

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

STN 2053 (2/85) 3M



ROLL NUMBER

DESCRIPTION

11/8

2001 HOUSE POLITICAL SUBDIVISIONS

HB 1118

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1118

House Political Subdivisions Committee

☐ Conference Committee

Hearing Date 1-18-01

Tape Number	Side A	Side B	Meter #
1	xx		1300-3579
1		xx	1501-2687
Committee Clerk Signature <i>Pam Owen</i>			

Minutes: Chair Froseth opened hearing on HB1118 with all members present except Rep. Kretschmar.

Jo Zschomler, OMB - Risk Management Director : (1300) Testified in support and also brought forth amendments. (See Attached Testimony) I bring with me an amendment to HB1118.

Chair Froseth : (1612) If you give the authority to local fire districts or departments to do the inspections, will they have qualified people to do the job?

Jo : Others here to testify can better answer that question. Right now I think there are problems in some small areas, because it's mainly volunteer people who have to find the time, generally without pay, to get qualified.

Rep. Delmore : I look at this bill and the duties we are asking them to perform, are we giving them any compensation? Is there any funding?

Jo : There is no funding in this bill nor was there in the current bill.

Rep. Delmore : (1755) Is every three years adequate to do a fire inspection?

Jo : I defer to the experts.

Rep. Ekstrom : (1807) The one omission that I detect on page one, line 10, is the governor's residence is not listed. This is state owned property. Do we need to add this.

Jo : I defer this to the fire inspector of Bismarek.

Rep. Ekstrom : I'm still concerned with schools. It states that violations are to be corrected during the current budget. What if the agency doesn't have the money? I know that happened at NDSU. Is the fire marshal making an effort to push us to find the money for these things?

Jo : This is not a change in the current statute. We did change to say *must* in the language.

Rep. Delmore : (2032) I have two sets of amendments. I talked with both the fire marshal and the fire chief. I'd like the committee to look at these.

Jo : The amendments that Rep. Delmore has do look like they contain the same issues mine do.

Vice-Chair Severson : The word *periodic* instead of *annual*. What does this mean?

Jo : That was the term we decided on because some of these buildings fall under the annual inspection requirement while the others fall under the three year. Either be one or three years.

Joel Boepflug, Bismarek Fire/Inspection Dept; ND Fire Chief's Assoc. : (2245) We are in favor of the bill with the amendments Rep. Delmore has. **(See attached testimony)**

Rep. Eckre : (2585) How much training is involved to get trained to be an inspector.

Joel : We insure that our personnel are versed in building construction, are able to have interpretation training on the fire code, should have an education background, and have one or two years job experience.

Chair Froseth : Have you been in contact with any of the other 11 communities that have fire inspection programs?

Joel : I have spoken to at least four. They did not want to change their desire for the inspections.

Bismarck feels we need to be present in those buildings. We need to have pre-fire planning. We need to know what has changed in the building throughout the year.

Vice-Chair Severson : (2829) Did the Fire Chief's Association vote on this?

Joel : The general membership has not gotten all together, but the ones that I have talked to individually have approved. They want to have the flexibility and not be demanded to do something that they may not be trained for. They do not want to do the wrong thing.

Rep. Grosz : (3020) Under the amended portion, are single family housing like UND housing included in the three years?

Joel : It's my understanding that the amendment will only exclude single family home. Dorms and apartments would certainly be inspected if part of a university.

Rep. Ekstrom : What about the governor's residence?

Joel : In Bismarck, we do not conduct the inspection of the governor's home. We do inspect daycare type single family dwellings.

Rep. Ekstrom : I feel the taxpayers have put a lot of money into this residence and maybe it should it should be included as a mandate.

Joel : Our department would be willing to speak to the State Fire Marshall on this issue.

Rep. Fairfield : (3249) The amendment states *once every three years*. Is there any way this could go beyond the three years?

Joel : No. Our intent is to inspect all of the buildings each year. There would be no period of time greater than three years that an inspection is not done.

Lois Hartman, ND Firefighter's Assoc. : testified in support of the amendment with the bill. We have 376 fire departments and we don't have staff or the ability to inspect everything. They have full-time jobs and receive no compensation or time to get training.

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House Political Subdivisions Committee
Bill/Resolution Number HB1118
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Chair Froseth : Sometimes there may be some pay not to the individual, but to the department as a whole.

