

2009 SENATE HUMAN SERVICES

SB 2046

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2046

Senate Human Services Committee

☐ Check here for Conference Committee

Hearing Date: 1-07-09

Recorder Job Number: 6648

Committee Clerk Signature

Mary K. Monson

Minutes:

Chairman Senator J. Lee opened the hearing on SB 2046 relating to surveys during construction or renovation projects of health facilities licensed by the state department of health.

Rep. Gary Kreidt, Dist. 33, introduced SB 2046 and spoke in favor of it. He explained that this had been a pilot project for the past two years which had a shaky start but then ran smoothly. He felt it had been a very successful project. He gave a short history of the project. This pertained to building projects of Long Term Care facilities and now has been expanded to all health care facilities when they do either remodeling or new projects. What had been experienced over the years at construction completion during the first life safety survey by the Dept. of Health was that, at times, issues were discovered that cost major dollars to go back in and correct. He felt this could be alleviated if the project could be examined on a timely basis during the process to make sure it was going on as the plan had been designed. He feels this has been accomplished. He gave examples of projects that were not in the pilot project as well as projects that were in the pilot project. He said this would be a major savings, not only for the facilities and getting them opened on time, but also a major savings to the State of ND in

dollars by not having to go back and tearing into construction projects and doing them over.

Senator Heckaman asked about a fiscal note.

Rep. Kreidt explained there is a fiscal note of \$200,000 and a special fund a little over \$100,000. There are 2 FTE's that are included with the fiscal note to carry on the project and are included in the Governor's budget. The 2 FTE's in the dollar amount will be used to continue the project. He went on to say that many of the nursing homes were built in the late 50's and early 60's. In the next ten years he feels there will be a lot of new construction and remodeling of these facilities.

Senator J. Lee asked about the fees and if there was any objection to them.

Rep. Kreidt answered that the facilities are more than willing to pay to have these inspections done because they realize the end savings.

Bruce Pritschet (Division of Health Facilities ND Dept. of Health) spoke in favor of SB 2046. See attachment #1.

Senator J. Lee asked who establishes the fees.

Bruce Pritschet replied that in this case he thought it was the dept.

Senator Heckaman asked if they needed to go out of state to find surveyors.

Bruce Pritschet answered that they did because the demonstration project was not a regulatory function. It was considered consulting. To avoid conflict of interest with their surveyors that work on a regulatory basis, a MN surveyor was contracted to do the demonstration projects.

Senator J. Lee asked if they would continue to contract outside consultants if they go ahead with this.

Bruce Pritschet said they would not because, if this bill passes, this would become a regulatory function and they would avoid conflict of interest.

Senator Erbele asked about the two projects and what category they fell into.

Bruce Pritschet thought they were both in the large category.

Senator Dever asked about the savings for Medcenter One in interest payments and lost revenue and if that was potential time they would have been delayed and didn't include any cost for corrections they would have had to make.

Bruce Pritschet said that was true. Those were the best numbers they could get at the time. It is very difficult to look at a project and say what was avoided and how much it cost.

Senator Dever asked if participation in this project was voluntary.

Bruce Pritschet said the demonstration project was on a voluntary basis and if they met the qualifications, they could participate. If this bill passes, it would become a regulatory function and it would become part of the process of construction and renovation.

Darlene Bartz, Dept. of Health, offered information on why they are requesting this to be funded partially by general funds and partially from fees. They need to have a secure income in order to bring staff on board and provide training to bring them up to function. If it based just on fees they are basically dependent on the flow of work coming in.

Senator Dever asked if fees are established through the administrative rules process.

Ms. Bartz said they could be established through that process. Right now part of what they are dealing with is that it is more than the long term care industry – anything that is licensed by the Division of Health facilities. Some would not fall under this.

Senator Heckaman asked for examples of what kinds of facilities.

Ms. Bartz said clinics or dental offices are not regulated in the same manner. It would be healthcare facilities like long term care, basic care, hospitals, ambulatory surgical centers etc.

The ones they have state authority over.

Shelly Peterson – President of the ND Long Term Care Association – spoke in favor of SB 2046. See attachment #2.

She offered further information that it would be nice to add an emergency clause but she wouldn't want to jeopardize passage of the bill.

Senator J. Lee complimented all parties on making this work. It resulted in a really good program that benefits everybody.

There was no opposition to SB 2046.

Senator J. Lee recessed the hearing.

The hearing on SB 2046 was called back to order by **Senator J. Lee** for more testimony.

Sheila Sandness, Fiscal Analyst for Legislative Council, presented information on SB2046 but not speaking for or against it. See attachment #3

Senator J. Lee asked for a fiscal note reflecting an emergency clause.

Ms. Sandness said they would send out a revised fiscal note.

Discussion took place on implementing this bill and if it would be helpful to add an emergency clause. If it were to become effective sooner, it would become of the regulatory process and the department could be starting some of the projects. It would be a positive for the industry as well as the department.

Senator Dever asked if the urgency would be more associated with the plan review process or the actual on site survey process.

Ms. Bartz replied that it would be both.

Senator Heckaman asked if there was a fiscal note with the pilot project and how the cost was absorbed.

Ms. Bartz answered that it came out of their general funds.

Senator J. Lee recessed the hearing.

Senator J. Lee reconvened the hearing. There was no additional testimony on SB 2046.

The hearing on SB 2046 was closed.

Committee discussion followed on the importance of an emergency clause, the need for additional funding and how the pilot program has been a good program. The inspection process of other buildings was also discussed. The unique factor with the health facilities is the life safety issue.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2046

Senate Human Services Committee

☐ Check here for Conference Committee

Hearing Date: 1-13-09

Recorder Job Number: 6919 (Meter 2:30)

Committee Clerk Signature

Mary K. Monson

Minutes:

Senator J. Lee opened discussion on SB 2046 to consider the proposed amendment by Darlene Bartz from the health dept. dated 1-13-09. This was the one about the section of plans for construction projects. (Attachment #4)

The reason "life safety survey" was taken out was because not all of the reviews are strictly life safety details. This permits them to review all the plans to make sure they comply. It's maybe to go broader and a little better. The long term care association was ok with the amendment. The funding stays the same.

Senator Heckaman moved to adopt the amendment proposed by Darlene Bartz and the health department.

It was seconded by **Senator Pomeroy**.

Roll call vote 5-0-1. **Motion passed.**

Senator Heckaman moved a **Do Pass** on the amended bill.

Seconded by **Senator Pomeroy**.

Motion passed on a roll call vote 5-0-1.

Carrier is **Senator J. Lee**.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2046

Senate Human Services Committee

☐ Check here for Conference Committee

Hearing Date: 1-14-09

Recorder Job Number: 6989

Committee Clerk Signature

Mary K Monson

Minutes:

Senator J. Lee called the committee to order and opened SB 2046 for a correction.

Senator Heckaman moved to reconsider the prior action on SB 2046.

Seconded by **Senator Pomeroy**.

Approved on a voice vote.

Senator J. Lee explained that the committee needed to reconsider the Do Pass action on SB 2046 because it also needed to be rereferred to appropriations.

Senator Heckaman made a motion for a **Do Pass as amended on SB 2046 and be rereferred to appropriations.**

Senator Pomeroy seconded the motion.

Roll call vote 5-0-1. **Motion passed.**

Carrier is **Senator J. Lee**.

FISCAL NOTE
Requested by Legislative Council
02/13/2009

Amendment to: Engrossed
 SB 2046

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.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$106,230		
Expenditures			\$215,680	\$106,230	\$222,886	\$111,442
Appropriations			\$215,680	\$106,230	\$222,886	\$111,442

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

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

The amendments to this bill remove two full time FTE, and the appropriation for the 2009-11 biennium.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

This bill requires the Health Department to conduct a life safety code survey for all health facilities licensed by the Health Department during and at the conclusion of a construction, renovation, or construction and renovation project to ensure compliance with state licensure requirements. Section 2 includes an emergency clause.

The costs in this fiscal note include staff time (\$248,360) for onsite inspection (1.5 FTE) and plans review (.5 FTE), and associated operational costs of \$73,550.

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.*

It is anticipated that approximately a third of the cost for providing this service will come from fees charged to facilities for plans review based on the size of the project - small projects will pay \$300, medium size projects will pay \$900, and large projects will pay \$2,400. The remainder of the costs of this project would be covered through a general fund appropriation to the department.

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.*

During the 2009-2011 biennium, it is anticipated that it will take approximately 1.5 FTE of staff time to complete the additional onsite visits and .5 FTE staff time to complete the additional plans review associated with these construction and renovation projects. In addition, there will be operating costs to complete the onsite inspections. It is anticipated that the total costs during the 2009-2011 biennium would be \$321,910.

It is anticipated that the costs of providing this service to the industry during the 2011-2013 biennium will be \$334,328.

The department will use general fund roll-up dollars to cover the general fund portion of any expenditures incurred in the 2007-09 biennium.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Funds for this project and 2 full time FTE are included in the department's appropriation bill (SB 2004).

Name:	Kathy J. Albin	Agency:	Health Department
Phone Number:	328-4542	Date Prepared:	02/13/2009

FISCAL NOTE
Requested by Legislative Council
01/19/2009

Amendment to: SB 2046

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.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$106,230		
Expenditures			\$215,680	\$106,230	\$222,886	\$111,442
Appropriations			\$215,680	\$106,230	\$222,886	\$111,442

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

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

The amendments to this bill add two full time FTE, an appropriation for the 2009-11 biennium, and an emergency clause to begin the project in the 2007-09 biennium.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

This bill requires the Health Department to conduct a life safety code survey for all health facilities licensed by the Health Department during and at the conclusion of a construction, renovation, or construction and renovation project to ensure compliance with state licensure requirements.

The costs in this fiscal note include staff time (\$248,360) for onsite inspection (1.5 FTE) and plans review (.5 FTE), and associated operational costs of \$73,550.

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.*

It is anticipated that approximately a third of the cost for providing this service will come from fees charged to facilities for plans review based on the size of the project - small projects will pay \$300, medium size projects will pay \$900, and large projects will pay \$2,400. The remainder of the costs of this project would be covered through a general fund appropriation to the department.

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.*

During the 2009-2011 biennium, it is anticipated that it will take approximately 1.5 FTE of staff time to complete the additional onsite visits and .5 FTE staff time to complete the additional plans review associated with these construction and renovation projects. In addition, there will be operating costs to complete the onsite inspections. It is anticipated that the total costs during the 2009-2011 biennium would be \$321,910.

It is anticipated that the costs of providing this service to the industry during the 2011-2013 biennium will be \$334,328.

The department will use general fund roll-up dollars to cover the general fund portion of any expenditures incurred in the 2007-09 biennium.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Included in section 3 of this bill is an appropriation of \$215,680 from the general fund and \$106,230 of other funds for a total of \$321,910.

Name:	Kathy J. Albin	Agency:	Health Department
Phone Number:	328.4542	Date Prepared:	02/05/2009

FISCAL NOTE
Requested by Legislative Council
12/08/2008

Bill/Resolution No.: SB 2046

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.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$106,230		
Expenditures			\$215,680	\$106,230	\$222,886	\$111,442
Appropriations			\$215,680	\$106,230	\$222,886	\$111,442

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

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill requires the Health Department to conduct a life safety code survey for all health facilities licensed by the Health Department during and at the conclusion of a construction, renovation, or construction and renovation project to ensure compliance with state licensure requirements.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The costs in this fiscal note include staff time (\$248,360) for onsite inspection (1.5 FTE) and plans review (.5 FTE), and associated operational costs of \$73,550.

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.*

It is anticipated that approximately a third of the cost for providing this service will come from fees charged to facilities for plans review based on the size of the project - small projects will pay \$300, medium size projects will pay \$900, and large projects will pay \$2,400. The remainder of the costs of this project would be covered through general funds appropriated to the department.

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.*

During the 2009-2011 biennium, it is anticipated that it will take approximately 1.5 FTE of staff time to complete the additional onsite visits and .5 FTE staff time to complete the additional plans review associated with these construction and renovation projects. In addition, there will be operating costs to complete the onsite inspections. It is anticipated that the total costs during the 2009-2011 biennium would be \$321,910.

It is anticipated that the costs of providing this service to the industry during the 2011-2013 biennium will be \$334,328.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Included in the Health Department's appropriation bill (SB 2004) is \$215,680 from the general fund and \$106,230 of special funds for a total of \$321,910 for this project.

Name:	Kathy J. Albin	Agency:	Health Department
Phone Number:	328.4542	Date Prepared:	12/31/2008

Date: 1-13-09

Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. SB 2046

Senate Human Services Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number Darlene Barty - Health Dept.

