

1999 SENATE GOVERNMENT AND VETERANS AFFAIRS

SB 2264


1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2264

Senate Government and Veterans Affairs Committee

Conference Committee

Hearing Date January 29, 1999

Tape Number	Side A	Side B	Meter #
1	X		0-4226
Committee Clerk Signature 			

Minutes: CHAIRMAN KREBSBACH called the committee to order and instructed the clerk to call the roll. The hearing on SB 2264 was opened at this time. SENATOR ROD ST. AUBYN, district 43, Grand Forks, primary sponsor of the bill, appeared before the committee to introduce the legislation. A copy of his written testimony is attached. SENATOR DEMERS-You are referring to Old Science in the first part of your testimony. My understanding is that when that came to the attention of the board the first time that was approved and that was and I'm finding in the last two weeks that that had been held at the request of the state board of higher education. SENATOR ST. AUBYN-If we want to go over the history of that I'd be happy to. Actually the historical society was actually informed of the decision and the plans to raze that facility back in the previous year prior to that. The board meeting was in February or March, something like that of '98. They were aware of the plans to raze that and actually that was discussed in appropriations, the university's plan to raze that facility in the previous legislative session. In

addition to that it was on the campus master plan which had listed that as one of the facilities to be razed. What had happened then at that point, the historical society staff had met with the university and the decision, no decision was made to list it. Then there was the state board of higher education decided to give the university the formal procedural authorization to raze it.

There was objection raised and asked if they could have more time and ask them to reconsider it.

So at the next board meeting, I think it was the next one, I think it was in April of '98, the state board of higher education then discussed the situation again and said that they were willing to give a little time on this recommendation, I don't know if it was 60 days, I can't remember.

Well, in the meantime at this point there was no authorization or listing of this in the historical society, then after that that is when the decision was made for them to list it as a historical site which prevented the razing and I think Mr. Wagner would agree, they made that decision in June, the end of June or early July or something like that. The thing that was especially troubling for me was the institution had the right to go ahead and ask for permission after that even though they had already, it was not even listed and they had permission to raze it even prior to that. And the historical society basically according to their rules has I think almost 6 months to then go and decide if there's historical value in the facility and all of that, which seems a little strange to me if it's already listed but whatever, they could have delayed any final decision, the board itself, for another six months. So in the meantime you have a vacant facility, the institution is accruing costs, in terms of heating and potential liability, and insurance and all of those issues and there is no action so I think there is to be a lot of criticism in terms of just the process at that point and I don't want to dwell so much on that because I think that has been worked out with Mr. Wagner and feel very comfortable that they're trying to work some of those details out in the interim.

But, I guess the concern I have is just the authority aspect of this. That you have a board or department that has total decision making I guess at that point to decide your facility, you can not do anything with it. You can not demolish it or anything. They have that authority to do that. As a school district Grand Forks we had a school building that after the flood and they were going to be building a new one, that was held up also for the new building because there were some concerns about the old building. So, in the meantime they couldn't start the bids or anything on the new building because of that. So I guess I have some concerns about that in terms of we have one agency could potentially cause and has caused additional costs and inconvenience to political subdivisions, state facilities, the whole works. But at the same time I do feel their needs to be their role in terms of evaluating those things that have historical value.

But, that should be done ahead of time, not as an after thought, in my opinion. SENATOR DEMERS-I have one other question. This bill repeals the arbitration process that exists to deal with differences of opinion. And yet you're telling us that an appeals process would be okay. I'm just seeing that as a bit inconsistent and I'm wondering if you would comment on that.