Chair Froseth : Any more testimony for or against HB1118? Hearing none, we are closed.

Tape 1 side B (1501) discussion continues:

Rep. Delmore : I can answer any questions you may have concerning these two amendments I had Legislative Council draft.

Rep. Maragos : Jo agreed that these amendments satisfy her, so we should vote not to use Jo's and then go with the Delmore amendments. **I move to accept Jo Zschomler's amendments.**

There was NO second. Motion died.

Rep. Maragos : **I move** to accept the two sets of amendments that L.C. will draft into one amendment for HB1118.

Rep. N. Johnson : **I second.**

VOICE VOTE ON AMENDMENT: ALL YES. PASSED

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1118 b

House Political Subdivisions Committee

☐ Conference Committee

Hearing Date 1-19-01

Tape Number	Side A	Side B	Meter #
1		xx	64--215
Committee Clerk Signature			

Minutes: Chair Froseth : (64) Let's take up HB1118. We attached amendments to the bill. What does committee wish?

Rep. Delmore : (95) All interested parties are happy with the bill and amendments. I move a
DO PASS AS AMENDED.

Rep. Ekstrom : I second.

VOTE: 15 YES and 0 NO BILL PASSED. Rep. Delmore will carry the bill.

FISCAL NOTE

Requested by Legislative Council

12/21/2000

Bill/Resolution No.: HB 1118

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	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$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.*

1999-2001 Biennium			2001-2003 Biennium			2003-2005 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.*

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:	Pam Sharp	Agency:	OMB
Phone Number:	328-4606	Date Prepared:	12/27/2000

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1118

Page 1, line 12, after "and" insert "occupied"

Page 1, line 13, overstrike "fire department of the city or"

Page 1, line 14, overstrike "fire protection district", remove ", or the designee of either,", and overstrike "in which the institution or building"

Page 1, line 15, overstrike "is located," and overstrike "who" and insert immediately thereafter "state fire marshal, or the marshal's designee. The officer in charge of the state institution or building"

Page 1, line 16, after "a" insert "response to the"

Page 1, line 18, remove "by the fire department of the city or fire protection district, or designee of"

Page 1, line 19, remove "either, in which the building is located"

Page 1, line 21, after "of" insert "the response to"

Page 1, line 22, after "marshal" insert "by the officer in charge of the state institution or building"

Page 2, line 9, replace "those buildings" with "for single-family dwellings"

Page 2, line 10, remove "required to be inspected under this section by the state fire marshal"

Renumber accordingly

January 19, 2001

VR
1/19/01

HOUSE AMENDMENTS TO HOUSE BILL 1118 HOUSE POL. SUBS. 1-22-01

Page 1, line 11, after the second underscored comma insert "the state veterans' home,"

Page 1, line 12, after "and" insert "occupied"

Page 1, line 13, remove "at least once every three years" and overstrike "fire department of the city or"

Page 1, line 14, overstrike "fire protection district", remove ", or the designee of either,", and overstrike "in which the institution or building"

Page 1, line 15, overstrike "is located," and overstrike "who" and insert immediately thereafter "state fire marshal, or the marshal's designee, at least once every three years. The officer in charge of the institution or building"

Page 1, line 16, after "a" insert "response to the"

Page 1, line 18, remove "by the fire department of the city or fire protection district, or designee of"

Page 1, line 19, remove "either, in which the building is located"

Page 1, line 21, after "of" insert "the response to"

Page 1, line 22, after "marshal" insert "by the officer in charge of the state institution or building"

HOUSE AMENDMENTS TO HB1118 HOUSE POLITICAL SUBS. 1-22-01

Page 2, line 9, replace "those buildings" with "for single-family dwellings"

Page 2, line 10, remove "required to be inspected under this section by the state fire marshal"

Renumber accordingly

Date: 1-19-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1113

House POLITICAL SUBDIVISIONS Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number 18123.0103 0200

Action Taken Do Pass As Amended

Motion Made By Rep. Delmore Seconded By Rep. Ekstrom

Representatives	Yes	No	Representatives	Yes	No
Chairman Glen Froseth	/		Rep. Wayne W. Tieman	/	
Vice-Chair Dale C. Severson	/				
Rep. Lois Delmore	/				
Rep. Rachael Disrud	/				
Rep. Bruce Eckre	/				
Rep. Mary Ekstrom	/				
Rep. April Fairfield	/				
Rep. Michael Grosz	/				
Rep. Jane Gunter	/				
Rep. Gil Herbel	/				
Rep. Nancy Johnson	/				
Rep. William E. Kretschmar	/				
Rep. Carol A. Niemeier	/				
Rep. Andrew G. Maragos	/				

Total (Yes) 15 No 0

Absent 0

Floor Assignment Rep. Delmore

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

REPORT OF STANDING COMMITTEE

HB 1118, as amended, Political Subdivisions Committee (Rep. Froseth, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING), placed on the Sixth order on the calendar.