Action Taken ☐ Do Pass ☐ Do Not Pass ☐ Amended ☐ Rerefer to Appropriations
☒ Adopt Amendment ☐ Reconsider

Motion Made By Sen. Heckaman Seconded By Sen. Pomeroy

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee, Chairman	✓		Senator Joan Heckaman	✓	
Senator Robert Erbele, V.Chair	✓		Senator Richard Marcellais		
Senator Dick Dever	✓		Senator Jim Pomeroy	✓	

Total (Yes) 5 No 0

Absent 1

Floor Assignment _____

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

Date: 1-13-09

Roll Call Vote #: 2

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. SB 2046

Senate Human Services Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Rerefer to Appropriations
 ☐ Adopt Amendment ☐ Reconsider

Motion Made By Sen. Heckaman Seconded By Sen. Pomeroy

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee, Chairman	✓		Senator Joan Heckaman	✓	
Senator Robert Erbele, V.Chair	✓		Senator Richard Marcellais		
Senator Dick Dever	✓		Senator Jim Pomeroy	✓	

Total (Yes) 5 No 0

Absent 1

Floor Assignment Sen. J. Lee

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

Date: 1-14-09

Roll Call Vote #: 2

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. SB 2046

Senate Human Services Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 90160.0201 Title .0300

Action Taken ☒ Do Pass ☐ Do Not Pass ☒ Amended ☒ Rerefer to Appropriations
☐ Adopt Amendment ☐ Reconsider

Motion Made By Sen. Heckaman Seconded By Sen. Pomeroy

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee, Chairman	✓		Senator Joan Heckaman	✓	
Senator Robert Erbele, V.Chair	✓		Senator Richard Marcellais		
Senator Dick Dever	✓		Senator Jim Pomeroy	✓	

Total (Yes) 5 No 0

Absent 1

Floor Assignment Sen. J. Lee

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

REPORT OF STANDING COMMITTEE

SB 2046, as amended, Human Services Committee (Sen. J. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the Appropriations Committee (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2046, as amended, was placed on the Sixth order on the calendar.

Page 1, line 3, after "health" insert "; to provide legislative intent; to provide an appropriation; and to declare an emergency"

Page 1, line 12, replace "a life safety survey" with "the review of plans for construction, renovation, or construction and renovation projects"

Page 1, after line 19, insert:

"SECTION 2. LEGISLATIVE INTENT. The legislative assembly authorizes the department of health to add two full-time equivalent positions to carry out section 1 of this Act.

SECTION 3. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$215,680, or so much of the sum as may be necessary, and from other funds the sum of \$106,230, or so much of the sum as may be necessary, derived from fees collected before reviews of plans for construction, renovation, or construction and renovation projects for health facilities licensed by the department to the department of health for the purpose of carrying out section 1 of this Act, for the biennium beginning July 1, 2009, and ending June 30, 2011.

SECTION 4. EMERGENCY. Sections 1 and 2 of this Act are declared to be an emergency measure."

Renumber accordingly

2009 SENATE APPROPRIATIONS

SB 2046

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2046

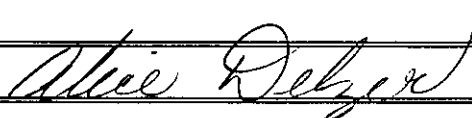
Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: February 9, 2009

Recorder Job Number: 8985

Committee Clerk Signature



Minutes:

Chairman Holmberg: Called the committee hearing to order at 8:00 am in reference to SB 2046 in regards to surveys during construction or renovation projects of health facilities. Roll call was taken. All committee members were present. All of the bills for this week are in one folder dated Feb 9 through 13th. Senate Bill 2046 has a fiscal note and engrossed bill. The fiscal note is dated one dated 2/5.

Gary Kreidt : District 33, Mercer, Oliver and part of Morton County. The bill that you are looking at came out of long term care committee during the interim. It was studied by that committee and the recommendation was to draft the bill. What the bill does is during construction and remodeling of health care facilities the department of health would look at phases of our remodeling project. Where there is life safety certainly if we find deficiency we have to go back in and bring the facilities up to compliance. We did have a pilot project during the interim, the health department did do some studies of some facilities under construction and there were some critical situation that were discovered. A considerable amount of money was saved, by having this plan in effect. What we want is for the department to put this into effect and make this a part of the department's work, in reviewing health care facilities for the state of ND. The fiscal note is in reference to continue to do this. Many of our facilities are pretty aged, most of them were constructed in the late fifties and early sixties. Some

communities are building new nursing homes a lot will be remodeling. We see this two hundred thousand dollar investment to continue this forward to be a small amount of money that I feel to see in returns in running the facility by adding the construction meet standards as it is being built. We'll save a considerable amount of money. Right now, it is overwhelmed. They have to review architecture plans, we are experiencing a backlog. Are being held up because they don't have the adequate staff to review these projects.

. The last two years we've seen these things being resolved. There is an emergency clause on the bill added by the Senate House committee; there would be a 6 months lag, if we did not have the emergency clause on the bill.

Bruce Pritschet Director of the Division of health Facilities for NDDH. Testified in favor of SB 2046 and provided written testimony # 1 in support of the bill. Can be removed from SB 2004.

Chairman Holmberg: I am trying to put my arms around this and I am having a great deal of difficulty. It appears when I read the testimony all of this except the emergency clause is in the government budget and it is in the health department budget. So this is a duplicate. The money is a duplicate of what is already in the health department budget. Of am I misreading this?

Bruce: My understanding is because of the emergency clause we would get going on this and the money would be removed from the health department's budget if this would pass.

Chairman Holmberg: Senator Fisher is on that committee.

Senator Fischer: If you are looking at that twenty four hundred dollars and it is going to take how many hours to review, you just review it and say it's ok.

Bruce: We don't plan to put a stamp on it but having staff onsite during construction. We're hoping it does pass inspection.

Senator Fischer: These are licensed inspectors?

Bruce: They will be life safety code inspectors.

Senator Fischer: What you are telling me is three hundred dollars is a small project in Wahpeton and small project in Mandan?

Bruce: The three hundred dollars represents only a third of the cost.

Senator Fischer: I would like to get my hands around exactly the balance between this budget and the bill.

Bruce: May be if I explain how I envision this working out. The three hundred dollar fee is for the review of the plans. We're charging the small projects three hundred dollars. The onsite visits are not covered in the three hundred dollars.

Senator Mathern: How much is it going to cost to have you go out and take a look?

Bruce: That is the total fiscal note, three hundred twenty one thousand nine hundred and ten dollars for the biennium.

Senator Mathern: There is also in the 2004 budget special funds, so they can apply this payment to the special funds line item, and so it is really the general funds, and special funds, that makes up the budget, it is exactly the same as what is in the budget.

Chairman Holmberg : Why did we take it out and put it in here and pass it outside of the preview of the budget. You can put it an emergency clause on that section of the budget bill. You can reduce this down take the money for the FTE's because they already exist and just say that section of whatever is an emergency. This seems like a very interesting way do it and cause confusion for those who have to work on the budget because we've done it before as you all know, but just take this section out.

Sheila: When the bill first came in it did not include the FTE or the appropriation that was added by the committee. And I think the intent was to insure the program got started right

away. It is just that the budget bill and certainly adding the emergency clause to the budget bill.

Because right now those funds are in the budget bill. It includes the Governor's increase for salary and benefits. So the actual fiscal note will be three hundred and forty six thousand five hundred and thirty dollars of which two hundred and thirty two thousand one hundred and seventy four. So it is a little bit higher than what was attached to this bill.

Senator Grindberg: Do you have a list you can provide us the situations that have occurred over the past that would warrant this discussion. Is there one situation that caused this or is it a list of things over a period of time? I'd like to see that if it's available and maybe you can follow up later. If we assume some responsibility for like safety design and construction and remodeling and we have a situation we put the state at risk. Because we missed it as well. I'd like you to think about that and get back to me.

Shelly Peterson, President of the North Dakota Long Term Care Association: Written testimony attached, number two. In favor of Senate Bill 2046.

Chairman Holmberg: Do you care if the money and the FTE's are in here or in the health department? You're after the concept number one and number two you want it to go into effect as soon as possible to an emergency clause?

Shelly: Yes.

Chairman Holmberg: The rest of it is our problem.

Senator Fischer: So what you're doing is signing an adamant for the entire state?

Shelly: That's the way it is now.

Chairman Holmberg: The subcommittee will think about the direction they would recommend we go.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2046

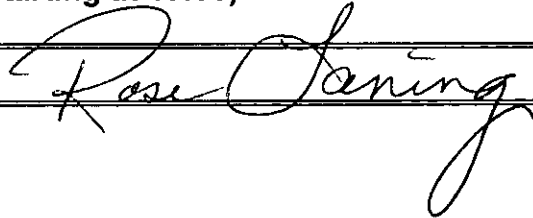
Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: 02-10-09

Recorder Job Number: 9138 (starting at 19:00)

Committee Clerk Signature



Minutes:

Chairman Holmberg called the committee hearing to order on SB 2046, relating to health care facility inspections.

Senator Fischer The dollars are talking about staff in the Health Department's budget for life safety.

Senator Krauter Is this developing the upfront part.

V. Chair Grindberg I have some information that was shared with me that could shed some light. I was provided an email had a list of construction related issues that had been identified during subsequent onsite visits at facilities we license. I am still wondering why we need to put more people on board when the architects are responsible now.

Senator Mathern We really put a few dollars into this last session. So we funded just in part and in that process we found it worked well and now they are coming back. I think it's appropriate to have the people responsible pay part of these costs. I have no question that the program is valuable to everyone.

Senator Fischer My concern is that we need to get out there and inspect it as it is being built. They are going to have certified building inspectors, but who is inspecting the blue prints in the first place? At the beginning of the process a set of blue prints should be certified.

V. Chair Grindberg As an architect they are bonded and have insurance to deliver a product that is built towards specs. The contractor carries builder risk insurance so if they forget something they are covered by insurance.

Senator Christmann There is a big issue with water pipes and sheet rock that had to be ripped out. It's one of many things that can come up when you get to the end of a job like this. I don't think much of it is anyone's fault except for maybe the governments. You build a project like this and spend a year or two building it, in meantime, all kind of things have changed. As you are building, things come up and things change. When you get all done you find out that you have all kinds of violations. What we need here are people who work in this industry to keep up to date and make the change that was ordered before everything is done.

Senator Seymour I met with three nursing home administrators, and they said we need this bill.

Senator Kilzer There does seem to be a big need for that sort of supervision. Shelly told us that there are 14 large nursing home projects being built in this year. I don't know if architects aren't doing their jobs up front or if there are so many changes they can't keep on tract.

Senator Christmann I find myself wondering whether there isn't some end savings in the Health Department in doing the billing of the costs up front during parts of the project. It seems to me that if the projects are being inspected while being built it will eliminate some of the problems.

Senator Fischer The final inspection is big one, because if you don't have the inspection up to that point what happens is that they think they are done, only to find there are problems with it.

Senator Mathern it appears that this is in the budget and we could take out section 3.

Senator Mathern moved to amend SB 2046 to remove section 3.

Senator Krauter seconds the motion.

Sandy Deis It was included in 2004 and this would be a duplication of appropriation. She thought they needed an emergency clause.

Senator Warner I thought there was a policy that when the Health Department sent out an inspection that the fee charge had to reflect the actual cost. We have been hearing that the fees reflect about one third of the actual costs. Does it seem reasonable that the industry would finance all of these inspections at 100%?

The amendment passed.

Senator Kilzer There is one FTE doing that now and they would add two additional FTE's. One and half of those would be to do the inspection, and the other half time would be to plan reviews. We are going from one to three FTE's to do this.

The bill passed on a vote of 13 to 0.

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2046

Page 1, line 3, remove "to provide legislative intent; to provide an"

Page 1, line 4, remove "appropriation"

Page 1, remove lines 22 and 23

Page 2, remove lines 1 through 7

Page 2, line 8, replace "Sections 1 and 2 of this Act are" with "This Act is"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment removes Sections 2 and 3 relating to authorization and funding for 2 FTE positions to administer the survey program for health facilities construction or renovation projects.

Date: 2-10-09Roll Call Vote # 12009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2046Senate Senate Appropriations Committee☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☐ Do Pass ☐ Do Not Pass ☒ Amended Amendment

Motion Made By _____ Seconded By _____

Senators	Yes	No	Senators	Yes	No
Sen. Ray Holmberg, Chairman			Sen. Aaron Krauter		
Sen. Bill Bowman, VCh			Sen. Elroy N. Lindaas		
Sen. Tony S. Grindberg, VCh			Sen. Tim Mathern		
Sen. Randel Christmann			Sen. Larry J. Robinson		
Sen. Tom Fischer			Sen. Tom Seymour		
Sen. Ralph Kilzer			Sen. John Warner		
Sen. Karen K. Krebsbach					
Sen. Rich Wardner					

Total Yes _____ No _____

Absent _____

Floor Assignment _____

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

Voice vote
Amendment
Carry

Date: 2-10-09
Roll Call Vote #: 2

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2046

Senate _____ Committee _____

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as Amended

Motion Made By Sen. Robinson Seconded By Sen. Fischer

Representatives	Yes	No	Representatives	Yes	No
Senator Krebsbach	✓		Senator Seymour	✓	
Senator Fischer	✓		Senator Lindaas		
Senator Wardner	✓		Senator Robinson	✓	
Senator Kilzer	✓		Senator Warner	✓	
V. Chair Bowman	✓		Senator Mathern		
Senator Christmann	✓		Senator Krauter	✓	
V. Chair Grindberg	✓		Senator Mathern	✓	
Chairman Holmberg	✓				

Total Yes 13 No 0

Absent 1

Floor Assignment Human Services

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

Judy Lee

REPORT OF STANDING COMMITTEE

SB 2046, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2046 was placed on the Sixth order on the calendar.