SENATOR ST. AUBYN-Well, I guess the original bill eliminated that authority for them to stop any demolition period. I guess my point is I'm willing to consider some type of appeal process, but this arbitration panel is not accountable to any taxpayer, so ultimately should that be someone who's not accountable to anyone that can make those decisions? SENATOR

DEMERS-And you are saying the appeal process is to blame, to whom are you suggesting the appeal process be given? SENATOR ST. AUBYN-I'm not exactly sure, I would like to see it

some elected body such as a legislative committee or something to that affect. My original thought was in our discussion with Mr. Wagner was, for example if it was a city project, the city



council would be that. The only problem with that, it's almost like if the city was going to proceed with doing that, if they were to have the city council hear their own appeal, you know, I don't think that is a workable thing. SENATOR STENEHJEM-I agree with you on the point that you are making, that problem that I have had over the years is frequently people try to use this statute not to really to preserve historical artifacts and buildings but to stop the building of buildings they don't want and I think Minnesota's Avenue Bridge in Grand Forks is a good example of that. But, this bill goes too far the other way where there is no teeth in it so that if somebody is attempting to make a foolish decision to dismantle a building that really does have historical significance there is no way to stop them. Is there a middle ground in there somewhere that we could? SENATOR ST. AUBYN-I guess that's what I'm saying in terms of the appeal process. I don't have any problem with that. I'm not taking away their authority if we have the appeals process of them getting a temporary stay on the deal until the appeal board would hear this. I don't have a problem with that. But I think there is an important element here, I would hope that the historical society would take a proactive approach and try to identify these things you know before the decisions are made to tear them up. For example, the university buildings, some of these older buildings, have been here for many, many years. Why aren't they already identified at this point as the ones that are of historical value. That way the university is aware of that from the very start and has to abide by the regulations. SENATOR STENEHJEM-I'm guessing they'll say that there are thousands of potential historical sites in the state and they don't have the people to go around and start cataloguing all of them until there is a possibility that they might be destroyed. SENATOR ST. AUBYN-I don't think it would be that difficult to go through a listing from the university facilities as an example and get that started. The thing

that bothers me about this process in particular. They were fully aware of it before they even made the decision. SENATOR STENEHJEM-It was in the newspaper a long time ago.

SENATOR THANE-I don't know how to pose this as a question, it is going to be more of a statement. When I look at the few situations that I am aware of, if it hadn't been for a very small minority to start with, the facilities never would have been saved. But it always takes a very vocal minority to start and then all of a sudden people start realizing that maybe there is some historic value in that particular site or building. I'm not opposed to your bill by any stretch of the imagination I think something can be done there but I am concerned that maybe it will lessen the power that that small minority that I'm talking about has of saying wait a minute, let's not destroy this building. It might start with just one person who really believes that a particular facility is worth preserving and maybe it grows from there and maybe not. There were no further questions from the committee. Appearing before the committee, in a neutral position on the bill was SAM WAGNER, Superintendent of the State Historical Society and State Historic Preservation Officer. His remarks on this bill were brief however, he indicated to the committee that he would stand for any questions from the committee. Committee members SENATORS STENEHJEM, DEMERS, THANE, and KREBSBACH offered questions or made comments with responses being offered by MR. WAGNER. (Tape 1, Side A, Meter #'s 1658-3700)

Appearing before the committee in opposition to SB 2264 was AMY SAKARIASSEN. A copy of her written testimony is attached. SENATOR KILZER inquired of Ms. Sakariassen if she had an opinion about having an inventory of the potential or most significant existing historical artifacts. She indicated if it were handle able. (Tape 1, Side A, Meter #'s 3700-4227) There was no further testimony offered on SB 2264. The hearing was closed at this time.

