

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2160

2005 SENATE POLITICAL SUBDIVISIONS

SB 2160

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2160

Senate Political Subdivisions Committee

Conference Committee

Hearing Date January 21, 2005

Tape Number	Side A	Side B	Meter #
1	X		0 - 5795
Committee Clerk Signature <i>Shirley Borg</i>			

Minutes:

**Senator Cook** called the committee on Political Subdivisions to order. Roll call was taken.

All committee members (6) present.

**Senator Cook** opened the hearing on SB 2160 relating to administration and enforcement of the state building code.

**Senator Judy Lee**, District 13, West Fargo, the prime sponsor, presented SB 2160. The bill has to do with having a state building code be in place throughout the entire state. This is not an issue in larger area because they have building codes in place. She feels the bill is worth the committees attention to try and see if something can be implemented even if it is a phased in type of thing. There are very large areas of this state that don't have any building code in place and it is just as important for people who live in rural areas to have the protections of building codes as it is for the people in the city who already have a building code in place. She shared some communication and thoughts from an architect in her home area. What would probably happen

was a large city building department would administer code for townships and counties or a couple of township and counties either contract with another larger city or county or they might hire a private entity to do the work. For example in Senator J. Lee's area West Fargo, Casselton, Kindred and Mapleton all contract with a local engineering firm to deal with the codes. So it isn't that every township or every small town should have an inspector. That would be unreasonable but it is reasonable that a building permit, especially on commercial projects should have some kind of inspection process as a part of it to make sure that building process is being done properly. Another issue is liability insurance. Any private entity that provides this service should have liability insurance. No matter what the cost or burden is, the enforcement of the building code would be worth it if it saves only one life.

**Doreen Riedman**, Executive Officer, North Dakota Association of Builders, appeared in support of SB 2160. (See attachment #1)

**Senator Cook:** You say your association always meet building codes, so you don't find contractors who are doing a project where there is not a building code.

**Doreen Riedman:** Our members are primarily in major cities and communities that already require the state building code. So our members do not build out of the code.

**Senator Triplett:** What are the concerns of you members?

**Doreen Riedman:** The concerns of the extra bureaucracy and cost that might be added to the small communities and townships. This could become burdensome and we don't want to have housing become unaffordable in the rural areas even if we do encourage the codes. A phased in process might be helpful

**Alan Erickson**, North Dakota Township Officers Association, testified against SB 2160. (See attachment #2)

**Senator Cook:** You heard some suggestions that something could be done with this bill such as phase it in or have it selective to who it applies to. Could you see any solutions to this bill that would change where you are at?

**Alan Erickson:** Phasing it in might not be too bad. Basically we feel that in the real rural areas where there is no building, there is no need for this.

**Senator Triplett:** How would this harm your township if there is no building going on? Are you concerned that even if there is no building your townships would be required to think about it?

**Alan Erickson:** That is a good point. Our townships would have to think about it and get together with someone who has the knowledge to enforce it and get permits.

**Senator Triplett:** Would it seem logical to you for townships that didn't want to deal with it could refer to the county government to have the bureaucracy put in place.

**Alan Erickson:** Yes, that would be a possibility and have one person in charge of the whole county.

**Claus Lemke**, Burleigh County Commissioner, appeared in opposition of SB 2160. He wanted to share with committee some problems he has experienced as a county commissioner with township zoning. Around the city of Bismarck there are three major townships, Lincoln which is unorganized and the county is handling the full zoning and ordinances, Hay Creek which is an organized township but they have relinquished the zoning to the county, which they can do and Apple Creek which does their own. We have five other unorganized counties in which the county does the building codes. The problem that he sees is about eighty percent of the

townships would be forced into the county where an additional person may have to be hired to handle it. He is in favor of better zoning for townships but at the same time the townships will be loaded on to the county which will make about eighty percent of the county commissioners and township officers unhappy.

**Senator Cook:** What percent of burleigh county is subject to state building codes right now?

**Claus Lemke:** The six unorganized townships fall in our jurisdiction and Hay Creek which has relinquished it over to us, which makes seven townships and all have a very good building code because the county does it. The county meets the city building codes.

**Jerry Hjelmstad,** North Dakota League of Cities, testified in opposition to SB 2160. (See Attachment #3)

**Senator Dever:** Who is responsible to enforce the building codes if the cities, townships and counties don't want it?

**Jerry Hjelmstad:** Some of the cities want it but they do not want to be mandated to do it. If there is a place where no codes are available it is the responsibility of the property owner to work with a contractor that they can trust. In that regard the contractor would be responsible for following the state building code.

