeal?

Ms. Clark: The law that we are repealing does say that. The reality is, the word of this law isn't applicable. This isn't having any affect right now. The program that it was going to implement has never happened.

Senator Mutch: In other word your not allowed to coordinate the two sources of revenue?

Ms. Clark: Right.

Senator Sand: As I understand it wasn't a matter of coordinating the two sources of revenue. It says that you can't detach or force me to sell that. To let you understand where I'm coming from, I witnessed an old person die and his greatest pride was that he paid for his funeral. They wanted him to resell his funeral expenses to pay for his nursing home care. We took away that man's pride and his dignity when he no longer paid for his own funeral. Now, if we repeal this, will that be possible to do in North Dakota?

Ms. Clark: My understanding is that repealing this law is not going to affect the current status. Whatever the status is right now, whether that can be attached or not by Medicaid or by the nursing home, is not affected by repealing this. There may be another issue that needs to be addressed in long term care, but this isn't going to address that.

Senator Sand: You're not answering my question. Will it be attached then? If we repeal the law will you be able to attach that?

Ms. Clark: The law that you are reading doesn't apply to anything. This provided for a program to be implemented and the law would only apply to that program. The program has never been implemented, so repealing it doesn't change the status of any individual out there or any individuals long-term care. So repealing this does not affect that individuals ability.

Senator Sand: What is their status now then in relative to prepaid funerals?

Ms. Clark: I am not familiar with the status of Medicaid and the ability to withhold or attach funeral expenses.

Senator Klein: I sat on the committee that reviewed this and the issue was that this law, after it was implemented, had no affect because the federal law superseded it and it was just a matter of

house keeping. We are not using it. It doesn't work, it doesn't apply. If we don't need it we are going to color it gone.

Senator Krebsbach: I chaired the committee where Jennifer served as council and one of the main reasons why we thought we should get rid of it is because it calls for, in the very last section, 26.1-45.1-7, a report to the legislative council and the governor, and every year this would come forward to us and there was nothing to report.

Senator Mutch asked for any other question from the committee and If anyone else wished to be heard on behalf of the bill.

Blane Nordwell from the North Dakota department of human services testified in favor of the bill.

Mr. Nordwell: This partnership project was simply an idea that we could national save Medicaid money if there was device that encourage people to buy long term care insurance. It was legal when North Dakota passed the law to establish partnership programs. There were partnership programs in other states. Preliminary data shows that they were actually costing, or were projected to cost Medicaid money as opposed to save Medicaid money. Congress therefor ended the opportunity for states to do it.

Senator Sand: I ask you the same question as I asked the lady. Is there any protection for people that have this type of insurance or prepaid funeral services in North Dakota now then?

Mr. Nordwell: If there is no Medicaid claim at all, then the law is clear that the amount spent in a funeral have preference over other bills that the individual might have. We are assuming in your example that this individual might have an estate that is insufficient to pay all the bills.

Owes for nursing care, owes for funeral. The funeral would have preference. If Medicaid had



paid for the nursing care part. Then Medicaid would have a claim if the individual had not set up a prearranged funeral. If the individual had set up a prearranged funeral, prearranged funeral that is set aside wouldn't be claimed by anybody. If the individual had not set up a prearranged funeral, the individuals fund up to \$300,000 could be used to meet funeral expense. That is currently the law in North Dakota.

Senator Sand: In other words if I was 55 and went into a nursing home unable to pay my way, the nursing home could come to Harvey Sand and twist my arm and sign over my burial money so that they would get the fees. Is that true?

Mr. Nordwell: If an individual in a nursing home is unable to pay the cost, the nursing facility typically encourages them to apply for Medicaid benefits.

Senator Sand: At 55?

Mr. Nordwell: Medicaid will pay for someone of any age that is impoverishment disabled.

People age 65 don't have to be disabled in order to receive Medicaid, but if they are disabled and you have to be in order to be in a nursing home, of course, You could be helped

Senator Sand: Thank you.

Senator Mutch asked if anyone wished to be heard in opposition of SB2046.

Senator Klein moved for a do pass on SB2046. Senator Thompson seconded the motion.

General discussion about the bill took place.

Senator Mutch closed the hearing for SB2046.

Roll call vote took place. The bill passed 6 to 1.