Feb 12, 1999

*Further discussion of SB 2264, February 12, 1999, Tape 2, Side A, Meter #'s 160-1020*

*Proposed amendments to SB 2264 proposed by Representative Kempenich were handed out to the members of the committee. Representative Kempenich appeared before the committee and explained the reasons behind his proposed amendments. There was nothing further at this time. Further action on this bill occurred on Monday February 15, 1999, Tape 1, Side A, Meter #'s 0-End. SENATOR WARDNER: Indicated to the committee that Representative Kempenich had come into the committee and spoke to them about his reasons for proposing the amendments he did for SB 2264. The committee briefly discussed the Kempenich amendment. MR. WAGNER appeared before the committee and indicated that he wanted Fern Swenson, State Historical Archaeologist to speak to the committee about the process or procedure that needs to be followed by a landowner if he finds items of historic value on his land. The landowner must obtain a permit and the permit simply states that any burial goods or human remains that are discovered during an excavation will be turned in to the superintendent as well as the records of information of any excavation. The existing law does not restrict the collection of artifacts on the surface on private land. Permits are not required in that case. The committee continued to discuss this at length with Senators DeMers, Wardner, Thane, and Krebsbach offering questions and responses being offered by MR. WAGNER and FERN SWENSON. Following discussion the committee agreed to act on the bill. SENATOR WARDNER moved to adopt the amendments as proposed by the historical society, seconded by SENATOR KILZER. ROLL CALL VOTE indicated 7 YEAS, 0 NAYS, and 0 ABSENT OR NOT VOTING. A motion for DO PASS AS AMENDED was made by SENATOR DEMERS, seconded by*

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Senate Government and Veterans Affairs Committee

Bill/Resolution Number SB 2264 Minutes

Hearing Date ~~January 29, 1999~~

*Feb 12 1999*

**SENATOR WARDNER. ROLL CALL VOTE indicated 7 YEAS, 0 NAYS, and 0**

**ABSENT OR NOT VOTING.**

PROPOSED AMENDMENTS TO SENATE BILL NO. 2264

Page 1, line 1, after "to" insert "create and enact a new section to chapter 55-03 of the North Dakota Century Code, relating to excavations on private lands; and to" and after "55-02-07" insert ", 55-03-01.1,"

Page 1, line 2, after "to" insert "excavations on private lands and to"

Page 1, after line 24, insert:

**"SECTION 2. AMENDMENT.** Section 55-03-01.1 of the North Dakota Century Code is amended and reenacted as follows:

**55-03-01.1. Permit required to investigate, excavate, or otherwise record cultural resources on land owned by an instrumentality of the state of North Dakota and to excavate cultural resources on private land.** Any Except as provided in section 3 of this Act, an individual, organization, institution, or company engaged on one's own behalf or on behalf of another in the investigation, excavation, or other recording of cultural resources on land owned by an instrumentality of the state of North Dakota or in the excavation of cultural resources on private land for any purposes other than those identified in section 55-03-01 first shall obtain a permit from the superintendent. Such The permit may be issued when an application in such the form and including such the information as prescribed by the superintendent has been filed with such the officer. Any such A permit may be granted only for the investigation, excavation, or other recording of cultural resources at the locations described in the application for the permit. Each such application must be accompanied by a fee of one hundred dollars.

**SECTION 3.** A new section to chapter 55-03 of the North Dakota Century Code is created and enacted as follows:

**Landowner may explore on own land.** Notwithstanding any other provision of law, a person may explore or excavate for cultural resources, except burial goods and human burial sites as defined in section 23-06-27, on that person's own land or by written consent given to another person."

Renumber accordingly

Date: 2/15/99  
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2264

Senate GOVERNMENT AND VETERAN'S AFFAIRS Committee

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

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

Action Taken Move amendments by Historical Society

Motion Made By Sen. Wardner Seconded By Sen. Kilzer

Senators	Yes	No	Senators	Yes	No
SENATOR KREBSBACH	✓				
SENATOR WARDNER	✓				
SENATOR KILZER	✓				
SENATOR STENEHJEM	✓				
SENATOR THANE	✓				
SENATOR DEMERS	✓				
SENATOR MUTZENBERGER	✓				