**Sandy Clark,** North Dakota Farm Bureau, appeared representing 27,500 members of the North Dakota Farm Bureau in opposition of SB 2160. The farm bureau members do not like the word mandate and do think this would be a law that would be difficult to administer. Because of distances in various part of the state you would have to find counties that would go together because there is such a small amount of building being done. Another of the burdensome things would be having the contractor have to sit around and wait for building inspector to come from a

long distance away. The state building code is very complex so there would be expense in having someone trained and making sure that person was trained.

**Senator Hacker:** Are there parts of the code that belongs to grain bins or quonsets?

**Sandy Clark:** Out buildings do not require a building permit unless they are heated.

**Richard Gray,** North Dakota Department of Commerce Divisions of Community Services appeared neither for nor against SB 2160. One of the six functions that he does is to be in charge of programs for the state building code. The state building code does not pertain to agricultural buildings that are uninhabited nor does it pertain to any building that is heated or cooled. There is no direct relationship between taking out a building permit and having a building inspection. However, taking out a building permit does trigger when an inspection has to be done. He would suggest looking into a phased in program in which you work with the communities and help them figure out how to phase it in. Start with the ones that are doing construction. There is a difference between the life safety code and a building code. The building code is building to that code. The life safety code has a lot of building code features in it and sometimes creep into the building code. Only one entity in the state uses the life safety code and that is the North Dakota Health Department because they are mandated by the federal government with health care facilities to inspect these facilities for the day to day operation for life safety. The joint powers agreement provides the opportunities to do a lot of things. This bill is a major step in the right direction and brings us into the twenty first century.

**Senator Cook:** Are you saying that we could pass this law and require cities to enforce the state building code and not create a need for cities to have a mechanism of issuing building permits?

**Richard Gray:** There has to be some mechanism in place that pays for this and the building permit becomes that mechanism. That building permit triggers the need for building inspections.

**Senator Triplett:** What would you suggest would be an appropriate phase in period?

**Richard Gray:** I would give it a year or two to work those communities in that aren't doing anything.

**Doreen Reidman,** Executive Officer ND Association of Builders, reappeared and said they would like to see line 10 and 11 amended if this legislature goes anywhere. They would like the extra language meet or exceed be struck.

**Bonnie Larson Steiger,** Executive Director of the American Institute of Architects, appeared in favor of SB 2160. She clarified that there is a difference between the building code and life safety code. The life safety code is in place with the state health department and that is for long term facilities and other primary care type facilities and it is not related to the building code at all.

**Steve Spilde,** CEO, North Dakota Insurance Reserve, which issues property, casualty and liability coverage to all counties, most of the cities and townships in ND.

**Senator Cook:** Could you speak just to the liability issues?

**Steve Spilde:** My concern is if we have opportunities for risk in those types of organizations that do this work on a routine basis, what are we going to have for those types of organizations that do it almost never.

No further testimony.

**Senator Cook** closed the hearing on SB 2160.



2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2160

Senate Political Subdivisions Committee

Conference Committee

Hearing: February 4, 2005 (Action)

Tape Number	Side A	Side B	Meter #
1		X	4637 - 5389

Committee Clerk Signature *Shirley Borg*

Minutes:

**Chairman Cook** opened the discussion on SB 2160. Five members present and one absent.

**Senator Triplett** it was decided that SB 2160 be turned over to a study and you ask me to take care of that and I took it up to John Walstad and she presented the amendment to the committee.

She had a question on whether shall or may should be used. She had shall put in as the mandatory one and ask the committees opinion on whether it should be shall or may.

**Senator Gary Lee** said he would leave it up to the legislative council because that is why we have them.

**Chairman Cook** said he would be shocked if this one did not get chosen.

**Senator Triplett** said lets go with may.

**Senator Triplett** made a motion to amend SB 2160 with one change and that would be changing shall to may. The amendment 50386.101

**Senator Dever** seconded the motion.

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Senate Political Subdivisions Committee

Bill/Resolution Number SB 2160

Hearing Date February 4, 2005

Roll call vote: Yes 5 No 0 Absent 1 and not voting

**Chairman Cook:** We have before us SB 2160 as amended.

**Senator Triplett** moved a Do Pass as Amended

**Senator Dever** seconded the motion

Discussion: None

Roll call vote 5 Yes 0 No 1 Absent and not voting.

Carrier: **Senator Dever**

PROPOSED AMENDMENTS TO SENATE BILL NO. 2160

Page 1; line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative council study of administration and enforcement of the state building code.