Page 1, line 11, after the second underscored comma insert "the state veterans' home,"

Page 1, line 12, after "and" insert "occupied"

Page 1, line 13, remove "at least once every three years" and overstrike "fire department of the city or"

Page 1, line 14, overstrike "fire protection district", remove ", or the designee of either," and overstrike "in which the institution or building"

Page 1, line 15, overstrike "is located," and overstrike "who" and insert immediately thereafter "state fire marshal, or the marshal's designee, at least once every three years. The officer in charge of the institution or building"

Page 1, line 16, after "a" insert "response to the"

Page 1, line 18, remove "by the fire department of the city or fire protection district, or designee of"

Page 1, line 19, remove "either, in which the building is located"

Page 1, line 21, after "of" insert "the response to"

Page 1, line 22, after "marshal" insert "by the officer in charge of the state institution or building"

Page 2, line 9, replace "those buildings" with "for single-family dwellings"

Page 2, line 10, remove "required to be inspected under this section by the state fire marshal"

Renumber accordingly

2001 SENATE POLITICAL SUBDIVISIONS

HB 1118

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1118

Senate Political Subdivisions Committee

☐ Conference Committee

Hearing Date February 15, 2001

Tape Number	Side A	Side B	Meter #
1		x	46.9-52.4
2	x		0.0-10.3
Committee Clerk Signature <i>Mary Jo Wooten</i>			

Minutes:

The hearing was opened on HB1118, Relating to fire inspections of state buildings and institutions.

JO ZSCHOMLER: Director of the Risk Management Division of OMB. See written testimony.

SENATOR COOK: I assume that the these two properties that your adding up at Grafton and the Veterans Home in Lisbon are the only two that in the inventory that are not properly being inspected? JO ZCHOMLER: They are not listed as required annual inspections by the Fire Marshals office and we feel rather than the local fire department or district would be beneficial to have those inspected by the Fire Marshals office. JOEL BOESPFLUG: City of Bismarek, Fire and Inspections Chief, and also a Director of the North Dakota Fire Chiefs' Association. See written testimony. SENATOR FLAKOLL: How does it work when there is a remodeling or addition on to a building in terms of making sure from the get go, the proper sprinklers are put in and so on and so forty. Is it a different group that lays that out and approves that, than those who

would come in and inspect it later on. My concern being that somebody give it there stamp of approval and then the Fire Marshall comes in and says, no we need a sprinkler head here or there, or something is wrong with the door cause it doesn't open the right way. JOEL BOESPFLUG:

After the fact remodels continually do, do pose a problem throughout the state and I can speak for the city of Bismarck as an example, when the communication is not in place or the facility owner of any type building then that does lead to these type problems. However, when a process is in place where a building permit for example is required, and the education is there, in the facilities where its known that should a change take place, should a remodel happen that they are perimeters in codes to follow, so its a two way street, we need to open the doors to inform persons or facility managers, state owned buildings in this case, that any change could possibly effect what needs to happen by code. We feel that a fire inspection should not be a reactive process, it should be a proactive service. Therefore if someone does invest the time and the effort and the quality workmanship, why should they, then have to tear out something to comply. We try to work closely with codes and anyone who would be involved in the process. For an example, in some of the buildings, the facility managers, the custodians, those who would be involved in minor remodels, minor in one persons mind, may affect the safety for some reason.

SENATOR COOK: Joel when you inspect a state building in Bismarck, you come across something that could be dangerous, do I say reportable, what are your responsibilities. Is it just to inform somebody, issue a report, do you have any authority to lock the door, should I say, or?