Total (Yes) 7 No 0

Absent 0

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

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

Date: 2/15/99  
Roll Call Vote #: 2

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2264

Senate GOVERNMENT AND VETERAN'S AFFAIRS Committee

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

or

Conference Committee

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

Action Taken Do Pass as Amended

Motion Made By Sen. Demers Seconded By Sen. Wardner

Senators	Yes	No	Senators	Yes	No
SENATOR KREBSBACH	✓				
SENATOR WARDNER	✓				
SENATOR KILZER	✓				
SENATOR STENEHJEM	✓				
SENATOR THANE	✓				
SENATOR DEMERS	✓				
SENATOR MUTZENBERGER	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Krebsbach

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

REPORT OF STANDING COMMITTEE

SB 2264: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2264 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "sections 55-02-07 and" with "section"

Page 1, remove lines 5 through 24

Page 2, line 4, remove the overstrike over "~~Prohibitions~~"

Page 2, line 12, remove the overstrike over "~~obtaining the~~"

Page 2, line 13, remove the overstrike over "~~prior approval thereof from~~" and remove "notifying"

Page 2, line 14, remove the overstrike over "~~upon authorization of the state historical board~~"

Page 2, line 17, remove the overstrike over "~~before~~" and remove ". However,"

Page 2, line 18, remove the overstrike over "~~approves such~~", remove "may not prohibit the", and remove "of a state historic"

Page 2, remove line 19

Page 2, line 20, remove "subsection 1"

Page 4, line 11, remove the overstrike over "~~6. If~~" and insert immediately thereafter "any state agency or department or" and remove the overstrike over "~~a city, county, school district, or other political subdivision objects to any decision~~"

Page 4, remove the overstrike over line 12

Page 4, line 13, remove the overstrike over "~~state historical sites registry,~~", after "subdivision" insert "the objecting party", and remove the overstrike over "~~may submit the objection to~~"

Page 4, remove the overstrike over line 14

Page 4, line 15, remove the overstrike over "~~either the board or~~", after the first "subdivision" insert "the objecting party", remove the overstrike over "~~if the board or the~~", and after the second "subdivision" insert "objecting party"

Page 4, remove the overstrike over lines 16 through 20

Page 4, line 21, after "Such" insert "The", remove the overstrike over "~~demand must be~~" and insert immediately thereafter "made within ninety days of a decision by the board. The demand must be", and remove the overstrike over "~~served upon the other party, which, within ten days, shall~~"

Page 4, remove the overstrike over lines 22 through 31

Page 5, line 1, after the first "such" insert "the", remove the overstrike over "~~district court for the appointment of~~", after the second "such" insert "the", and remove the overstrike over "~~seventh arbitrator. The political~~"



Page 5, remove the overstrike over lines 2 through 4

Page 5, line 5, remove the overstrike over "~~combination thereof.~~" and insert immediately thereafter "A state agency may select its arbitrators from its officers or employees." and remove the overstrike over "~~The state historical board may select its arbitrators from~~"

Page 5, remove the overstrike over lines 6 through 16

Page 5, line 17, remove the overstrike over "~~be given in writing to the~~", after "officials" insert "parties", and remove the overstrike over "~~concerned and is binding upon both~~"

Page 5, remove the overstrike over line 18

Page 5, line 19, remove the overstrike over "~~of chapter~~" and after "~~32-29.1~~" insert "32-29.2"

Renumber accordingly

1999 HOUSE GOVERNMENT AND VETERANS AFFAIRS

SB 2264

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2264

House Government and Veterans Affairs Committee

Conference Committee

Hearing Date 3-4-1999

Tape Number	Side A	Side B	Meter #
1		X	45.0 - 57.7
2	X		0 - 2.5
2		X	15 - 20.9
Committee Clerk Signature <i>Ann R. McWilliams</i>			

Minutes: Some of the individuals testifying submit written testimony. When noted please refer to it for more detailed information.

Representative Kliniske, Vice-Chairwoman of the GVA Committee opened the hearing on March 4, 1999.

Summary of the Bill: Relating to the authority of the state historical board and superintendent of the state historical board to prohibit the alteration or demolition of historic sites.