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

**SECTION 1. LEGISLATIVE COUNCIL STUDY.** The legislative council shall study, during the 2005-06 interim, the administration and enforcement of the state building code and its relationship to local standards and enforcement. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly."

Renumber accordingly

February 4, 2005

*JB*  
2-7-5

PROPOSED AMENDMENTS TO SENATE BILL NO. 2160

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative council study of administration and enforcement of the state building code.

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

**SECTION 1. LEGISLATIVE COUNCIL STUDY - STATE BUILDING CODE.** The legislative council shall consider studying, during the 2005-06 interim, the administration and enforcement of the state building code and its relationship to local standards and enforcement. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly."

Renumber accordingly

Date: 2-4-05  
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2160

Senate Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number 50386.0102 Title .0200

Action Taken Amendment on SB 2160

Motion Made By Senator Triplett Seconded By Senator Dever

Senators	Yes	No	Senators	Yes	No
Senator Dwight Cook, Chairman	X				
Senator Nicholas P. Hacker, VC	X				
Senator Dick Dever	X				
Senator Gary A. Lee	X				
Senator April Fairfield		A			
Senator Constance Triplett	X				

Total Yes 5 No 0

Absent 1

Floor Assignment \_\_\_\_\_

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

Date: 2-4-05  
Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2160

Senate Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number 50386.0102

Action Taken Do Pass as Amended

Motion Made By Senator Triplett Seconded By Senator Dever

Senators	Yes	No	Senators	Yes	No
Senator Dwight Cook, Chairman	X				
Senator Nicholas P. Hacker, VC	X				
Senator Dick Dever	X				
Senator Gary A. Lee	X				
Senator April Fairfield	ABSENT				
Senator Constance Triplett	X				

Total Yes 5 No 0

Absent 1

Floor Assignment Senator Dever

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

**REPORT OF STANDING COMMITTEE**

**SB 2160: Political Subdivisions Committee (Sen. Cook, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2160 was placed on the Sixth order on the calendar.**

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative council study of administration and enforcement of the state building code.

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

**SECTION 1. LEGISLATIVE COUNCIL STUDY - STATE BUILDING CODE.** The legislative council shall consider studying, during the 2005-06 interim, the administration and enforcement of the state building code and its relationship to local standards and enforcement. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly."

Renumber accordingly

2005 HOUSE GOVERNMENT AND VETERANS AFFAIRS

SB 2160



2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2160

House Government and Veterans Affairs Committee

Conference Committee

Hearing Date 3/3/05

Tape Number	Side A	Side B	Meter #
1	x		14.1-23.2
Committee Clerk Signature <i>Dale K. Brown</i>			

Minutes: SB 2160 To provide for a legislative council study of administration and enforcement of the state building code.

**Chairman Haas:** The meeting of the House Government and Veterans Affairs Committee will come back to order. We will open the hearing on SB 2160 and ask the clerk to read the title, please. Senator Lee.

**Senator Judy Lee-District 13-I** would like to give you a little background on how I came to introduce this bill. We had heard repeatedly the challenges of long term facilities. Some of the problems they face there is no enforcement of building codes throughout the state. Our concern is the people in the rural areas, as much as in the urban areas deserve to have the assurance that the construction is being done properly and according to code. The state building code would be in place throughout the state.

**Chairman Haas:** I guess I am not quite clear on why the Senate turned it into a study rather than dealing with the bill.

**Senator Lee:** I was not in the committee that heard it.

**Chairman Haas:** Are there other questions for Senator Lee, if not, thank you very much. Is there anymore testimony in favor of SB 2160.

**Richard Gray-Division of Community Services-Under the Department of Commerce-**One of my duties is to over see the state building code, maintain it, help provide training throughout the state through the North Dakota Building Association. We support the need to have a study on it, we constantly have questions on this, we are not able to help them because we don't enforce the state building codes.

**Chairman Haas:** I gather from what you just said that you think there is a real lack of uniformity in first of all, over all enforcement of building codes across the state and do we use more then one code in some instances, in different municipalities.

**Richard:** The state building code by law, consists of the international building codes and we adopted four of them. We recently we updated to the 2003 version. That particular code, if the city or the county wants to enforce the building code, that's the code they are suppose to enforce. We have amendments to that code, courtesy of the larger jurisdictions participating on that. It is really the larger jurisdictions that enforce it and at least we are on the same sheet of music on that. There are some differences from community to community, but very few. The biggest problem we have 357 jurisdictions and 53 counties. We probably have 30 jurisdictions that claim they really enforce any building codes. Most jurisdiction are not covered by building codes.