The floor carrier is Senator Klein.

FISCAL NOTE

Return original and 10 copies)

Bill/Resolution No.: SB 2046 Amendment to:

Requested by Legislative Council Date of Request: December 23, 1998

- 1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts.

Narrative:

None - This legislation was negated by federal law which prohibited approval of future state long-term care partnership programs.

- 2. State fiscal effect in dollar amounts:

Table with 6 columns: 1997-99 Biennium (General Fund, Special Funds), 1999-2001 Biennium (General Fund, Special Funds), 2001-03 Biennium (General Fund, Special Funds)

Revenues: NONE Expenditures: NONE

- 3. What, if any, is the effect of this measure on the appropriation for your agency or department:

- a. For rest of 1997-99 biennium: \$0
b. For the 1999-2001 biennium: \$0
c. For the 2001-03 biennium: \$0

- 4. County, City, and School District fiscal effect in dollar amounts:

Table with 9 columns: 1997-99 Biennium (Counties, Cities, School Districts), 1999-2001 Biennium (Counties, Cities, School Districts), 2001-03 Biennium (Counties, Cities, School Districts)

If additional space is needed, attach a supplemental sheet.

Signed Vance Magnuson

Typed Name Vance Magnuson

Department Insurance Department

Phone Number 328-4977

Date Prepared: 12/24/98

Date: 1/6/98  
Roll Call Vote #: 2046

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO.

Senate INDUSTRY, BUSINESS AND LABOR Committee

Subcommittee on \_\_\_\_\_  
or

Conference Committee

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

Action Taken DO PASS

Motion Made By KLEIN Seconded By THOMPSON

Senators	Yes	No	Senators	Yes	No
Senator Mutch	X				
Senator Sand		X			
Senator Klein	X				
Senator Krebsbach	X				
Senator Heitkamp	X				
Senator Mathern	X				
Senator Thompson	X				

Total (Yes) 6 No 1

Absent \_\_\_\_\_

Floor Assignment SENATOR KLEIN

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

REPORT OF STANDING COMMITTEE (410)  
January 6, 1999 1:08 p.m.

Module No: SR-02-0339  
Carrier: Klein  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

**SB 2046: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **DO PASS** (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2046 was placed on the Eleventh order on the calendar.

1999 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2046

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2046

House Industry, Business and Labor

Conference Committee

Hearing Date 2-2-99

Tape Number	Side A	Side B	Meter #
1		x	2.0-2.6
Committee Clerk Signature <i>Lisa Horner</i>			

Minutes: BILL SUMMARY: Relating to the partnership for long-term program. Chairman Berg opened the hearing.

No one appeared in support or in opposition to SB 2046. Chairman Berg closed the hearing.

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2046-2-2-99

House Industry, Business and Labor

Conference Committee

Hearing Date 2-2-99

Tape Number	Side A	Side B	Meter #
1		x	17.7-18.7
Committee Clerk Signature <i>Lisa Horner</i>			

Minutes:

ACTION: Taken the same day. Rep. Keiser made a motion to DO PASS and Rep. Severson seconded the motion.

ROLL CALL VOTE: 15 YES and 0 NO with 0 ABSENT. Passed. Rep. Brekke will carry the bill.

Date: 2-2-99  
Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2046

House Industry, Business and Labor Committee

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

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

Action Taken do pass

Motion Made By Keiser Seconded By Severson

Representatives	Yes	No	Representatives	Yes	No
Chair - Berg	/		Rep. Thorpe	/	
Vice Chair - Kempenich	/				
Rep. Brekke	/				
Rep. Eckstrom	/				
Rep. Froseth	/				
Rep. Glassheim	/				
Rep. Johnson	/				
Rep. Keiser	/				
Rep. Klein	/				
Rep. Koppang	/				
Rep. Lemieux	/				
Rep. Martinson	/				
Rep. Severson	/				
Rep. Stefonowicz	/				

Total (Yes) 15 No 0

Absent \_\_\_\_\_

Floor Assignment Brekke

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



**REPORT OF STANDING COMMITTEE (410)**  
February 24, 1999 2:43 p.m.

**Module No: HR-33-3484**  
**Carrier: Brekke**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2046: Industry, Business and Labor Committee (Rep. Berg, Chairman) recommends DO PASS (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2046 was placed on the Fourteenth order on the calendar.**