JOEL BOESPFLUG: You bring up a very good point. The inspections that are conducted, again and this is a type of a risk management service, we provide that information to the facility managers to the building owners. Its absolutely necessary that we get that information into their hands. Now if something would be so severe, that it does pose an imminent threat to the

occupants of the building, we then must go through a process, a legal process. Now the authority, on a state owned building, which would bring up another question that maybe Joel or Ray the state Fire Marshall could answer. But in our jurisdiction, its my understanding that if we came across a imminent life saving issue, we would take all available avenues to mitigate the situation.

SENATOR COOK: Do you pick up any liability if you do not? JOEL BOESPFLUG: It is my understanding that the service that we provide for the state buildings would be that. It would be a service. I believe in a state owned building the liability would remain with the state. This is the service we provide if we entered into an area of gross negligence, should we ignore a imminent issue. I certainly am not an attorney, but I believe that someone would come knocking on our door and why did you ignore this? But in situations where we provide a risk management, fire inspections service, and provide that data forward, its my understanding is that responsibility to carry out the corrections does remain with the state or with the owner. LOIS HARTMAN:

Executive Director of the North Dakota Firefighters Association. Both the firefighters association and the fire chiefs association worked very closely on this bill, and our association is also in full support of HBI 118. RAY LAMBERT: State Fire Marshall. Some clarification if I may on the issue of responsibility and I am certainly not an attorney, so I won't make a legal opinion here but what we do have in place in this engrossed bill 1118 is an avenue where we will be tracking and observing every report for inspections that our being performed by any department that is working as our designee. In place with that, any issue that's cited in those inspection reports that would not be corrected or there is an issue about getting that item corrected we have the abatement system or program already well in place. Working with that community that has actually done the inspection, once that inspection has been done, that starts the process. If there is no compliance or there has not been compliance with that inspection report, we then have the

option or opportunity to abate that, taking that actually from that beginning with that department, we will work with them where we will come in and abate the issue to correct it, or properly depending on the severity, recommend that that be ceased and that operation closed down until that correction has been made. There is a program with abatement already well in place to handle those items. SENATOR COOK: In other words Ray, your responsibility goes on and above that you report in extreme condition. You also have responsibility to take corrective action if the person responsible does not? RAY LAMBERT: Yes we do. We have the responsibility to correct items and the avenue that is in place, even before we get into the legal court system is the abatement process. We're well prepared to pursue that if necessary, so we will be observant and reviewing and receiving through the community that gets these reports for our observation. We have the responsibility in this bill to track those as well. SENATOR WATNE: As I understand, you are a branch actually of the Attorney General's Office? Overseen by it or whatever? So you have enforcement power? RAY LAMBERT: Yes, we are. We have the avenue to take in that direction if it is necessary, yes. SENATOR COOK: These extra responsibilities that you have is that unique just to state owned buildings? You don't have that when you, the State Fire Marshall's Office, inspects a public school for example, owned by a local school district? RAY LAMBERT: Yes, we do. The abatement system is part of our program in our system. It was put in place for that purpose, where there are areas that are not specifically by law. There is no fine, there is no ticketing, as law enforcement has, where we come in and do an inspection, we don't have the authority to write out a ticket per say. We write a report. So any inspections that we do the abatement system process is part of that program. That gives us the leverage in most cases we need for corrective action. SENATOR FLAKOLL: In the bill references, can you give me an example or what's the intent of that, who might we these designees be? RAY LAMBERT:

Page 5

Senate Political Subdivisions Committee

Bill/Resolution Number HB1118

Hearing Date February 15, 2001

Designees in this particular case would be the major, four major cities, eleven total that are presently doing the Fire Safety Inspections of state owned properties. Those are examples of departments that will be the fire marshals' designee up front.

Hearing closed on HB1118.

Senator Lee moved for a Do Pass on HB1118

Senator Christenson- 2nd.

Roll Call vote: 8 Yes, 0 No, 0 Absent

Carrier: Senator Watne

Date: Feb. 15, 2001
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. *H. B. 1118*

Senate	Political Subdivisions	Committee
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☐ Subcommittee on _____
or _____

☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken No Pass

Motion Made By Sen. Lee Seconded By Sen. Christensen

[illegible]

Total (Yes) 8 No 0

Absent 0

Floor Assignment Sen. Watne

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

REPORT OF STANDING COMMITTEE (410)
February 15, 2001 1:50 p.m.

Module No: SR-28-3534
Carrier: D. Mathern
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1118: Political Subdivisions Committee (Sen. Cook, Chairman) recommends DO PASS (8 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1118 was placed on the Eleventh order on the calendar.