Page 1, line 3, remove "to provide legislative intent; to provide an"

Page 1, line 4, remove "appropriation"

Page 1, remove lines 22 and 23

Page 2, remove lines 1 through 7

Page 2, line 8, replace "Sections 1 and 2 of this Act are" with "This Act is"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment removes Sections 2 and 3 relating to authorization and funding for 2 FTE positions to administer the survey program for health facilities construction or renovation projects.

2009 HOUSE HUMAN SERVICES

SB 2046

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2046**

House Human Services Committee

☐ Check here for Conference Committee

Hearing Date: **4 March 2009**

Recorder Job Number: 10164

Committee Clerk Signature



Minutes:

Chairman Weisz opened the hearing of SB 2046.

Sheila Sandness, fiscal analyst, Legislative Council presented information on the bill.

Section 12 of 2007 HB 1004 directed the State Department of Health design and implement a demonstration project through which the Department offers a life safety survey process for basic care facilities and long-term care facilities to access voluntarily during and at the conclusion of a construction project, renovation project or construction and renovation project that costs more than \$3 million and report to the Legislative Council regarding the status of the demonstration project including feasibility and desirability of making the program permanent.

The long-term care committee was assigned responsibility of receiving the report and testimony regarding the demonstration project. Information regarding the State Department of Health's report and related testimony may be found in the report of the ND Legislative Council.

You can refer to pages 281 and 282. This bill creates a new section of ND Century Code, chapter 23-01. The new section directs the Department of Health to conduct a life safety survey process for all health facilities licensed by the division of health facilities in the State

Department of Health during construction and renovation projects. The new section also allows the State Department of Health to charge a reasonable fee for the survey performed

under this section based on the size of the project. Survey revenues must be deposited in the department's operating funds. The fiscal note attached to this bill was completed by the State of Department of Health and indicates total expenditures of \$321,910 of which \$215,680 are from the GF. Funding for this bill is included in the executive budget recommendation. The executive recommendation includes 2 FTE fire safety surveyor II positions and operating costs of \$73,550. The Governor's budget includes the FTEs and \$346,530 of which \$233,174 is from the GF. It also includes the \$73,550 in operating expense. The reason for the difference between the fiscal note and the amount included in the Governor's budget is when the fiscal note was prepared they used salaries prior to the 5 plus 5. This bill was amended by the Senate Human Services Committee to include the FTEs and the funds and the emergency clause was also added. The Senate Appropriations removed the FTEs and the funding but did not remove the emergency measures.

Representative Nathe: What is a life safety survey?

Sandness: I will try to answer but you will probably get a better answer from the Department. They come in and look at the facility to make sure they are following safety codes that are required by the federal government and they do that during the process rather than at the end when ceilings and walls are closed and it would be a lot more expensive to fix.

Representative Frantsovog: Looking at the fiscal note, it says small projects will pay a \$200 fee. What is a small project?

Sandness: I think they have a schedule set up and there are three levels set up.

Bruce Pritschet, director, State Department of Health, testified in favor of the bill.

(Attachment 1)

Representative Hofstad: Under current law when a facility expands or goes under a construction project, do they submit those plans to you for review and is that part of their licensure thing? How does that work?

Pritschet: Yes, they do have to submit plans for review.

Representative Hofstad: And, those plans are reviewed by an engineer at the Health Department?

Pritschet: Yes.

Chairman Weisz: If you are already doing this why the additional .5 FTE?

Pritschet: When we started several years ago we acquired the life safety code program and it was given to our individual that did plans review. That happened in about 1995. He absorbed the survey process for life safety code—not during the construction but the recertification surveys that have to be done on an annual basis. He has been juggling and getting behind as time has gone on. He has now acquired several more duties and he cannot keep up.

Chairman Weisz: Shouldn't that be in the Health Department Budget instead of this bill?

Pritschet: It is part of the Department's budget.

Darleen Bartz, section chief, ND Department of Health: When we started out this session, this was actually in our budget bill where it still remains. When it went to the Senate, the decision was to make this an emergency measure and then take the 2 FTEs that were in our department budget and then bring it over in to this making it an emergency measure so we can implement quicker. It went to House Appropriations and they decided they wanted to keep the FTE and the funding in our department bill. That's where those positions and the funding for this remain.

Representative Holman: Your fee schedule says you will pick up 1/3 of the cost. How did you determine that?

Pritschet: We looked back on a couple of past years of the amount of workload that was coming in and how many hours our engineer was spending on plans review and determined it was off balance on those three categories—small, medium and large. We decided with conferencing with the long-term association that it would be feasible to at least charge for the plans review because that seemed to be the common denominator in all the projects. Some of these projects may require way more than 4 on-site visits. Some may require 1 or 2. We needed the flexibility outside of the on-site visit process to keep the charges fair.

Chairman Weisz: Currently how many on-site visits do you make?

Pritschet: No on-site visits are made for renovations and construction at this point. The only visit that is done is at the time the building is ready to be licensed.

Chairman Weisz: Under the bill what would be the average?

Pritschet: Two for a small project, three for a medium, and four for a large project—that's what we are anticipating.

Representative Hofstad: We are currently doing bricks and mortar inspections now. Right? Isn't that part of the process?

Pritschet: We make annual visits to some facilities—its safety health care visit as we certify them.

Representative Hofstad: Are they announced or unannounced?

Pritschet: In most programs they are unannounced. In basic care facilities they are announced.

Representative Nathe: When you do the survey what are you looking for?

Pritschet: It is a very technical survey process. It requires a fair amount of education and training. For the most part it has to do with the fire safety and evacuation, some construction items are looked at on an annual basis: fire alarms, sprinkler systems. Maintenance of those

systems must be documented. It is more in the idea of keeping the building safe to be occupied 24/7.

Representative Nathe: Don't we have building inspectors that do that during the construction phase?

Pritschet: The health care standards are different than the building inspection standards. There is a very stringent health care standard because the building occupants are very dependent the standards are quite a bit higher.

Representative Nathe: Wouldn't the facility have a construction manager that should be up on all those details. They should know all that already.

Pritschet: That is what we thought and that is the premise we have been dealing with over the last 15-20 years. What we are finding is that is not the case. We are at a point where there is a lot of building going on now and into the future and the architects and contractors seem to struggle with the health care standards when they are building.

Chairman Weisz: Why would this be any different than any other construction project?

Pritschet: I'm speculating to some degree but I would say that for the most part the interpretation of the same life safety code used by our surveyors is used to for certification of these facilities. Medicare and Medicaid adopt the life safety code that is applied to the health care building in question. It is their responsibility to render interpretation and that piece of information is rendered to the survey staff in the State Health Department. Over the last couple of years we have been working diligently to educate contractors and architects so they can do a better job meeting the standards.

Representative Uglem: It is my understanding that the intention of this bill in the long run is to save the state money. Are there any projections on how much that would save the state in reduced Medicaid costs in the future?

Pritschet: I am not aware of that estimate going out in to the future. It is anticipated that this will state funding, as to how much I do not know.

Representative Potter: A different focus not just construction, it says the survey process is for long-term care and basic care facilities. I'm wondering where the memory care facilities fit in to this.

Pritschet: The bill pertains to all types of facilities that we license. They would fall in to the basic care category for the most part.

Representative Frantsovog: The project has an engineer and an architect and then you are going to go through your life safety process. Who assumes the responsibility in case of an error or an omission of some phase of the project? All these reviews are made but if something is missed, who assumes the responsibility? What is the Health Department's responsibility?

Pritschet: That has been asked several times over the years. To our best estimation, the responsibility is with the facility and their contractors. The Health Department does not assume the responsibility if there are errors made. That is one of the reasons we have planned a significant amount of training to help these architects that are infrequently building health care facilities in the state to better understand interpretation CMS has given.

Representative Frantsovog: I'm still trying to find out where the responsibility lies. For instance, if there was an oversight based on the Health Department in their review, where is the responsibility? Somewhere and someplace there has to be responsibility.

Bartz: Basically the quality assurance is supposed to be part of the plan for their building. We have had meetings with stakeholders and found that often when they are building in an effort to cut costs the component that gets dropped off is quality assurance. When you have folks coming out and doing those inspections, they are running across a lot of issues. We, as a

result of those meetings, have spent a considerable time trying to look at what types of mechanisms could be in place to prevent some of this. One thing that it really came down to is that there needed to be a contractual agreement that was put in place between the architect and the building folks so they did have that type of quality assurance. Another thing—not every community has a building inspector. The state may have adopted a building code, but not every community has adopted that code. That building code is different is from what life safety code is from the Centers for Medicaid and Medicare services. So there are differences. Another thing we have found is that in reality the people who work as building inspectors didn't have to have a certain level education before they applied to be an inspector. There wasn't any uniform background of knowledge and skills required to be certified as a building inspector. The uniformity of inspecting those building comes from our office not from what is out there in the general public. We have been working with the industry for a period of time to come up with a way to stop the errors from happening earlier on in process. We have not had the staff or the wherewithal to be able to go out and do this sort of inspection we have been talking about now. We have seen without exception an early inspection would increase savings.

Representative Frantsvog: Wouldn't you achieve the same objective if you said to the architect this is your responsibility as it relates to live safety--this has to be incorporated in your building plans.

Bartz: You would hope it would but same understanding level isn't there. What we found instead was that they had to revise a certain portion of their plan; later on when we reviewed the construction the facility thought it was an error on our part that we had not reviewed it appropriately. They did have the responsibility for fixing it and it wound up being fixed during the project rather than having major walls ripped out. This gets to be that additional set of

eyes that goes out there and hopefully things can be prevented rather than becoming major construction issues.

Representative Frantsvog: If the error were found to be on your part, would you assume the responsibility.

Bartz: It isn't our responsibility to insure that the construction is correct. It ultimately is the architect that is building it that needs to know what the requirements are. It is the construction manager who assures it is done correctly. What we would like to do is offer additional support to the facility to assure it is done in the correct manner.

Chairman Weisz: If you make on site inspections under this proposed bill, and whoever you have out there signs off on it and later you do an on-site after the fact and say it is not acceptable even though he said it was. . .

Bartz: Every building that we go into is different and what we do under the construction visit is going in to see what changes have happened. The other thing we deal with in addition to the maintenance piece is looking at differences of interpretation of what comes down from CMS and that we need to follow and that becomes a federal issue if they want to participate in Medicare and Medicaid. It is actually voluntary compliance with those requirements. Just because you got a clean bill of health doesn't mean it is going to be a clean bill of health next year. We can't look at this differently. One is construction and new. The next time we go out it is going to be maintenance. There could be changes.

Representative Nathe: Is there anyone in the private sector that can act in the same capacity as your department?

Bartz: When we met as group that was one of the recommendations that we had on the table—that the Long-Term Care Association look at hiring somebody that could do that function. Basically their preference was that the Department of Health do it so that if there

were changes that needed to be made we could let them know and have more of an authority behind it rather than a recommendation.

Representative Porter: When we have this before a lot of the same comments and concerns came up that the Department goes in there one day wearing their white hat and helping the project out and then the project is finished and they need to do an occupancy permit and they say "nope." It was something missed by the first inspector because it is a different inspector and there is something in federal regulations that require you to send different inspectors back and forth. Yet there is no responsibility that falls back to the Department on those instances. These are directly related to the construction phase and the occupancy permit where they are out of balance.

Bartz: The project we were asked to do was a project. What we were asked to do was to have consultation out there. If consult on a facility we are not able to send that person back for two years because under federal regulations we are not allowed to function as consultants. Basically we are a regulatory authority so with the implementation of this bill, construction will be part of our overall regulatory authority and we no longer would have that conflict of interest we have in place with the demonstration project. The person who was working with the project could not go in the regulatory inspection. For us that is a positive because we can be looking at more consistency in the staff that we have out there. On bigger projects we could send out more than one inspector. Part of what we are dealing with right now is that we don't have staff and we have never done the on-site during construction because we don't have the people to do that. The way it was set up it was a consultative type versus a regulatory so we couldn't send the same people by law. This would eliminate some of those restrictions.