1999 TESTIMONY

SB 2046

## CHAPTER 26.1-45.1 PARTNERSHIP FOR LONG-TERM CARE PROGRAM

### Section

- 26.1-45.1-01. Definitions.
- 26.1-45.1-02. Partnership for long-term care program.
- 26.1-45.1-03. Long-term care insurance benefit payments - Asset exclusion - Rules.
- 26.1-45.1-04. Approval of long-term care policies - Rules.
- 26.1-45.1-05. Outreach program.
- 26.1-45.1-06. Funding.
- 26.1-45.1-07. Report to legislative council and governor.

### **26.1-45.1-01. Definitions.**

As used in this chapter, unless the context or subject matter otherwise requires:

1. "Commissioner" means the commissioner of insurance.
2. "Department" means the department of human services.
3. "Secretary" means the secretary of the United States department of health and human services.

**Source:** S.L. 1993, ch. 314, § 1.

### **26.1-45.1-02. Partnership for long-term care program.**

The commissioner shall coordinate a partnership for long-term care program, by which private insurance and medicaid funds may be combined to finance long-term care. Under the program, an individual may purchase a long-term care insurance policy. The assets of that individual, to the extent those assets do not exceed the amount of long-term care insurance benefits paid as provided in section 26.1-45.1-03, may not be considered by the department as an available asset in a determination of that individual's eligibility for medicaid or of any subsequent claim for recovery by the state of a payment for medical services.

**Source:** S.L. 1993, ch. 314, § 2.

### **26.1-45.1-03. Long-term care insurance benefit payments - Asset exclusion - Rules.**

The department shall seek appropriate amendments to its medicaid rules and state plan to allow protection of assets under section 26.1-45.1-02. The protection must be provided, to the extent approved by the secretary, for a purchaser of an approved long-term care insurance policy delivered, issued for delivery, or renewed on or after January 1, 1994. The department shall count insurance benefit payments toward asset exclusion to the extent the payments are for nursing home care or home or community-based services, and are for services provided after the individual meets the coverage requirements for long-term care benefits established for this program by the department. The department shall adopt rules to determine the coverage requirements for long-term care benefits.

**Source:** S.L. 1993, ch. 314, § 3.

**26.1-45.1-04. Approval of long-term care policies - Rules.**

The commissioner may approve a long-term care insurance policy only if the policy alerts the purchaser to the availability of consumer information and public education provided under section 26.1-45.1-05, offers the option of home and community-based services in lieu of nursing home care, provides, within total benefit limits, payment of necessary covered services, provides for the recordkeeping and an explanation of benefit reports on insurance payments which count toward medicaid asset exclusion, and provides management information and reports necessary to document the extent of medicaid asset protection offered and to evaluate the partnership for long-term care program. The commissioner may adopt and implement rules relative to coverages provided by the partnership program.

**Source:** S.L. 1993, ch. 314, § 4.

**26.1-45.1-05. Outreach program.**

The commissioner shall establish a program to educate consumers about long-term care, mechanisms for financing long-term care, availability of long-term care insurance, and the asset protection provided by sections 26.1-45.1-02 and 26.1-45.1-03.

**Source:** S.L. 1993, ch. 314, § 5.

**26.1-45.1-06. Funding.**

The department shall seek federal approval and funds necessary to carry out this chapter. The department shall assist the commissioner in preparing the information required by subsections 6, 7, and 8 of section 26.1-45.1-07.

**Source:** S.L. 1993, ch. 314, § 6.

**26.1-45.1-07. Report to legislative council and governor.**

The commissioner shall annually report to the legislative council and to the governor on the progress of the partnership for long-term care program. The report must include:

1. The success in implementing the public and private partnership.
2. The number of long-term care insurance policies approved.
3. The number, age, and financial circumstances of individuals purchasing policies.
4. The number of individuals seeking consumer information services.
5. The extent and type of benefits paid under policies that may count toward medicaid resource protection.
6. Estimates of impact on present and future medicaid expenditures.
7. The cost effectiveness of the program.
8. A determination regarding the appropriateness of continuing the program.

**Source:** S.L. 1993, ch. 314, § 7.