2001 TESTIMONY

HB 1118

TESTIMONY BY JO ZSCHOMLER
Director, Risk Management Division, OMB
Political Subdivisions Committee
January 18, 2001

Mr. Chairman, and members of Political Subdivisions Committee, my name is Jo Zschomler. I am the Director of the Risk Management Division of OMB. I appear today in support of House Bill 1118. My comments are based on the State's liability exposures if current statutory inspection requirements are not being complied with.

The 1995 Legislature passed the Tort Claims Act that established the Risk Management Fund. Our Division administers the Fund to pay tort claims and costs associated with lawsuits filed against the State. In other words, if there is a determination of negligence on the part of the State or an employee of the State, resulting damages would be paid by the Fund. Failure to comply with a statutory requirement could result in a determination of negligence.

Our Division is also charged with providing loss control services to all state entities. Our loss control efforts are directed to promoting safety and reducing loss resulting from claims by identifying and measuring risks of loss for the State and implementing appropriate measures to address those risks. Fire inspections are examples of effective loss control tools.

N.D.C.C. 18-08-12 currently requires all state owned buildings to be inspected annually. Those inspections are to be conducted by the Fire Marshal's office, the fire department of a city, or the fire protection district in which a state institution or building is located.

After conferring with the Fire Chiefs of Bismarck, Fargo, and Grand Forks, I am submitting with my testimony amendments to House Bill 1118.

HB 1118, as amended, would make the following changes in the current inspection requirements:

a. The State Developmental Center at Westwood Park, Grafton and the Veterans Home at Lisbon would be added as buildings to be inspected annually by the Fire Marshal.

b. The State Fire Marshal would be in a position to designate another party to conduct an inspection on its behalf. Those designees could include local fire departments or fire protection districts as well as other inspectors that are conducting inspections at state facilities - if those inspectors meet the Fire Marshal's requirements. For example, the loss control analysts from our office could be trained to perform fire inspections when they are conducting routine inspections for loss control exposures. This would be especially practical for remote or isolated State properties

c. The changes would also allow state-owned buildings, other than residential buildings and single family dwellings associated with colleges or universities, to be inspected once every three years rather than annually. This is the same inspection program that currently governs the North Dakota school buildings.

We would appreciate your support of HB 1118 as amended. To assist you to review the proposed amendments, I have also attached an amended House Bill 1118 to my testimony.

This concludes my prepared remarks.

PROPOSED AMENDMENT TO HOUSE BILL NO. 1118

Page 1, line 11, after Grafton, insert "the state veterans' home."

Page 1, line 12, after "and" insert "occupied"

Page 1, line 13, overstrike "fire department of the city or" and insert immediately thereafter "state fire marshal or the marshal's designee. Inspections and reporting for occupied residential buildings must be performed annually."

Page 1, remove line 14

Page 1, line 15, overstrike "is located," and "who"

Page 1, line 16, overstrike "who shall prepare a report based upon the findings" and insert immediately thereafter "The officer in charge of the institution or building shall submit a copy."

Page 1, line 16 after the first "inspection" insert "report" and remove the period

Page 1, line 16 remove "inspection"

Page 1, remove lines 17, 18, and 19

Page 1, line 20 overstrike "specifications of any violations, must be submitted"

Page 1, line 21 overstrike "and a copy of the report must be submitted to the state fire"

Page 1, line 22 overstrike "marshal"

Page 2, line 9 replace "those buildings" with "single-family dwellings not associated with colleges or universities."

Page 2, remove line 10

Renumber accordingly.

18128.0100

Fifty-seventh
Legislative Assembly
of North Dakota

**AMENDED
HOUSE BILL NO. 1118**

Introduced by

Political Subdivisions Committee

(At the request of the Office of Management and Budget)

1 A BILL for an Act to amend and reenact section 18-08-12 of the North Dakota Century Code,
2 relating to fire inspection of state buildings and institutions.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 18-08-12 of the 1999 Supplement to the North
5 Dakota Century Code is amended and reenacted as follows:

6 **18-08-12. Annual Periodic fire inspection of state buildings and institutions.** An
7 ~~annual fire inspection shall be performed at each state institution and building.~~