Representative Porter: The fact remains that you stamp off through the construction phase that everything is okay and the next day for the occupancy phase you could come back in and

say this is wrong and it's a \$300.0 fix and whoops we missed it during the construction phase. Does the State of ND have no responsibility for that error in omission inside of that construction phase to the occupancy phase?

Bartz: What we have found is one more consistent problem that occurred during the years is that we have not been routinely getting change orders from the architects. So what has been true and what we see when we go on site are two different things. Hopefully that will diminish significantly and that would be our goal.

Representative Porter: In Section 1, subsection 2, we talk about reasonable charge, can you tell how the Department will charge.

Bartz: We tried to be conservative. We looked at the projects we did during the past two years and then we looked at the cost of those including hotel, mileage, etc. Based on all of our calculations that are what we would need to carry out the project. It does take in account on-site visit—one for a small project, two for a medium project and three for a large project.

Representative Porter: One of the other areas of concerns that always come up is where we fit into federal requirements. Part of the problem is two different inspectors going out to inspect and coming in with two different recommendations.

Bartz: We couldn't send the same person out because they were going out as a consultant and so couldn't go out as an inspector. By putting this in place we can use the same person without having a conflict of interest. This is being a positive effect.

Chairman Weisz: If you are training them how come two different assessments.

Bartz: The only time we have done construction visits is as part of the pilot project in essence because we didn't have the staff and to eliminate any conflict of interest.

Representative Conrad: The Medcenter one project would be considered a large project so that would get the \$2400 fee and the total cost would be \$7200. The savings reported was \$230,000. I'd like to know about the other projects.

(. . . Unstructured discussion of fees for projects. . .)

Shelly Peterson, president of ND Long-Term Care Association, testified in favor of the bill.

(Attachment 2)

Representative Holman: Does cost of construction tie in to rate setting.

Peterson: There is an asset limit and so, yes, there is a certain amount of money that you can spend on your construction that will eventually end up in your property component but there is a limit. In HB 1012 we are asking for that limit to be increased.

There was no opposition to the bill.

Representative Potter: I think it was last session or the session before, the Legislature did make some rules for building health inspectors. I'm not sure how that would go along with this. We will have to read it a little bit further to see exactly how an inspector is described. I think bonding and insurance ... they do have a responsibility.

Chairman Weisz closed the hearing of SB 2046.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2046

House Human Services Committee

☐ Check here for Conference Committee

Hearing Date: March 9, 2009

Recorder Job Number: 10524

Committee Clerk Signature

Wicky Crabtree

Minutes:

Chairman Weisz: Let's take up 2046. The two FTEs are included in the department's appropriation bill. Dissussion?

Rep. Frantsvog: Motion Do Pass

Rep. Kilichowski: Second.

Rep. Frantsvog: I received an e-mail from a friend of mine who runs a nursing home Jamestown or Valley City. My e-mail was unsolicited by me. He told me about a project they had done and after their project was completed and they had the inspection, they found thirty different items where the contractor had errored at putting some of this safety equipment in. He said it was a real cost savings to them. Rather than get them up and running and then go back and make changes. He convinced me that this is a good piece of legislation and I support it.

Rep. Uglem: I think this has been worked on now by several biennium's. Inspection has been advisario instead of helping during their construction. Now we find it has gotten to the point where the inspections can improve and help during construction. The architect in the first place should take care of it, but that is not what is happening. Seems like a goal we've been working

towards for some years to get cooperation from the inspection teams. I think we should support it.

Rep. Damschen: I have mixed feelings about it because the contractor should have some responsibility and I don't like the concept of the state picking up the bill for carelessness.

Rep. Holman: I support the bill. Hope this adds a credible oversight to avoid some of these things.

Roll Call Vote: 11 yes, 1 no, 1 absent, Rep. Nathe.

MOTION CARRIED DO PASS

BILL CARRIER: Rep. Frantsvog

Date: 3-9-09

Roll Call Vote #:

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2046

House HUMAN SERVICES

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken

☒ Do Pass☐

Do Not Pass

☐

Amended

Motion Made By

Rep. Frantsovog

Seconded By

Rep. Kilichowski

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN ROBIN WEISZ	✓		REP. TOM CONKLIN	✓	
VICE-CHAIR VONNIE PIETSCH	✓		REP. KARI L CONRAD	✓	
REP. CHUCK DAMSCHEN		✓	REP. RICHARD HOLMAN	✓	
REP. ROBERT FRANTSOVOG	✓		REP. ROBERT KILICHOWSKI	✓	
REP. CURT HOFSTAD	✓		REP. LOUISE POTTER	✓	
REP. MICHAEL R. NATHE	A				
REP. TODD PORTER	✓				
REP. GERRY UGLEM	✓				

Total (Yes)

11

No

1

Absent

1

Bill Carrier

Rep FRANTSOVOG

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

*Referred to
APPROP.*

REPORT OF STANDING COMMITTEE (410)
March 10, 2009 2:34 p.m.

Module No: HR-42-4491
Carrier: Frantsovog
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2046, as reengrossed: Human Services Committee (Rep. Welsz, Chairman) recommends **DO PASS** and **BE REREFERRED** to the Appropriations Committee (11 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). Reengrossed SB 2046 was rereferred to the Appropriations Committee.

2009 HOUSE APPROPRIATIONS

SB 2046

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2046

House Appropriations Committee
Human Resources Division

☐ Check here for Conference Committee

Hearing Date: 3/18/09

Recorder Job Number: 11185

Committee Clerk Signature

M. Ryan Reilly

Minutes:

Rep. Robert Frantsvog: I'm here this morning on behalf of Chairman Weisz of the Human Services Committee. I will give you some brief testimony as we received it. In the 2007 legislative session, the legislator required the health department to implement a demonstration project for a life safety code survey process for nursing facilities and basic care facilities. As a result of that requirement on the health department SB 2046 was introduced and would make permanent a regulatory process for the survey of life facilities during the construction and renovation. The department of health would provide periodic inspections and charge a fee for facilities for plan reviews to cover a portion of the cost. In the scenario that was presented to our committee the proposed fee would be \$300 for a small project, \$900 for medium, and \$2,400 for large. The health department testified in front of our committee that they are in support of the bill. During the 2009-2011 biennium they anticipate that it would take 1.5 FTE's and some additional costs for implementation of the project. The department currently doesn't have sufficient staff to conduct the onsite construction visits during the demonstration project they hired a temporary employee to provide the service. The 1.5 FTE's are included in the health department budget SB 2004 to conduct neutral onsite visits. They anticipate an average of 2 on sites, and 4 inspections for large projects. In addition to the increased staff time there

● would be operating costs to complete these inspections. It was anticipated that the total costs for salaries and operating costs would be \$321,910. From that \$106,203 would come as a result of the fees that they would charge for the inspections. The Senate also added an emergency clause to SB 2046, the health department would implement this as soon as it was improved under the emergency clause. We received testimony from a number of people that were involved in these inspections. I'm thinking of one that I personally received that dealt with an inspection of a project that was here in Bismarck. The health department inspectors actually found 30 different issues that would have had to been corrected once the people were moved into the facility. Really all the testimony we heard was very positive. It looks like it's a good project. The human services committee would urge your support of the project and the appropriation. With that I would be glad to finance any questions you had in regards to this bill.

● **Bruce Pritschet:** Testimony handout (Attachment A)

Representative Wieland: I have two questions. The first one is was there any effort made to contract for the individuals for the two FTE are to do this work?

Bruce Pritschet: Contract forward for these two? We are hoping to hire them on a permanent basis. We have not considered contracting for this process. The training necessary to get people up and running is very extensive in this program. I don't know that we would be looking to contract.

Representative Wieland: So you are apparently anticipating that beyond the next biennium that we are going to have a large number of construction projects that you will be able to keep two people full time FTE's busy beyond the next biennium?

● **Bruce Pritschet:** We currently are not doing any onsite inspections at all for any projects that are in construction right now. Like we said in 2006, 2007 were years we used prior to this bill that we are seeing now. We are probably going to anticipate the next 2 years a lot more than

that. But by 2006 probably preceded the big rise in health care building that we are seeing now. It was 135 projects that year.

Representative Kreidt: Would these two individuals, besides doing the inspections they could do life safety surveys if you ran behind them would be an option?

Bruce Pritschet: We would have that option to do that. Our first and far most concern would be getting them trained to do construction visits. They do differ from the life safety code that is done routinely now.

Chairman Pollert: The amount of cases/inspections that the one inspector is doing now, with the onsite what is the ratio? The one inspector does how many a year? You are going to have 1.5 more doing these inspections? I'm trying to get an idea of the numbers.

Bruce Pritschet: We don't have anyone doing construction inspections at all. The one FTE we do have has half time plans review. The other half time he is overseeing the life safety code survey process for recertification of the health care facilities we currently have. Nothing else with new construction renovations.

Representative Kreidt: Now you broke it down small, medium, and large projects. The dollar amounts of \$2,400 with those, how did you come up with those figures?

Bruce Pritschet: What we did was ask our engineer to look back over the last couple of years and take what he considered to be small, medium, and large. He then gave us an average time he spent on those projects. He did that and we felt that it was kind of a common denominator. The thing that stayed most constant throughout a building project was how long it takes to review the plans. That is what we based the fees on.

Representative Kreidt: There was a discussion then with the industry and what they thought was a charge. Would they be interested in paying more than that? Has there been any discussion on that line? Say we used all the special funds to fund the project. We would have

to triple about everything. There was a feeling from the industry that if we were going to charge x number of dollars we would. Was that discussed?

Bruce Pritschet: We did call a group of different administrators and the association representation of long term care. We did pose a number of options to them. This option was unreasonable. We concurred with that. We did talk to them about paying more about 50% of the share of the cost. We more or less compromised and everyone seemed to be happy with 1/3. That is how it ended up.

Chairman Pollert: After it is built you said halftime is on inspections. Would the individual you have now, how many inspections have you done before. How many is the current one doing?

Darlene (?): Right now we only conduct the federal survey process and life safety codes. We do plans review on the same level. That individual is over the life safety code surveyors. We currently have 3 individuals who are surveying life safety codes. We do approximately 150 facilities and that is going to be more or less a year in life safety code inspections. That is required in order for the facilities to receive Medicare reimbursement and Medicaid reimbursement. That is part of the whole survey process for the federal certification program. With that, we had 2 individuals for a long period of time and we had to up that to 3. In many instances we wound up having to do 2 visits for one inspection. We have to go back and verify that they had corrected the deficiencies. Often they had things that were extended and it was required to revisit. We did need that 3 person which we have in the life safety code. After they have already been licensed or certified and the one manager who is going to be combined. We have not had any staff that has been available to do the onsite construction. They are trying to keep the recertification program going. Part of what was the concern too and I think

Representative Metcalf hit it on the head last time is for us to get the people trained to do these inspections they have to be employees of the department in order for us to be able to nominate

them and send them to federal training. Otherwise we wouldn't have that potential. When we brought someone in to look at the construction projects, we actually hired an already trained surveyor from another state to come in and do the work. It's because we didn't have people that we could do that with.

Representative Nelson: The question has to be asked. When these projects are being constructed or being anticipated, I'm assuming that there is an architectural firm on board. I'm wondering what the communication level between the department and the architectural firms that are planning these projects is because it would seem to me that it would be part of that design from day one. There is at least the potential for some duplication here. I would look at the rating system. If I was a hospital or a nursing home administrator of those architectural firms that design projects that have life safety issues on day one.

Darlene (?): About 4-6 years ago we looked at exactly that issue, where were the issues coming up and where was it funding. What we found is often what the facilities did was when they were looking at reducing the cost of construction, they would eliminate the quality insurance program that architects usually do when they are working with the facilities. Part of the recommendation that we came and shared with the interim committee was that we really felt that part of the contract with the architecture should include that quality assurance. Even that being said, in one of the two projects that we dealt with what the individual had picked up was something that had been missed by the architect. What the facilities were wanting was someone who was specifically trained in life safety code that could look at the construction and pick up issues that weren't being picked up by the construction managers and the architects. That pretty much where it was it. It was pretty much a second look. I would say the architects should be very well informed as well as life safety codes. They also have not gone to the specific training that our folks do for the federal certification program.

Representative Nelson: Let's say short of this bill wouldn't that be a service or would the department have the ability to work with the architectural community to bring them up to speed as to the new life safety code additions and work through that?

Darlene (?): We have already been working with them as far as training and education. With the long term care association the last fall and prior to that we did put together training and the architects were included in that invitation. With that being said we were still finding within the two facilities that we went on site savings of \$295,000. We were able to pick up things. Another question that had come up was if the building code inspectors in the area could do this inspection for them. Part of what we had looked at when we studied this 4-6 years ago was the fact that in essence those individuals did not have this level of training. Basically they weren't required any specific training to be certified as inspectors. There again we were dealing with individuals who had that same knowledge based on training.

Representative Nelson: Could you provide me with the two facilities that were written up in the architectural firms that were written up?