Testimony in Favor:

Senator St. Aubyn, Appeared before the committee to introduce the bill. He submitted written testimony which he read in it's entirety (**please refer to his testimony**).

Representative Hawken, Does this include higher education?

St. Aubyn, Yes it does.

Representative Kliniske, The engrossed bill page 3, line 30 and 31. What the time limit of 90 days?

St. Aubyn, They will be notified.

Sam Wegner, Superintendent of the State Historical Society submitted written testimony which he read in it's entirety (**please refer to his testimony**). Meetings of the State Historical Board are public meetings, they are open to people to come in. Written notices are given to any individuals when property is involved.

Art Todd, State Historical Society appeared before the committee in support of the bill.

Barb Lang, State Historical Society Foundation and National Trust for Historic Preservation appeared before the committee in support of the bill.

Jane Summers, Appeared before the committee in support of the bill.

Representative Klein, How many buildings are on the state register? How many are just sitting there because we don't have the funds to restore them

Barb Pierce, State Historical Society. I believe 20-25. I don't know of any.

Testimony in Opposition: None.

Representative Kliniske, Closed the hearing on SB 2264.

Committee Action:

Representative Metcalf, Made a motion for a Do Pass.

Representative Thoreson, Seconded the motion.

Representative Klein, This is an improvement of what we have now.

Motion Passes: Do Pass **15-0**.

Representative Winrich, Is the carrier for the bill.

Date: 3-4-99

Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2264

House GOVERNMENT AND VETERANS AFFAIRS Committee

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

or

Conference Committee

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

Action Taken DO PASS

Motion Made By METCALF Seconded By THORESON

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN KLEIN	✓		REP. WINRICH	✓	
VICE-CHAIR KLINISKE	✓				
REP. BREKKE	✓				
REP. CLEARY	✓				
REP. DEVLIN	✓				
REP. FAIRFIELD	✓				
REP. GORDER	✓				
REP. GRANDE	✓				
REP. HAAS	✓				
REP. HAWKEN	✓				
REP. KLEMIN	✓				
REP. KROEBER	✓				
REP. METCALF	✓				
REP. THORESON	✓				

Total (Yes) 15 No 0

Absent 0

Floor Assignment WINRICH

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

REPORT OF STANDING COMMITTEE (410)  
March 4, 1999 4:49 p.m.

Module No: HR-39-4081  
Carrier: Winrich  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

SB 2264, as engrossed: **Government and Veterans Affairs Committee (Rep. Klein, Chairman)** recommends **DO PASS** (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2264 was placed on the Fourteenth order on the calendar.

1999 TESTIMONY

SB 2264

**55-02-01.2. Duties of the superintendent.** The superintendent shall:

1. Collect books, maps, charts, and other papers and materials illustrative of the history of this state in particular and of the west generally.
2. Obtain from the early pioneers narratives of their exploits, perils, and adventures.
3. Procure facts and statements relative to the history, progress, and decay of our Indian tribes so as to exhibit faithfully the antiquities and the past and present resources and conditions of this state.
4. Purchase books to strengthen the various departments of its collection, and such other books, maps, charts, microforms, photographs, and other materials as will facilitate the investigation of historic, scientific, and literary subjects. The secretary of state and all other state departments and agencies including the colleges and universities shall furnish to the superintendent at least one copy of each state publication produced by that agency.
5. Catalog, index, microfilm, or store by optical disk medium all of the collections of the board for the more convenient references of all persons who have occasion to consult the same.
6. Prepare annually for publication four quarterly reports of its collections and such other matters relating to the transactions of the board as may be useful to the public. Such report must be in such form and in such binding as the state historical board shall determine, and must be printed by the state. The board shall have charge of the distribution and sale of such reports and shall account for the proceeds received therefrom to the office of the budget.
7. Keep the museum exhibition rooms in the North Dakota heritage center open to visitors at all reasonable hours on business days without fee, except that admission fees may be charged for leased exhibitions. Admission fees collected for a leased exhibition must be deposited in a special account in the special revolving fund established under section 55-02-04, and may be used only to pay the associated costs of the exhibition. Any admission fees collected in excess of the costs of a leased exhibition must be deposited in the state general fund.
8. Organize, develop, and present educational materials and programs concerning the history of North Dakota for the use, information, and benefit of the public.