8 1. The state fire marshal, or the marshal's designee, shall inspect annually the state
9 penitentiary, the James River correctional center, the Missouri River correctional
10 center, the North Dakota youth correctional center, the state developmental center
11 at westwood park, Grafton, the state veterans' home, and the state hospital. The
12 ~~annual~~ inspection of all other state institutions and occupied state-owned buildings,
13 except residential buildings, must be made at least once every three years by the fire
14 ~~department of the city or~~ state fire marshal or the marshal's designee. Inspections
15 and reporting for occupied residential buildings must be performed annually. ~~fire~~
16 ~~protection district in which the institution or building is located, at the direction of the~~
17 ~~officer in charge of the institution or building, who shall prepare a report based upon~~
18 ~~the findings~~ The officer in charge of the institution or building shall submit a copy of
19 the fire inspection report. ~~The report, which must contain specifications of any~~
20 ~~violations, must be submitted to the responsible board, agency, or commission, and~~
21 ~~a copy of the report must be submitted to the state fire marshal. If the report~~
22 ~~indicates that an-~~ All violations can in the report must be corrected within the current
23 budget of the responsible board, agency, or commission, and action to correct the
24 violations, unless good cause can be demonstrated to the attorney general,

Fifty-seventh
Legislative Assembly

- 1 must be initiated within thirty days of receipt of the report by the responsible board,
- 2 agency, or commission.
- 3 2. For purposes of this section, a "fire inspection" is a procedure performed in
- 4 accordance with standards set forth in the uniform state building code, the fire
- 5 protection code of the ~~building officials and code administrators~~ local jurisdiction, or
- 6 the code of the national fire protection association.
- 7 3. For purposes of this section, "residential building" includes all state-owned
- 8 buildings used in whole or in part for providing overnight sleeping accommodations
- 9 to one or more persons on a regular or occasional basis, except those buildings
- 10 single-family dwellings not associated with colleges or universities.

Testimony on House Bill 1118
Political Subdivisions Committee
By Joel Boespflug
January 18, 2001

Mr. Chairman and members of the Committee, my name is Joel Boespflug, City of Bismarek Fire and Inspections Chief and also a Director with the North Dakota Fire Chief's Association. I appear before you today in favor of the amended version of House Bill 1118.

Fire prevention programs have proven to be a successful and efficient approach to minimize the threats to life and property from risk of fire. In the City of Bismarek, we believe that the rate of fire is reduced by at least 50% because of our fire prevention programs. I commend the proactive aspect of the legislation that recognizes the need for fire inspections in state buildings. However, in order for the objective of the bill to be fully achieved, I respectfully request your consideration of the amended version.

In Bismarek, our fire safety inspection program does provide for inspections of state-owned facilities and we presently charge no fee for the service. The number of state-owned buildings in Bismarek is in excess of 100. In our state, the fire departments of the eleven larger communities implement a professional fire safety inspection program in accordance with a national model fire code. In other communities, no such program is available locally due to the department not having the personnel and/or time to conduct the inspections. The volunteer fire chiefs throughout the state are devoted persons that continually give to their community. These persons might conduct the inspection if asked, but it's not appropriate to place any person in a situation without the necessary background and tools. The tools include formal training in the fire code, exposure to the application of the fire code in similar buildings, interpretation training, inspection principles, and knowledge of compliancy methods. To task hundreds of volunteer fire chiefs

throughout the state, without properly preparing them for the task, would produce an end product quite different than the one intended. The Fire Chief's Association supports the amendment that allows the state fire marshal, or marshal's designee, to conduct the inspections.

The officer in charge of the institution or building is an important stakeholder for the fire service in the inspection process. The entire inspection process should be utilized as a risk management tool to improve upon the level of life safety for occupants and emergency responders, and to reduce the potential loss of property. A partnership is necessary and the officer in charge of the building fulfills a critical role in the mitigation of any identified hazard. The amended version that reinserts this person into an active role is supported by the fire service.

Buildings used for sleeping accommodations, such as dormitories, need to receive frequent fire safety inspections. However, fire safety inspections in single-family dwellings are typically not conducted throughout the state, whether the building is state owned or private. We support the exclusion of single-family dwellings as provided for in the amendment.

The fire chiefs in the cities of Fargo, Grand Forks, Minot, and Bismarck have worked closely on this issue with the hope of seeing an amendment as the one that has been provided today. We are thankful for the support and are pleased with the amended bill. The Fire Chief's Association also appreciates the recognition that the service must be provided by the state fire marshal, or the marshal's designee, to ensure a consistent and effective program.