Bruce Pritschet: The two facilities that have completed the projects were Medcenter One Mandan Living Center and the other one was the Hillsboro medical center which has just finished a large replacement of their long term care facility in Hillsboro, ND.

Representative Nelson: Between the two of them they had a total of \$290,000?

Bruce Pritschet: Yes that is correct. It was \$230,000 from the Mandan facility and that was an interest that didn't have to be paid because they didn't have to occupy the building right up front when they were supposed to. Rather than having a bunch of things to correct when the surveyor was in it and able to occupy it and not save them \$230,000 in interest that they would have to pay.

Representative Nelson: Do you have the architectural firms that were doing that?

Bruce Pritschet: We can get them.

Chairman Pollert: We won't act on this bill today.

Representative Kreidt: The facilities the hospitals would be eligible to participate in this program where they weren't in the pilot projects?

Bruce Pritschet: That is correct. We are expanding to hospitals as well as the nursing homes and basic care.

Chairman Pollert: I think what a couple of us struggle with is if the industry should pay for this? I know you touched on that on the survey process. I think that's a discussion to struggle with.

Representative Wieland: I would think that if there was a savings that was realized because of this that a portion of that savings could be applied towards these individuals. It isn't in here.

Chairman Pollert: How do you take money out of the budget?

Representative Wieland: That's a good point.

Representative Kreidt: The concern I have with that is that the facilities have to weigh what is worth to them. If we are going to charge a large project \$25,000 to do that, are they going to take the chance and say well maybe I can get by without doing it. Then the concern I have is that when the project is over and they didn't participate in this program we have available now and they wind up having to go back in and do half a million worth of reconstruction. That is fine. We look at it that way. You have to take into consideration that it is money that is then going to be passed on to the private pay resident, it is going to be passed on to the Medicaid person. We are going to pay for it over and over. With the small investment we are going to save many dollars to the state of ND and to the private pay and to your tax dollars and mine. That is my concern. I have witnessed this for many years.

Chairman Pollert: If that is the case then why wouldn't they want to pay more for a fee if it is going to save them money.

Representative Kreidt: As an administrator or board of the facility we would sit down and ask what we felt it was worth and if we want to take the shot. On a large project they might be willing to pay that money to have it done. Right now they are paying \$2,4000. Even the facilities out there, \$5,000 is a lot of money. They might just say that they are going to save the \$5,000 and pay the heat bill and stick it into this program. There are a lot of issues that have to be considered when they are going to make the upfront payment. I don't know if we want to think about increasing the smaller project some.

Chairman Pollert: If they are doing onsite inspections and they do 2 or 3 of them, then they get to the end of the project and you come in at the end to do a final inspection, what is the recourse? If they have done everything is that a potential problem?

Bruce Pritschet: We have thought about that. It doesn't seem to be that much of a problem. The facilities do remain responsible for being in compliance. The same individuals that do the survey process for recertification have the same type of training as the ones we hope to hire and train to do the construction inspections. We are hoping that they are all thorough and they don't miss things. This is not a perfect world and I can't guarantee it won't happen.

Representative Metcalf: I think we have to remember that this is not a perfect world. People that come out of these instruction courses are trained to be architects but basically not for the depth that we are asking them to be at this point. They have different concerns than maybe what we have. They are working on a \$20 million project. What difference does it make to them if they are \$50,000 off? It makes a big difference to us. A person has money in that facility if they are all \$50,000. I feel that what we are offering here should be without question, continued. The needs of the individuals is great. Have you ever had someone come out to your

place and pound every problem you have. Do you agree with the findings that have been made? I know I have had various inspectors out at my place and I have gotten to the point where I have even thrown them off the farm. I guess what bothers me is when we come along 10-15 years later and we find things that should have been corrected 10-15 years before that. What does that tell me? It tells me that nobody is perfect. When we think the facility should be paid that is fine. We can do that. Who can say what the total fee is going to be? We don't know what problems we are going to run into. We don't know what it is going to cost them to repair all of the inspection hazards. The arrangement we have made for paying for this program are adequate. In the future if we see that they are not, then maybe some changes can be made. Let's continue on for another biennium and not be concerned if someone is trying to make money off of this. One thing about it as you know, Medicaid and Medicare are paid by the government. If we charge these institutions for the total cost of this particular service what does the government pay? These costs are transferred on to these patients.

Representative Ekstrom: Life safety is probably our largest issue in an architectural firm. When they are hired the industry should look at the experience of that firm and whether they have in fact they have built these kinds of facilities. They are specialized. I think sometimes it seems to me that if they come down from Medicare that it can be a shifting target for medication. That would be a primary place. I think an architect would design a building and have something like this come along. It should come back to the architect. That is why we have liability insurance. I would like to propose that we put some wording in here that the department shall increase its efforts to do outreach to the architectural community. Life safety comes in to play there as well. I would be in favor of that.

Representative Wieland: I hope no one thinks that I'm opposed to having the life safety issue here before us, I'm not. I'm only trying to figure out a way to not pay for it by general funds. It

doesn't need to be a set fee. It can be based on the time spent by the inspector. If I were a manager that was doing a construction job and was the manager of a project, I would want to have this done. If it added a bit cost that's fine. To not do it because it would cost more than they would want to pay is irresponsible. That is cause for removal.

Representative Kreidt: I think Representative Metcalf hit on something. We should do it this time and if we feel that 2 years from now we want to look at some different arrangements and adjustments in the fees that the facility pays that would be a time to take a look at it. Let's give them 2 years and see what the results are. We are going to be doing a lot more inspections.

Chairman Pollert: How have hospitals been built without this? Are you doing onsite or are you waiting until they are done?

Bruce Pritschet: We have not done any construction visits for hospitals. They have their first survey when they feel their building is ready to be occupied. We have seen significant delays in the opening of hospitals. Oakes had to do that.

Chairman Pollert: Any idea what that cost them?

Bruce Pritschet: I don't have that on top of my head. I did get the answer to Representative Nelson's questions about the architects.

Representative Metcalf: What I'm going to say really doesn't have to go much further. The problems that the Veteran's Home is having with the architect at this particular time, it is very obvious that not all architects are totally qualified in all aspects of construction.

Darlene (?): If I may make one more comment, we have been doing more with architects than just the training we did this fall. This might help respond to some of Representative Ekstrom's concerns. We did start a business process reengineering group that has been meeting quarterly. We did add the architects on to that. We do have one of them representing the architects in the state that has been meeting with us and helping us identify training needs for

the architects as well as the other entities. That has been very helpful to us. In addition we have created a website where when we get new information that comes from CMS regarding life safety codes, we post that and make that available to all. We really have been making a concentrated effort right now to be doing that very thing.

Representative Ekstrom: I will maybe withdraw this amendment but I really think given the two circumstances that the health department has a responsibility to write a letter to these folks to say this is what we found.

Darlene (?): Our engineer does communicate with the architects right along. The letters that go out when we do plans review and when we are getting those go not only to the administrator but to the architect as well.

Representative Ekstrom: And to carbon copy to the licensing board as well?

Darlene (?): Yes we can do that.

Chairman Pollert: We won't act on this bill today. When we ask for amendments to the health department we will do this before we do the health department.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2046

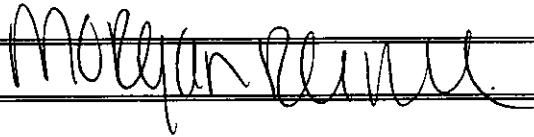
House Appropriations Committee
Human Resources Division

☐ Check here for Conference Committee

Hearing Date: 3/30/09

Recorder Job Number: 11566

Committee Clerk Signature



Minutes:

Chairman Pollert: Called the meeting to order and took the roll call. We will ask for amendments on SB 2004. That will leave one bill left over which is SB 2063. We won't act on the health department but just ask for amendments. We will start on SB 2046. This is the bill dealing with life safety codes. If I'm correct this is the policy language that was probably in SB 2004 that was pulled out and went over. This is from long term care, I'm sorry.

Representative Kreidt: This bill resulted out of a study for the long term care committee over the biennium. This was a pilot project that was started up after last session with the health department budget in regards to going out during construction projects for health care facilities, basic care, and nursing homes. The projects have to be over \$3 million and more before they qualified to be part of the project. This got under way the department did some contracting to be able to do it. They did need additional personnel to go out into the field as these inspections of the projects. The long term care committee thought it should be continued. We then brought forward SB 2046. There were 2 FTE's that were added to the project. There was a scale set up for dollar wise with small, large, medium projects and the amounts that the facilities would have to pay. It also opened up with the SB 2046 that all health care facilities now could be a part of the pilot project which means hospitals and assisted living. This would be anybody that

● would want to have this done. It's at the option of the facility. We found that it was very constructive. Overall I feel that enabling this to go forward we realized that during the interim with the inspections that were done, there was a savings of about \$300,000 or somewhere in that amount of money. Now more facilities will qualify. There are more projects that will be happening. If we can have these inspections done and find problems before they open up. They are able to obtain their license. We will realize the savings not only to our private paid people but also the ones on the Medicaid side. This is a good bill. It should go forward and we should be able to continue the reviewing and construction of renovation projects for healthcare facilities in the state of ND.

Representative Bellew: I agree with most of what Representative Kreidt said. The only thing I would like to see as this proceeds is that the facilities that are getting inspected should pay the price. I don't think it should come from general funds. It's a good program. During the last biennium they saved the facilities \$300,000. That would fund the program. That is my comments.

Chairman Pollert: Are you thinking of language for the health department budget saying that the savings have to be paid by the facilities doing that?

Representative Kreidt: I would just like to respond to that. I'm sure we will be getting reports to the budget section on just how this is working. I don't know if there will be amendments that we will receive reports. My feelings are that we will charge for a small project. For a large we will be charging the facility \$2,400. If we go through another 2 years and this is really working the way I'm sure it will, I would suggest at that time we could probably look at having facilities support this through special funds instead of with general dollars. I'd like to see it a couple more years under this program and take a look at it. If we are really realizing on how much we

anticipate it we will. It is a considerable amount of dollars and I'd be more receptive to that motion. At this time I wouldn't be in favor of doing that.

Representative Nelson: I don't think that is what is probably going to be related to this bill.

Now we opened up that can of worms. This is a voluntary program and if we price it out of the market there are going to be less building projects that will be interested in adding additional costs to go into this. That is the point of a program like this. We need to assist them or subsidize that during this state of the game. As things evolve, that could be a project. I think the state really has some obligations there.

Chairman Pollert: This bill is related to the appropriations in 2004. My concern is that I like the program. Why general funds should be covering that. It should be 50/50 each but it looks like it's a 1/3 2/3 match. Even if it wasn't all funded by other funds at least they have a 50/50 match. I thought it would be fair if they are saving money by doing life safety codes.

Representative Bellew: I think this is a mandatory program. It says the state department of health shall conduct.

Sheila Sandness: I don't have that bill on me but I was thinking the same thing that it was mandatory.

Representative Nelson: If facilities are mandated into this whole inspection and I think they will save money. The point still is that until they see the value in it there is going to be some resistance to another regulation from the state of ND or from the legislator that will increase costs. This is in the early stages still and is warranted.

Chairman Pollert: We all read the language that it is going to be mandatory for anything.

Representative Kerzman: Isn't this a pay me now or pay me later? The facilities are going to eventually get this back. If we can save some money with the construction up front it would be beneficial but that is just my opinion.

Representative Kreidt: I move a do pass for SB 2046.

Representative Nelson: I second that.

Representative Bellew: This is for legislative council. Do we need to put an appropriation on this bill or is it sufficient that the money comes out of the health department budget?

Sheila Sandness: The money is in the health department budget. You would not need an appropriation on this bill.

Representative Metcalf: I have a real problem with that first paragraph where we are talking about shall conduct a life survey process. What will that consist of? Is it going to just be one inspection at the beginning? Or will it just be reviewing the plans? What does this consist of? If we are going to demand something we should know what we are demanding. I see no inclination that we have indicated what we want. At this stage of the process we don't have to know. Is that going to be done by administrative rule then or what are we talking about then?

Arvy Smith: I don't have that information on me but I know that it was kind of staged. Smaller projects would have so many inspections, their fee would pay for so many additional visits, medium ones would have so many, and larger ones would have so many additional visits. That was all in the testimony for the policy committee about how that would be done and who would be charged, how much, which size, how many visits. I don't have that on me but I could get that down to you if you wanted to see it.

Representative Metcalf: Does that have the authority of law? Just because it was talked about?

Arvy Smith: I was viewing it as legislative intent. I don't see language that says that. I view it as legislative intent but not law.

Chairman Pollert: Did this bill go to policy committee or does it just go here? They opted not to put anything in there as far as how they were going to do it? They didn't make any changes?