**Chairman Haas:** Are there further questions for Richard. Thank you very much. Any additional testimony on SB 2160?

Page 3  
House Government and Veterans Affairs Committee  
Bill/Resolution Number SB 2160  
Hearing Date 3/3/05

**Doreen Riedman-Executive Officer-North Dakota Association of Builders-Testimony**

**Attached-For**

**Chairman Haas:** Thank you Doreen, are there questions for Doreen. If not thank you very much.

Is there additional testimony on SB 2160, in favor of SB 2160. Is there opposition testimony to SB 2160? If not the hearing will be closed on SB 2160.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2160

House Government and Veterans Affairs Committee

Conference Committee

Hearing Date 3/3/05

Tape Number	Side A	Side B	Meter #
1		x	25.3-26.2
Committee Clerk Signature <i>Duke H. Egan</i>			

Minutes: To provide for a legislative council study of administration and enforcement of the state building code.

Discussion and voting:

**Chairman Haas:** Lets look at SB 2160. This is the recommended study on the state building codes. What are your wishes? Rep. Conrad moves a DO PASS, is there a second, seconded by Rep. Meier, any discussion on a DO PASS motion on SB 2160.

**Rep. Boehning:** I like of the intent, it is not going to do anything. What we do need is what was first introduced in the bill. There are no building codes out in the rural area and I see a lot of shady things going on out there. This is not going to resolve anything and we are going to spend another two years studying this. What we do need is do something about this.

**Chairman Haas:** I share your frustration in turning a bill into a study, believe me, I just had that experience this week. The benefit of that is if you do the study and supposedly if it is a serious

issue, you get people on board and the bill comes in next time and then you have a better chance of getting action.

**Rep. Conrad:** Maybe people would see this as heavy handed and people are not as knowledgeable as you are in construction.

**Rep. Boehning:** There are codes out there, but you need to have an inspection. Maybe we should on line 5, remove consider and change study, into study and at least study.

**Chairman Haas:** We could do that, but it would probably get killed on the floor. The legislative council, there is a lot of bills and resolutions that come in that where studies are recommended or shall consider studying. Generally it is better to leave as a shall consider then try to make it mandatory, you run a higher risk of having it killed on the floor. I think this is important issue across the state of North Dakota. What do you want to do with this bill? A DO PASS motion by Rep. Conrad, is there a second, seconded by Rep. Meier, any more discussion. If not we will have the clerk take the roll.

**VOTE: YES 13 NO 0 ABSENT 1 DO PASS ON SB 2160**

**REP. BOEHNING WILL CARRY THE BILL.**

Date: 3/3/05  
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2160

House House Government and Veterans Affairs Committee

Check here for Conference Committee

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

Action Taken Do PASS

Motion Made By Rep. Conrad Seconded By Rep. Meier

Representatives	Yes	No	Representatives	Yes	No
Chairman C.B. Haas	✓		Rep. Bill Amerman	✓	
Bette B. Grande - Vice Chairman	✓		Rep. Kari Conrad	✓	
Rep. Randy Boehning	✓		Rep. Louise Potter	✓	
Rep. Glen Froseth	✓		Rep. Sally M. Sandvig	✓	
Rep. Pat Galvin	✓				
Rep. Stacey Horter	✓				
Rep. Jim Kasper	AB				
Rep. Lawrence R. Klemin	✓				
Rep. Lisa Meier	✓				
Rep. Margaret Sitte	✓				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Rep. Boehning

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

**REPORT OF STANDING COMMITTEE (410)**  
March 3, 2005 5:18 p.m.

**Module No: HR-39-4122**  
**Carrier: Boehning**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2160: Government and Veterans Affairs Committee (Rep. Haas, Chairman)**  
recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2160  
was placed on the Fourteenth order on the calendar.