Mr. Chairman and members of the committee, thank you for your consideration and I urge you to support the amended version of House Bill 1118. I will be happy to answer any questions that you might have.

TESTIMONY BY JO ZSCHOMLER
Director, Risk Management Division, OMB
Political Subdivisions Committee
February 15, 2001

Mr. Chairman, and members of Political Subdivisions Committee, my name is Jo Zschomler. I am the Director of the Risk Management Division of OMB. I appear today in support of Engrossed House Bill 1118. My comments are based on the State's liability exposures if current statutory inspection requirements are not being complied with.

The 1995 Legislature passed the Tort Claims Act that established the Risk Management Fund. Our Division administers the Fund to pay tort claims and costs associated with lawsuits filed against the State. In other words, if there is a determination of negligence on the part of the State or an employee of the State, resulting damages would be paid by the Fund. Failure to comply with a statutory requirement could result in a determination of negligence.

Our Division is also charged with providing loss control services to all state entities. Our loss control efforts are directed to promoting safety and reducing loss resulting from claims by identifying and measuring risks of loss for the State and implementing appropriate measures to address those risks. Fire inspections are examples of effective loss control tools.

N.D.C.C. 18-08-12 currently requires all state owned buildings to be inspected annually. Those inspections are to be conducted by the Fire Marshal's office, the fire department of a city, or the fire protection district in which a state institution or building is located.

Engrossed HB 1118 would make the following changes in the current inspection requirements:

a. The State Developmental Center at Westwood Park, Grafton and the Veterans Home at Lisbon would be added as buildings to be inspected annually by the Fire Marshal.

b. The State Fire Marshal would be in a position to designate another party to conduct an inspection on its behalf. Those designees could include local fire departments or fire protection districts as well as other inspectors that are conducting inspections at state facilities - if those inspectors meet the Fire Marshal's requirements. For example, the loss control analysts from the Risk Management office could be trained to perform fire inspections when they are conducting routine inspections for loss control exposures. This would be especially practical for remote or isolated State properties

c. The changes would also allow state-owned buildings, other than residential buildings, to be inspected once every three years rather than annually. This is the same inspection program that currently governs the North Dakota school buildings.

We would appreciate your support of Engrossed HB 1118.

This concludes my prepared remarks.

Testimony on House Bill 1118
Senate Political Subdivisions Committee

By Joel Boespflug
February 15, 2001

Mr. Chairman and members of the Committee, my name is Joel Boespflug, City of Bismarck Fire and Inspections Chief and also a Director with the North Dakota Fire Chief's Association. I appear before you today in favor of the engrossed version of House Bill 1118.

Fire prevention programs, both locally and nationally, have proven to be a successful and efficient approach to minimize the threats to life and property from risk of fire. This bill places the State Fire Marshal in-charge of the state owned building fire inspection program. It also provides the fire marshal with the ability to coordinate fire prevention efforts with local fire department programs through the designee process. Such a concept will ensure that the fire safety inspection program for state owned buildings is well coordinated and consistent.

In Bismarck, our fire safety inspection program does provide for inspections of state-owned facilities and we presently charge no fee for the service. The number of state-owned buildings in Bismarck is in excess of 100 and it is our intent to continue fire safety inspections and pre-fire planning procedures in these occupancies. Across the state, the fire departments of the eleven larger communities implement a professional fire safety inspection program in accordance with a national model fire code.

In other communities, no such program is available locally due to the department not having the personnel and/or time to conduct the inspections. The volunteer fire chiefs throughout the state are devoted persons that continually give to their community. These persons might conduct the inspection if asked, but it's not appropriate to place any person in a situation without the necessary background and tools. To task hundreds of volunteer fire chiefs throughout the state, without properly preparing them for the task, would produce an end product quite different than the one intended. Therefore, placing this program under the management of the State Fire Marshal is supported by the Fire Chief's Association.

The fire chiefs in the cities of Fargo, Grand Forks, Minot, and Bismarek have worked closely on this issue with the Fire Chief's Association and the State Fire Marshal. We are thankful for the support and guidance provided by the State Fire Marshal and we look forward to working closely with his office in the state owned building fire inspection program.

Mr. Chairman and members of the committee, thank you for your consideration and I urge you to pass the engrossed version of House Bill 1118. I will be happy to answer any questions that you might have.