Representative Kreidt: When this was looked at there was a discussion on what they anticipated doing. I know it begins with the reviewing of the plans because they have so many projects going on. They needed a half time person to try to keep moving the plans along quicker because there is a back log there. We all know that time is money when you are looking at a building project. I know in the Senate that the only amendment made there was to add the emergency clause there. They felt that there is going to be a lag from when the pilot project ends to if there was an emergency clause with the regular bill and they could start reviewing projects. The emergency clause was put on so it could go into effect immediately so that they can continue to go out and do these projects because they have a lot of them that are in process right now. It seems to me that with the larger projects there were like 4 visits that they were going to go out and do.

Lori Laschkewitsch: In the testimony it was stated that the anticipated average of 2 onsite inspections for small projects, 3 inspections for medium sized projects, and 4 inspections for large projects. Those are the number of visits.

Representative Bellew: I have 2 things. In section 3 it says the program has to meet the federal requirements associated with Medicare and certified life safety surveys. The second thing is that I'm sure the Veteran's Home manager told me that they are only going to get two visits. I guess my question is why they are only going to get two visits. They probably need 8 or 10. I assume that's a large project.

Representative Metcalf: That is a concern. To me the department has an awful lot of latitude. If they decide they don't have the people right now to meet the inspections they will just say they won't meet them this time. We are talking about the Veteran's Home. It's too wide open.

Especially if we start considering charging them more money for something like this that basically what is the guarantee that the inspections will be conducted into the adequacy to

ensure that we will not have this additional expense later on as the construction goes along. I have a certain amount of problem with the way this was written.

Chairman Pollert: If I'm correct on the green sheets on SB 2004 aren't they talking about hiring two people and if they don't hire the two people then the money will probably be jerked the next biennium if the process isn't going on. That would be my guess. If we hire two people for life safety codes I would look at it as saying then we shouldn't do the program and pull the FTE's and the funding.

Representative Metcalf: That is really not my concern. My concern is that if we are going to put a program in we must do it right. We should go forward and meet the inspections conducted the way they should be conducted. If we have to charge more than that is the way it has to be. Really I'm more concerned on making sure that we don't problems after the building is done. I know what kind of expenses will be involved when you have to start tearing out walls. That should never happen.

Chairman Pollert: I'll call on Representative Kreidt but my impression is that it is supposed to be solved with this bill. If that's not the purpose then we better not act on the bill today.

Representative Kreidt: The 2, 3, 4 are those suggested numbers, are we locked into those? If we have a facility that has a real problem are we going to spend more time out there?

Arvy Smith: I think those are anticipated visits. His testimony says this is what we anticipate happening. If the Veteran's Home meets the criteria for the 4 visits, I would say we are doing those. I don't know where they got the idea that they were only doing 2. Right now that is what the testimony is saying.

Chairman Pollert: When you are doing all of your other inspections is that put in century code as far as how many they are going to do out there or is this the type of language that is set up

so you can do the procedures. If it isn't then we need to amend the bill. If it is then we don't need to.

Arvy Smith: In our programs we do inspections for a variety of things. Those are not established in law.

Representative Kreidt: The dollars in 2004, there should be a reporting process. During the interim I believed that they reported to the budget section if I remember correctly. Then the interim long term care committee did that.

Arvy Smith: We only reported to the long term care committee.

Chairman Pollert: Is there a long term care committee in every biennium during the interim?

Representative Kreidt: No it would have to be the budget section.

Chairman Pollert: It could be the human services committee as well. There is always a human services committee. Now we are dabbling into policy. This should have been discussed in policy.

Representative Kreidt: I think we should amend it to have them report to the budget section in 2004.

Chairman Pollert: Is there any other discussion? We will take the roll call. It passes 6-1-1.

Representative Kreidt: I will carry this bill.

2009 HOUSE STANDING COMMITTEE MINUTES

SB 2046

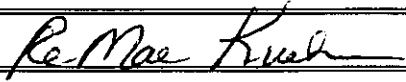
House Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: April 1, 2009

Recorder Job Number: 11584

Committee Clerk Signature



Minutes:

There are no amendments for SB 2046.

Rep. Kreidt explained the bill which deals with life safety surveys during construction renovation and remodeling of health care facilities in the State of ND. The bill resulted out of a pilot project and followed during the interim by the Long-Term Care Committee.

Rep. Kreidt: There were two facilities that were reviewed. One was a remodeling project and one a new facility. The new facility was in Mandan. The remodeling was in Hatton, ND. As a result of the department reviewing the projects, there was a savings of \$300,000. A situation that resulted prior to the department going out was in Beulah. This was a new facility that was to open in January of 2007. They requested the department to come out and review their project. The Department wasn't prepared to do this. As a result of them not going out, their license was denied and that resulted in them not opening in a timely manner because of the Department not going out and reviewing their project. With this bill, there will be fees charged to the facilities. There are two FTEs and the money for this project to continue is included in the Health Department's budget at about \$300,000 plus. The facilities will bear about 1/3 of the cost and the General Fund will bear 2/3. The Senate Human Services Committee added the Emergency Clause to keep this going forward in a timely manner. The old pilot project will expire if the clause does not exist. There are 130 facilities that will remodel. This bill will also

include hospitals. Before it was basic care facilities and nursing homes. This will save the state a considerable amount of money. The Department is pleased with the rapport and being able to provide this help to the facilities.

Rep. Kreidt: Moved a Do Pass

Rep. Kerzman: Seconded the motion.

Discussion:

Rep. Pollert: One person in the Section did not agree with this bill. I don't agree that the state should fund most of it at 2/3 when the benefit is to the facilities. (6:02)

Chm. Svedjan: What do you think the fees might be?

Rep. Kreidt: A small project would be \$300, a medium size would be a \$900 fee, a large project \$2400.

Chm. Svedjan: How is the size of the projects defined?

Rep. Kreidt: It would be combination of size of the project and the dollars. In reference to our Section's feeling on how the money should be paid, we have to realize that any fees directed back to the facilities will be passed on to the residents. By maintaining the \$200,000 in General Funds, we will take a burden off of the residents.

Rep. Wald: We're hiring two people and they are second guessing the architects, engineering services. What oversight can they provide? It seems we are laying another unnecessary bureaucratic layer on top of people that have some expertise in building or remodeling.

Rep. Kreidt: These individuals are not picked off the street. They will be trained with experience in life safety codes. The operation of nursing homes has a stricter type of life safety code than any other entity. They will be aware of what is needed to be put into these facilities.

They can advise the architects and engineers with what needs to be included. The life safety people from the Health Department will come in and we have been assured that our projects

will meet all the codes and requirements. Just the results of this two-year project have been great results. I would say that with 130 projects on line now, we will see a savings of millions of dollars to the state by not having to go back and correct mistakes that have been made. To stop this now we will be hurting a lot of facilities. This is a good bill.

Rep. Pollert: The problem we have had – and I support the bill, but I think the fees need to be higher. We have nursing homes that have gone under construction and didn't get inspected because of the shortage of FTEs and then get written up for life safety codes and delay the opening of the nursing homes for 6 to 9 months. This is trying to be more proactive to get the people in earlier. That's where the savings comes in to the nursing home.

Chm. Svedjan: My question was how does this save the state money?

Rep. Kreidt: For example, Beulah was delayed four or five months. They had to maintain the new facility, do the corrections, and maintain the old facility. They had to borrow money to make the bond payments on the new facility. If it's \$1 million, \$500,000 would fall back on the Medicaid side. The taxpayers pay the Medicaid.

Chm. Svedjan: Wouldn't you have the cost even if you opened on time?

Rep. Kreidt: No. You are still paying on the old place and therefore paying double.

Rep. Delzer: You might have that on the property cost side. All the rate setting is set by IDLs, it would be on the rate setting side. Has the Department made any efforts for waivers for federal dollars to pay for this beforehand? If so, how many times have they done that?

Rep. Kreidt: On the federal side, there has been no attempt. The feds do not see this as a part of the federal policy. There is no mechanism for them to get federal dollars. That goes for every state. The feds only participate on the life safety survey.

Rep. Nelson: The possible savings to the state of ND would also be the new Veterans' Home.

The architect for the new Veterans' Home was written up for having a facility that couldn't open on time. This would help ensure that the Veterans' Home would open on time.

Chm. Svedjan: This has grown out of a pilot project that was funded by the legislature last session?

Rep. Kreidt: There was no money put into the pilot project. The Department funded it out of the resources of their budget from last session. They had a contract with a qualified individual. Another situation which this bill will help out, out of the two FTEs, part of that FTE will review plans in the Department now. We anticipate about 130 projects of various degrees. Only one individual is currently reviewing projects at the Department. They have a backlog now. Time is money in these building projects. They are short of staff regardless of this project.

Chm. Svedjan: They didn't have the horsepower to get the job done.

Rep. Kreidt: Correct.

Rep. Delzer: I support the philosophy. The fees need to be higher to the facilities. The feds do not allow any use of federal money to pay for these inspectors. If enough states told the feds that this is the way to do it, they might. The feds should be allowing the use of their money beforehand, not just after.

Rep. Dosch: Where does the local building authority fit into this? If there are certain codes that need to be followed, it seems we are shielding the responsibility of the architects for not properly designing this? Why aren't the facilities holding the architects responsible? Where does the local building code authority fit in?

Rep. Kreidt: This is all federal. There are no local building authorities that come in to the facilities to review these plans. It's always been that way. They would have to be trained on the federal level and I don't know of anyone who has done that. It has always been through the

Health Department. There is a licensing process for Medicaid/Medicare license to operate these facilities and local entities can't do that. Regarding the architects, they try to keep up with all the federal codes and do the best they can. Instead of one eye, two eyes are better. You might have a contractor who wants to take a shortcut. The architect is not there to watch everything.

Rep. Metcalf: We have to understand that as far as the Veterans' Home goes, the first of October the plans for the Veterans Home were given to the Health Department for the review. It took them about four months to review the plans because they had such a backlog. They found 33 areas that needed to be corrected and that the architect had missed. The worst one was about \$33,000. Those 33 would have stopped the authorization for that facility had they not been caught at this time. Human beings are involved in these inspections. Every time we have a life safety code, you would think all the errors would be fixed, but they aren't. It's not a simple operation. To say the facility should be paying these charges, I guess we could consider it. This will come out of the state funds one way or another. Pay me now or pay me later. (25:19)

Chm. Svedjan: Did you look at whether or not other positions could be opened for this purpose without adding two FTEs?

Rep. Kreidt: I don't believe so. With all the projects out there, they have one person and they have three inspectors who review facilities. They are more than extended. I have looked at other departments around the country and the number of people they have in their life safety areas and we are very low staffed.

Chm. Svedjan: We have this bill because of the Fiscal Note. The money is actually in SB 2004.

Page 6

House Appropriations Committee

Bill/Resolution No. 2046

Hearing Date: April 1, 2009

A Roll Call vote was taken. **Yes:** 17, **No:** 3, **Absent:** 5, (Representatives Kempenich, Thoreson, Berg, Kaldor, Ekstrom).

Representative Frantsvog will carry the bill.

Date: 5-30-09
Roll Call Vote #:

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

House Appropriations Human Resources Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number SB 2046

Action Taken Do pass

Motion Made By Rep. Knecht Seconded By Rep. Nelson

[illegible]

Total (Yes) 6 No 1

Absent |

Floor Assignment Rep. Knecht

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

Date: 4/1/09
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2046

Full House Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken No Pass

Motion Made By Kreidt Seconded By Kerzman

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan	✓				
Vice Chairman Kempenich	✓				
Rep. Skarphol	✓		Rep. Kroeber	✓	
Rep. Wald	✓	✓	Rep. Onstad	✓	
Rep. Hawken	✓		Rep. Williams	✓	
Rep. Klein	✓	✓			
Rep. Martinson	✓				
Rep. Delzer	✓		Rep. Glassheim	✓	
Rep. Thoreson	✓		Rep. Kaldor	✓	
Rep. Berg	✓		Rep. Meyer	✓	
Rep. Dosch	✓	✓			
Rep. Pollert	✓		Rep. Ekstrom	✓	
Rep. Bellew	✓		Rep. Kerzman	✓	
Rep. Kreidt	✓		Rep. Metcalf	✓	
Rep. Nelson	✓				
Rep. Wieland	✓				

Total (Yes) 17 No 3

Absent 5

Floor Assignment Rep. Frankenberg

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

REPORT OF STANDING COMMITTEE (410)
April 1, 2009 1:59 p.m.

Module No: HR-55-5850
Carrier: Frantsvog
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2046, as reengrossed: Appropriations Committee (Rep. Svedjan, Chairman)
recommends **DO PASS** (17 YEAS, 3 NAYS, 5 ABSENT AND NOT VOTING).
Reengrossed SB 2046 was placed on the Fourteenth order on the calendar.

2009 TESTIMONY

SB 2046

Testimony

Senate Bill 2046

Human Services Committee

Wednesday, January 7, 2009; 10:30 a.m.

North Dakota Department of Health

Good morning, Chairman Lee and members of the Human Services Committee. My name is Bruce Pritschet, and I am director of the Division of Health Facilities for the North Dakota Department of Health. I am here today to testify in support of Senate Bill 2046.