**2005 TESTIMONY**

SB 2160





**PRESIDENT**  
Joe Stenvold, Minot

**PRESIDENT-ELECT**  
ALT. NATIONAL DIRECTOR/ALT. BUILD-PAC TRUSTEE  
Don Dabbert, Jr., Fargo

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**BISMARCK-MANDAN HOME BUILDERS ASSOCIATION**  
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**DICKINSON AREA BUILDERS ASSOCIATION**  
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Lyle Bares  
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Betty McDonald, Executive Officer

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Ken Krajsa  
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**MINOT ASSOCIATION OF BUILDERS**  
Dave Lebrun, President  
Joe Stenvold  
Mike Stenvold  
Vicky Flagstad, Executive Officer

**NORTH DAKOTA ASSOCIATION OF BUILDERS**  
Doreen Riedman,  
Executive Officer  
Liza Wisniewski,  
Administrative Assistant



**Testimony on Senate Bill 2160**  
**Senate Political Subdivisions Committee**  
**January 21, 2005**

**Doreen Riedman, Executive Officer**  
**North Dakota Association of Builders**

Chairman Cook and members of the Senate Political Subdivisions Committee, the North Dakota Association of Builders (NDAB) would like to support and provide input on Senate Bill 2160, relating to the administration and enforcement of the State Building Code.

The NDAB represents nearly 1,600 members statewide, and is affiliated with five local builders associations in Bismarck-Mandan, Dickinson, Fargo-Moorhead, Grand Forks, and Minot; and is part of a larger federation, the National Association of Home Builders (NAHB), which has over 215,000 members.

We support the State Building Code, and believe that building codes assure the safety and health of building occupants, and should use the most cost-effective requirements and guidelines. Our members are primarily located in major cities across the state, and all meet or exceed the compliance levels of the State Building Code. However, there is concern among our members of the burden this legislation may place on small jurisdictions. We hope that it will be workable and affordable throughout North Dakota.

We support the use of the State Building Code in North Dakota, and encourage this to be adopted and enforced in a manner that will keep housing accessible and affordable to citizens of our state.

Alan Erickson -ND Township Officers Association

In White Ash Township, where I live, We have been zoned for the past 20 years and have not had a new house built in all of this time.

We are zoned so If you are building a new house you have to get a building permit. We do not need to designate a building code enforcement agency. This mandate is not needed in rural ND.

I URGE A DO NOT PASS

**To: Senate Political Subdivisions Committee**  
**From: Jerry Hjelmstad, North Dakota League of Cities**  
**Date: January 21, 2005**  
**Re: Senate Bill No. 2160**

Mr. Chairman and members of the Senate Political Subdivisions Committee, my name is Jerry Hjelmstad and I am here on behalf of the North Dakota League of Cities to testify in opposition to Senate Bill No. 2160.

Section 2 of the bill says that each city "shall" administer and enforce the state building code. Over half of North Dakota's 357 incorporated cities have a population of less than 200. Mandating enforcement of a building code could put a financial burden on these and other cities.

Mandating enforcement of a code could also expose the city to financial risk through increased exposure to liability. A recent North Dakota Supreme Court case (Ficek v. Morken, 2004 ND 158, 685 N.W.2d 98) found a city liable for issues relating to inspection under a building code. Mandating code enforcement would require cities to assume this additional risk.

For those cities that do choose to enforce a building code, section 1 of the bill provides that they may amend the state building code only "if the local standards meet or exceed those of the state building code". This raises two concerns. First, it takes away flexibility needed to meet the variations, such as soil conditions, that exist in different parts of our state. Second, it raises a question as to what amendments "meet or exceed" the state building code. Some amendments may provide for different standards, but it may be difficult to determine whether they "meet or exceed" state building code requirements.

We ask that you recommend a "do not pass" on Senate Bill No. 2160.



PRESIDENT  
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Doreen Riedman,  
Executive Officer  
Tanya Wisniewski,  
Administrative Assistant



**Testimony on Senate Bill 2160  
House Government & Veterans Affairs Committee  
March 3, 2005**

**Doreen Riedman, Executive Officer  
North Dakota Association of Builders**

Chairman Haas and members of the House Government and Veterans Affairs Committee, the North Dakota Association of Builders (NDAB) would like to support Senate Bill 2160, relating to an interim study on the administration and enforcement of the State Building Code.

The NDAB represents just over 1,600 members statewide, and is affiliated with five local builders associations in Bismarck-Mandan, Dickinson, Fargo-Moorhead, Grand Forks, and Minot; and is part of a larger federation, the National Association of Home Builders (NAHB), which has over 215,000 members.

We support the State Building Code, and believe that building codes assure the safety and health of building occupants, and should use the most cost-effective requirements and guidelines. Our members are primarily located in major cities across the state, and all meet or exceed the compliance levels of the State Building Code.

We support the State Building Code, and encourage all efforts to keep housing accessible and affordable to citizens of our state. As an interim study bill, this will be valuable to all citizens of the State of North Dakota now and in the future. We look forward to working in cooperation with others on this study.