Source: S.L. 1949, ch. 326, § 1; R.C. 1943, 1957 Supp., § 55-02012; S.L. 1965, ch. 379, § 12; 1983, ch. 584, §§ 3, 4; 1991, ch. 624, § 8; 1995, ch. 538, § 1.

section 1 of chapter 538, S.L. 1995 became effective July 1, 1995, pursuant to N.D. Const., Art. IV, § 13.

**Effective Date.**  
The 1995 amendment of this section by

**55-02-06. State historical museum at Pembina — Chateau de Mores.** The superintendent of the state historical board shall maintain and operate the state historical museum located at or near the city of Pembina, in the county of Pembina, and shall have custody of and preserve in the museum at Pembina, for the people of the state of North Dakota, objects of primitive Indian art and other articles of historical value to the state which are acquired for such purpose. The state historical board may accept gifts, donations, or contributions to be used or expended in the maintenance and

operation of the historical museum and may transfer the operation of the museum to the city of Pembina upon such terms and conditions as the state historical board may require. The Chateau de Mores at Medora must be maintained and operated as a historic house museum under the direction of the state historical board.

Source: S.L. 1959, ch. 376, § 1, 1965, ch. 379, § 17, 1995, ch. 539, § 1.

section 1 of chapter 539, S.L. 1995 became effective August 1, 1995

**Effective Date.**  
The 1995 amendment of this section by

### CHAPTER 55-03 PROTECTION OF PREHISTORIC SITES AND DEPOSITS

Section  
55-03-01. Permit required to investigate, evaluate, or mitigate adverse effect on cultural resources.

Historic buildings, structures, or objects  
Application  
Fee

**55-03-01. Permit required to investigate, evaluate, or mitigate adverse effect on cultural resources, historic buildings, structures, or objects — Application — Fee.** Any individual, organization, institution, or company engaged on one's own behalf or on behalf of another in identifying, evaluating, or mitigating adverse effects on cultural resources, historic buildings, structures, or objects on any lands in North Dakota, under section 106 of the National Historic Preservation Act of 1966 [Pub. L. 89-665; 80 Stat. 915; 16 U.S.C. 470, as amended by Pub. L. 91-243, Pub. L. 93-54, Pub. L. 94-422, and Pub. L. 94-458], 36 CFR 800, or subdivision of subsection 1 of section 38-14.1-14 must obtain an annual permit from the superintendent of the state historical board of North Dakota. The permit application must be in the form prescribed by the superintendent. Each application must be accompanied by a filing fee of one hundred dollars. The superintendent may waive the fee requirement if the applicant is an instrumentality of the state of North Dakota. Following issuance of the annual permit, the permittee shall submit to the state historical society of North Dakota payment in the amount of fifty dollars with every cultural resources identification, evaluation, and mitigation report submitted to the superintendent in compliance with the federal and state statutory and regulatory requirements identified in this section. A permittee submitting a report on behalf of a nonprofit corporation formed under chapter 10-33 does not have to pay the fee for filing the report.

Source: S.L. 1939, ch. 223, § 1; R.C. 1943, § 55-0301; S.L. 1965, ch. 379, § 19; 1967, ch. 412, § 1; 1983, ch. 586, § 2; 1985, ch. 409, § 6; 1995, ch. 540, § 1, 1997, ch. 105, § 11

effective August 1, 1997 pursuant to section 15 of chapter 105, S.L. 1997

The 1995 amendment of this section by section 1 of chapter 540, S.L. 1995 became effective July 1, 1995, pursuant to N.D. Const., Art. IV, § 13

**Effective Date.**  
The 1997 amendment of this section by section 11 of chapter 105, S.L. 1997 became



Testimony on SB 2264  
Senate Government and Veterans Affairs  
January 29, 1999

Madam Chair and members of the Government and Veterans Affairs Committee, for the record I am Senator Rod St. Aubyn, from District 43 in Grand Forks.