The 60th Legislative Assembly passed Section 12 of House Bill 1004 requiring the Department of Health to develop and implement a demonstration project for a life safety code survey process for long term care and basic care facility construction or renovation projects. Under the demonstration project, construction and renovation projects during the 2007-2009 biennium costing more than \$3 million would have access to onsite visits, on a voluntary basis, during or at the completion of the project. The demonstration project was implemented to determine if construction problems could be identified and corrected before the construction project was completed, saving the facility additional cost and time. I am pleased to report the demonstration project was determined to be a benefit and was very well received by the providers using the process.

To date, two facilities have utilized the health department's demonstration project and have since completed their building projects. Two additional facilities have requested participation and are awaiting their first project site visit.

Medcenter One Care Center – New construction – Mandan

- • Bid cost of project – \$12.6 million
- First project visit – January 22, 2008
 - Phase of construction – middle of sheet rocking
 - Discussed – building construction, caulking, corridor doors, stairways, elevator shafts, hazardous areas, gift shop, outlets, storage
- Second project visit – September 15, 2008
 - Discussed – door closers, wall penetrations, exit signs, sprinklers, smoke detectors, fire ratings
- Regulatory survey completed December 1, 2008.

- Savings – Medcenter One has estimated that the inspections during construction saved about \$230,000 in interest payments and lost revenue by enabling the facility to open on time.

Hillsboro Medical Center – New addition and renovation – Hillsboro

- Bid cost of project – \$8.6 million
- First project visit – February 4, 2008
 - Phase of construction – middle of sheet rocking
 - Discussed – building construction, corridors, exits, hazardous areas, fire alarm, egress, corridor doors, smoke barriers
- Second project visit – April 14, 2008
 - Phase of construction – before closing the ceiling
 - Discussed – hazardous areas, building separations, smoke barrier penetrations, boiler room.
- Regulatory survey completed August 14, 2008
- Savings – Hillsboro has estimated that the demonstration project inspections during renovation saved between \$40,000 and \$65,000 in repairs and five weeks of time lost in making corrections.

Rolette Community Care Center

- Request to participate received August 25, 2008
- First project visit scheduled for January 19, 2009

Bethany Homes in Fargo

- Approved for participation December 19, 2008
- Signed agreement received; planning for first visit.

After each onsite project visit, a questionnaire was sent to the facility and to the surveyor conducting the site visit. On a scale of 1 to 5, with 5 being excellent, all responses regarding level of satisfaction were 4 (good) and 5 (excellent).

The demonstration project indicated that with the earlier onsite surveys, fewer issues needed correction when it was time to license the building for occupancy, decreasing cost to the industry and frustration on the part of both the industry and the department.

Senate Bill 2046 would make permanent a regulatory process for survey of facilities licensed by the Division of Health Facilities during construction or renovation. The department would provide periodic onsite inspections to all construction and renovation projects, regardless of the size and provider type, and charge a fee to the facilities for plans review to cover a portion of the cost. The long term care industry has indicated it would support facilities paying a small fee for plans review, which would cover approximately a third of the total cost associated with this service. In this

scenario, the proposed fee is \$300 for a small project, \$900 for a medium project and \$2,400 for a large project. A small project is defined as one that would take approximately three hours to review, a medium size project would take approximately 16 hours to review, and a large project would take about 80 hours to review. The proposed fees would be charged to the facilities for plans review based on the size of the project, with no additional fee charged for the onsite inspections. Since this work is part of the state licensure process, federal funding may not be used to cover the associated costs.

As I mentioned earlier, the department is very much in support of this bill. During the 2009-2011 biennium, it is anticipated that it will take approximately 1.5 FTEs of staff time to complete the additional onsite visits and 0.5 FTE staff time to complete the additional plans review associated with these construction and renovation projects.

- Onsite visits – We anticipate that an average of two onsite inspections will be made to small projects, an average of three onsite inspections will be made to medium-size projects, and an average of four inspections will be made to large projects. Based on the number of construction projects in 2006 and 2007, we estimate that between 135 and 150 construction/renovation projects will be inspected through this program during the 2009-2011 biennium.
- Plans review – Currently, with only one individual in the division available to review plans and the number of medium and large projects being submitted for review, the response time is about three to four months. An additional .5 FTE for plans review is needed to increase the department's ability to respond in a timelier manner and to respond to change order requests.

In addition to the increased staff time, there will be operating costs to complete the onsite inspections. It is anticipated that the total for salaries and operating costs for this service during the 2009-2011 biennium will be \$321,910.

Included in the Department of Health's appropriation bill (SB 2004) is the authority to add two FTEs, as well as \$215,680 from the general fund and \$106,203 of special funds (fees collected for plans review) for a total of \$321,910 to fund this project.

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This concludes my testimony. I am happy to answer any questions you might have.

Testimony on SB 2046
Senate Human Services Committee
January 7, 2009

Chairman Lee and members of the Senate Human Services Committee, thank you for the opportunity to testify regarding SB 2046. My name is Shelly Peterson, President of the North Dakota Long Term Care Association. We represent assisted living facilities, basic care facilities and nursing facilities. I am here to testify in support of SB 2046.

We believe SB 2046 is a good solution for helping healthcare facilities embarking on a renovation or construction project to better achieve compliance with life safety regulations. Over the years, long term care facilities have struggled with assuring compliance, inevitably compliance issues arise after the end of a construction project.

In the 2007 legislative session the Health Department was required to implement a demonstration project for a life safety code survey process for nursing facilities and basic care facilities projects in excess of three million dollars.

During that period of time, the Health Department provided survey assistance on two projects, Medcenter One Mandan Care Center in Mandan and Hillsboro Medical Center. Both projects are now complete and both projects benefitted from the compliance inspections.

Today, there are about fourteen major nursing facility construction/renovation projects that have just started or will be starting in the spring on 2009. We anticipate many smaller projects. All projects would like to seek assistance from the state in helping to assure compliance with the life safety code. SB 2046 is the solution for providing that assistance.

Projects continue to be challenged with life safety compliance. Having strong, consistent, technical assistance from the state is necessary to minimize compliance problems. SB 2046 will provide the Health Department with the staff they need to fully implement this program. We support an expansion of life safety staff so all healthcare facilities can get periodic inspections during construction and renovation. Facilities want safe, secure buildings that achieve 100% life safety compliance, anything less is not acceptable. The good news is the Governor has included this expenditure in his base budget.

We have worked closely with the Interim Committee and Health Department to create a program that works for all parties. We feel healthcare facilities need to share in the cost of the program and our members are supportive of the cost sharing outlined in SB 2046.

We urge your support of SB 2046. Thank you for the opportunity to testify. Should you have any questions, I would be happy to answer them.

Shelly Peterson, President
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Madame Chairman, members of the committee:

For the record, my name is Sheila Sandness and I am a Fiscal Analyst for the Legislative Council. I am here to present information on Senate Bill 2046 relating to surveys during construction or renovation projects of health facilities licensed by the state department of health. I appear neither for nor against the bill, but just to provide information and answer any questions you may have.

Section 12 of 2007 House Bill No. 1004 directed the State Department of Health design and implement a demonstration project through which the department offers a life safety survey process for basic care facilities and long-term care facilities to access voluntarily during and at the conclusion of a construction project, renovation project, or construction and renovation project that costs more than three million dollars and report to the legislative council regarding the status of the demonstration project, including the feasibility and desirability of making the program permanent. The Long Term Care Committee was assigned the responsibility of receiving the report and testimony regarding the demonstration project. Information regarding the State Department of Health's report and related testimony may be found in the "Report of the North Dakota Legislative Council". Please refer to pages 281-282.

This bill creates a new section to NDCC chapter 23-01. The new section directs the Department of Health to conduct a life safety survey process for all health facilities licensed by the Division of Health Facilities of the State Department of Health during and at the conclusion of a construction, renovation, or construction and renovation project. The new section also allows the State Department of Health to charge a reasonable fee for a life safety survey performed under the section based on the size of the project. Survey revenues must be deposited in the department's operating fund.

The fiscal note attached to this bill was completed by the State Department of Health and indicates total expenditures of \$321,910 of which \$215,680 is from the general fund. Funding for this bill is included in the executive budget recommendation. The executive recommendation for the State Department of Health includes 2 FTE fire safety surveyor II positions and operating costs of \$73,550.

DRAFT PROPOSED AMENDMENTS TO SENATE BILL 2046

On page 1, line 12 and 13, amend as follows:

2. The department may charge a reasonable fee for ~~a life safety survey~~ plans review of construction, renovation, or construction and renovation projects performed under this section

On page 1, after line 19, insert:

SECTION 2. STAFFING. The department of health is authorized two additional full-time equivalent positions to carry out the provisions of this measure.

SECTION 3. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$215, 680 or so much of the sum as may be necessary, and from other funds derived from fees collected prior to plans review of construction, renovation, or construction and renovation projects for health facilities licensed by the division of health facilities the sum of \$106,230 or so much of the sum as may be necessary, to the department of health for the purpose of carrying out the provisions of this measure for the biennium beginning July 1, 2009 and ending June 30, 2011.

SECTION 4. EMERGENCY. Sections 1 and 2 of this Act are declared an emergency measure.

Renumber accordingly.

**Testimony
Senate Bill 2046
Senate Appropriations Committee
Monday, February 9, 2009; 8 a.m.
North Dakota Department of Health**

Good morning, Chairman Holmberg and members of the Senate Appropriations Committee. My name is Bruce Pritschet, and I am director of the Division of Health Facilities for the North Dakota Department of Health. I am here today to testify in support of Senate Bill 2046.

The 60th Legislative Assembly passed Section 12 of House Bill 1004 requiring the Department of Health to develop and implement a demonstration project for a life safety code survey process for long term care and basic care facility construction or renovation projects. Under the demonstration project, construction and renovation projects during the 2007-2009 biennium costing more than \$3 million would have access to onsite visits, on a voluntary basis, during or at the completion of the project. The demonstration project was implemented to determine if construction problems could be identified and corrected before the construction project was completed, saving the facility additional cost and time. I am pleased to report the demonstration project was determined to be a benefit and was very well received by the providers using the process.

The demonstration project indicated that with the earlier onsite surveys, fewer issues needed correction when it was time to license the building for occupancy, decreasing cost to the industry and frustration on the part of both the industry and the department.

Senate Bill 2046 would make permanent a regulatory process for survey of facilities licensed by the Division of Health Facilities during construction or renovation. The department would provide periodic onsite inspections to all construction and renovation projects, regardless of the size and provider type, and charge a fee to the facilities for plans review to cover a portion of the cost. The long term care industry has indicated it would support facilities paying a small fee for plans review, which would cover approximately a third of the total cost associated with this service. In this scenario, the proposed fee is \$300 for a small project, \$900 for a medium project and \$2,400 for a large project. A small project is defined as one that would take approximately three hours to review, a medium project would take approximately 16 hours to review, and a large project would take about 80 hours to review. The proposed fees would be charged to the facilities for plans review based on the size of the project, with no additional fee charged for the onsite inspections. Since this work is part of the state licensure process, federal funding may not be used to cover the associated costs.

During the 2009-2011 biennium, it is anticipated that it will take approximately 1.5 FTEs of staff time to complete the additional onsite visits and 0.5 FTE staff time to complete the additional plans review associated with these construction and renovation projects.

- Onsite visits – We anticipate that an average of two onsite inspections will be made to small projects, an average of three onsite inspections will be made to medium projects, and an average of four inspections will be made to large projects. Based on the number of construction projects in 2006 and 2007, we estimate that between 135 and 150 construction/renovation projects will be inspected through this program during the 2009-2011 biennium.
- Plans review – Currently, with only one individual in the division available to review plans and the number of medium and large projects being submitted for review, the response time is about three to four months. An additional .5 FTE for plans review is needed to increase the department's ability to respond in a timelier manner and to respond to change order requests.

In addition to the increased staff time, there will be operating costs to complete the onsite inspections. It is anticipated that the total for salaries and operating costs for this service during the 2009-2011 biennium will be \$321,910.

Because of the success of the project, the Senate Human Services Committee wished to place an emergency clause on the bill so that facilities could achieve the savings resulting from the bill as soon as possible. The Department of Health indicated that we would be happy to implement the program in the current biennium using general fund roll-up dollars and fees collected. However, we needed to be assured that the positions would be included in our budget for the 2009-11 biennium before hiring new staff. The committee added an appropriation for two FTEs, as well as \$215,680 from the general fund and \$106,203 of special funds (fees collected for plans review) for a total of \$321,910 to Senate Bill 2046. This project was included in the governor's budget. If Senate Bill 2046 is passed, the two FTEs and the funding can be removed from the Department of Health's appropriation bill (Senate Bill 2004).

Several health-care facilities are in the process of construction and/or renovation, and the sooner we can implement the onsite construction visits, the greater the benefit to those facilities.

This concludes my testimony. I am happy to answer any questions you may have.

Testimony on SB 2046
Senate Appropriations Committee
February 9, 2009

Chairman Holmberg and members of the Senate Appropriations Committee, thank you for the opportunity to testify regarding SB 2046. My name is Shelly Peterson, President of the North Dakota Long Term Care Association. We represent assisted living facilities, basic care facilities and nursing facilities. I am here to testify in support of SB 2046.

We believe SB 2046 is a good solution for helping healthcare facilities embarking on a renovation or construction project to better achieve compliance with life safety regulations. Over the years, long term care facilities have struggled with assuring compliance, inevitably compliance issues arise after the end of a construction project.

In the 2007 legislative session the Health Department was required to implement a demonstration project for a life safety code survey process for nursing facilities and basic care facilities projects in excess of three million dollars.

During that period of time, the Health Department provided survey assistance on two projects, Medcenter One Mandan Care Center in Mandan and Hillsboro Medical Center. Both projects are now complete and both projects benefitted from the compliance inspections.

Today, there are about fourteen major nursing facility construction/renovation projects that have just started or will be starting in the spring on 2009. We anticipate many smaller projects. All projects would like to seek assistance from the state in helping to assure compliance with the life safety code. SB 2046 is the solution for providing that assistance.

Projects continue to be challenged with life safety compliance. Having strong, consistent, technical assistance from the state is necessary to minimize compliance problems. SB 2046 will provide the Health Department with the staff they need to fully implement this program. We support an expansion of life safety staff so all healthcare facilities can get periodic inspections during construction and renovation. Facilities want safe, secure buildings that achieve 100% life safety compliance, anything less is not acceptable. We have projects that are hoping to begin construction this spring. To date there is a backlog on blue print approvals, up to two months. The emergency clause on SB 2046 will allow the Health Department to move forward with hiring staff, thus hopefully prevent spring delays.

We have worked closely with the Interim Committee and Health Department to create a program that works for all parties. We feel healthcare facilities need to share in the cost of the program and our members are supportive of the cost sharing outlined in SB 2046.

We urge your support of SB 2046. Thank you for the opportunity to testify. Should you have any questions, I would be happy to answer them.

Shelly Peterson, President
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#1

Testimony
Senate Bill 2046
House Human Services Committee
Wednesday, March 4, 2009; 9 a.m.
North Dakota Department of Health

Good morning, Chairman Weisz and members of the House Human Services Committee. My name is Bruce Pritschet, and I am director of the Division of Health Facilities for the North Dakota Department of Health. I am here today to testify in support of Senate Bill 2046.

The 60th Legislative Assembly passed Section 12 of House Bill 1004 requiring the Department of Health to develop and implement a demonstration project for a life safety code survey process for long term care and basic care facility construction or renovation projects. The demonstration project was implemented to determine if construction problems could be identified and corrected before the construction project was completed, saving the facility additional cost and time. I am pleased to report the demonstration project was determined to be a benefit and was very well received by the providers using the process.

To date, two facilities have utilized the health department's demonstration project and have since completed their building projects. Two additional facilities have requested participation and are waiting for their project to reach a stage where an onsite visit would be beneficial to them.

Medcenter One Care Center – Building project completed. The facility has indicated that the inspections during construction saved about \$230,000 in interest payments and lost revenue by enabling the facility to open on time.

Hillsboro Medical Center – Long term care portion of building project completed. The facility has estimated that the demonstration project inspections during renovation saved between \$40,000 and \$65,000 in repairs and five weeks of time lost in making corrections.

Rolette Community Care Center – Construction underway. One onsite visit has been made to date.

Bethany Homes in Fargo – Construction underway. We are awaiting their first request for an onsite visit.

After each onsite project visit, a questionnaire was sent to the facility and to the surveyor conducting the site visit. On a scale of 1 to 5, with 5 being excellent, all responses regarding level of satisfaction were 4 (good) and 5 (excellent).

The demonstration project indicated that with the earlier onsite surveys, fewer issues needed correction when it was time to license the building for occupancy, decreasing cost to the industry and frustration on the part of both the industry and the department.

Senate Bill 2046 would make permanent a regulatory process for survey of facilities licensed by the Division of Health Facilities during construction or renovation. The department would provide periodic onsite inspections to all construction and renovation projects, regardless of the size and provider type, and charge a fee to the facilities for plans review to cover a portion of the cost. The long term care industry has indicated it would support facilities paying a small fee for plans review, which would cover approximately a third of the total cost associated with this service. In this scenario, the proposed fee is \$300 for a small project, \$900 for a medium project and \$2,400 for a large project. A small project is defined as one that would take approximately three hours to review, a medium-size project would take approximately 16 hours to review, and a large project would take about 80 hours to review. The proposed fees would be charged to the facilities for plans review based on the size of the project, with no additional fee charged for the onsite inspections. Since this work is part of the state licensure process, federal funding may not be used to cover the associated costs.

As I mentioned earlier, the department is in support of this bill. During the 2009-2011 biennium, it is anticipated that it will take approximately 1.5 FTEs of staff time to complete the additional onsite visits and 0.5 FTE staff time to complete the additional plans review associated with these construction and renovation projects. _

- The two FTEs and funding necessary to implement this bill next biennium are included in the department's appropriation bill (Senate Bill 2004).
- Plans review – Currently, this task is completed by the one engineer in the division. (He does not conduct the onsite visits.) However, this individual is overloaded with plans to review, and the number of medium and large projects being submitted for review extends our response time to three to four months. An additional .5 FTE for plans review is needed to increase the department's ability to respond in a timelier manner and to respond to change order requests.

- Onsite visits – Currently, the department does not have sufficient staff to conduct onsite construction visits. During the demonstration project, we hired a temporary employee to provide this service. The 1.5 FTEs are included in Senate Bill 2004 to conduct future onsite visits. We anticipate that an average of two onsite inspections will be made to small projects, an average of three onsite inspections will be made to medium-size projects, and an average of four inspections will be made to large projects. Based on the number of construction projects in 2006 and 2007, we estimate that between 135 and 150 construction/renovation projects will be inspected through this program during the 2009-2011 biennium.

In addition to the increased staff time, there will be operating costs to complete the onsite inspections. It is anticipated that the total for salaries and operating costs for this service during the 2009-2011 biennium will be \$321,910.

The Department of Health's appropriation bill (Senate Bill 2004) includes the authority to add two FTEs, as well as \$215,680 from the general fund and \$106,203 of special funds (fees collected for plans review) for a total of \$321,910 for this project.

The Senate added an emergency clause to Senate Bill 2046. We will implement Senate Bill 2046 after both Senate Bill 2046 and Senate Bill 2004 have been passed by the Legislative Assembly.

This concludes my testimony. I am happy to answer any questions you might have.

#2
Two Sided

Testimony on SB 2046
House Human Services Committee
March 4, 2009

Chairman Weisz and members of the House Human Services Committee, thank you for the opportunity to testify regarding SB 2046. My name is Shelly Peterson, President of the North Dakota Long Term Care Association. We represent assisted living facilities, basic care facilities and nursing facilities. I am here to testify in support of SB 2046.

We believe SB 2046 is a good solution for helping healthcare facilities embarking on a renovation or construction project to better achieve compliance with life safety regulations. Over the years, long term care facilities have struggled with assuring compliance, inevitably compliance issues arise after the end of a construction project.

In the 2007 legislative session the Health Department was required to implement a demonstration project for a life safety code survey process for nursing facilities and basic care facilities projects in excess of three million dollars.

During that period of time, the Health Department provided survey assistance on two projects, Medcenter One Mandan Care Center in Mandan and Hillsboro Medical Center. Both projects are now complete and both projects benefitted from the compliance inspections.

Today, there are about fourteen major nursing facility construction/renovation projects that have just started or will be starting in the spring on 2009. We anticipate many smaller projects. All projects would like to seek assistance from the state in helping to assure compliance with the life safety code. SB 2046 is the solution for providing that assistance.

Projects continue to be challenged with life safety compliance. Having strong, consistent, technical assistance from the state is necessary to minimize compliance problems. We support an expansion of life safety staff so all healthcare facilities can get periodic inspections during construction and renovation. Facilities want safe, secure buildings that achieve 100% life safety compliance, anything less is not acceptable. We have projects that are hoping to begin construction this spring. To date there is a backlog on blue print approvals, up to two months. The emergency clause on SB 2046 will allow the Health Department to move forward with hiring staff, thus hopefully prevent spring delays. Funding and two FTEs are necessary to fully implement SB 2046. If funding is not attached to the Health Department appropriations bill (SB 2004), this program will not work.

We have worked closely with the Interim Committee and Health Department to create a program that works for all parties. We feel healthcare facilities need to share in the cost of the program and our members are supportive of the cost sharing outlined in SB 2046.

We urge your support of SB 2046. Thank you for the opportunity to testify. Should you have any questions, I would be happy to answer them.

Shelly Peterson, President
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A

**Testimony
Senate Bill 2046
House Appropriations Committee
Health Resources Division
Wednesday, March 18, 2009; 10:30 a.m.
North Dakota Department of Health**

Good morning, Chairman Pollert and members of the committee. My name is Bruce Pritschet, and I am director of the Division of Health Facilities for the North Dakota Department of Health. I am here today to testify in support of Senate Bill 2046.

The 60th Legislative Assembly passed Section 12 of House Bill 1004 requiring the Department of Health to develop and implement a demonstration project for a life safety code survey process for long term care and basic care facility construction or renovation projects. The demonstration project was implemented to determine if construction problems could be identified and corrected before the construction project was completed, saving the facility additional cost and time. I am pleased to report the demonstration project was determined to be a benefit and was very well received by the providers using the process.

To date, two facilities have utilized the health department's demonstration project and have since completed their building projects. Two additional facilities have requested participation and are waiting for their project to reach a stage where an onsite visit would be beneficial to them. It is estimated the onsite construction visits have saved the participating facilities \$295,000. The demonstration project indicated that when construction compliance issues can be identified during the building project, fewer issues need correcting when it is time to license the building for occupancy, decreasing cost to the industry and frustration on the part of both the industry and the department.

After each onsite demonstration project visit, a questionnaire was sent to the facility and to the surveyor conducting the site visit. On a scale of 1 to 5, with 5 being excellent, all responses regarding level of satisfaction were 4 (good) and 5 (excellent).

Senate Bill 2046 would make permanent a regulatory process for survey of facilities licensed by the Division of Health Facilities during construction or renovation. The department would provide periodic onsite inspections to all construction and renovation projects, regardless of the size and provider type, and charge a fee to the facilities for plans review to cover a portion of the cost. The long term care industry has indicated it would support facilities paying a small fee for plans review, which would cover approximately a third of the total cost associated with this service. In this scenario, the proposed fee is \$300 for a small project, \$900 for a medium project and

\$2,400 for a large project. A small project is defined as one that would take approximately three hours to review, a medium-size project would take approximately 16 hours to review, and a large project would take about 80 hours to review. The proposed fees would be charged to the facilities for plans review based on the size of the project, with no additional fee charged for the onsite inspections. Since this work is part of the state licensure process, federal funding may not be used to cover the associated costs.

During the 2009-2011 biennium, it is anticipated that it will take approximately 1.5 FTEs of staff time to complete the additional onsite visits and 0.5 FTE staff time to complete the additional plans review associated with these construction and renovation projects.

- Plans review – Currently, this task is completed by the one engineer in the division. (He does not conduct the onsite visits.) However, this individual is overloaded with plans to review, and the number of medium and large projects being submitted for review extends our response time to three to four months. An additional .5 FTE for plans review is needed to increase the department's ability to respond in a timelier manner and to respond to change order requests.
- Onsite visits – Currently, the department does not have sufficient staff to conduct onsite construction visits. During the demonstration project, we hired a temporary employee, a life safety code surveyor from another state, to provide this service. The 1.5 FTEs are included in Senate Bill 2004 to conduct future onsite visits. We anticipate that an average of two onsite inspections will be made to each small project, an average of three onsite inspections will be made to each medium-size project, and an average of four inspections will be made to each large project. Based on the number of construction projects in 2006 and 2007, we estimate that between 135 and 150 construction/renovation projects will be inspected through this program during the 2009-2011 biennium.

In addition to the increased staff time, there will be operating costs to complete the onsite inspections. It is anticipated that the total for salaries and operating costs for this service during the 2009-2011 biennium will be \$321,910.

The Department of Health's appropriation bill (Senate Bill 2004) includes the authority to add two FTEs, as well as \$215,680 from the general fund and \$106,203 of special funds (fees collected for plans review) for a total of \$321,910 for this project.

The Senate added an emergency clause to Senate Bill 2046. We will implement Senate Bill 2046 after both Senate Bill 2046 and Senate Bill 2004 have been passed by the Legislative Assembly.

This concludes my testimony. I am happy to answer any questions you might have.