SB 2264 is a bill that originated from the Budget Section this past summer. It was initiated as a result of a situation which was brought to the Budget Section's attention, in which the State Historical Society decided to list a state building as a historic facility, despite the fact that there was knowledge of the scheduled razing at least 1 year before, was approved for razing by the appropriations committee, and was approved for razing by the State Board of Higher Education. Failure to raze the facility would have resulted in additional maintenance costs, utility costs, insurance costs, and potential liability and vandalism. The Budget Section was concerned that the State Historical Board and the State Historic Department, both unaccountable to the voters, had the authority to stop the demolition and also had the authority to pass on additional costs to state entities and political subdivisions, such as cities, counties, school boards, park boards, etc. I have several other situations which I could recite involving cities and school districts, however I think the point is already clear. I am not aware of any other state with this much authority given to the State Historic Board. I have visited with Mr. Sam Wegner, the new Superintendent of the State Historical Board. I am confident that these same problems will probably not occur during his tenure, however, the current law gives too much authority to an unaccountable board, and Mr. Wegner will not always be here to deal with these problems. Mr. Wegner and I have discussed possible solutions, which could provide for an appeal process to a committee such as the Budget Section.

I must say that I am not opposed to preservation, but we can not preserve every old building, bridge, road surface or other structure. And we should not have a system where a minority view can dictate higher costs upon the state or political subdivisions without some form of appeal to an entity accountable to the taxpayers. Madam Chair and committee members, I do not object to some amendments to this bill to provide for an appeal process to a legislative committee or some other mechanism. However I feel that the century code must be modified to avoid these problems in the future. Madam Chair and committee members, I ask for your support in giving SB 2264 a Do Pass recommendation. Madam Chair, I would be willing to answer any questions your committee may have. Thank you.

Mr. Chairman, members of the committee, my name is Amy Guthrie Sakariassen. I am a freelance archaeologist and a resident of Bismarck, North Dakota. I have read the drastic changes proposed in SB2264, and am compelled to come before this committee to express my opposition. The alterations erase completely the intent of this portion of the Century Code—making waste paper of the entire section of state law.

It appears to my eye that the alterations eliminate the voice and the presence of the trained professional—the Superintendent of the State Historical Society, and also avoid the informed opinions of members of the State Historical Board. Instead of reviewing proposed impacts on historically or archaeologically significant artifacts and sites, and preparing plans which address an object's relationship to the broad picture of North Dakota history, this amendment could remove any such discussion from its local and regional context and ultimately court federal attention.

The results and actions then are out of this state's hands. I don't know that this will be achieving the results Senator St. Aubyn and Rep. Dalrymple desire. I do know that the amended law will be inefficient.

In striking the entire paragraph 6 of 55-02-07, this legislature would be removing the clauses relating to binding arbitration. Again, I object as this would disallow any form of real negotiation. In preservation of sites and artifacts, conflict occurs. It is imperative that the conflict be reconciled. 55-02-07 was designed to facilitate and encourage the negotiation process and to forge legal compromises. Once an issue has two sides drawn, mediation is the wise and productive approach to establish. Please allow the paragraphs of section 55-02-07 to remain as currently written.

The Chateau de Mores, Doubleditch Indian Village, Fort Abercrombie, Fort Totten, the Gingras Trading Post Historic site—these are all names of places associated with the history of our state. We are fortunate that those who came before sought to preserve these places for us and our descendents—to show us, to remind us, of our origins, of our struggles. History does not exist in a vacuum. History is a process. Many of the buildings, communities, structures that we are all familiar with will one day teach future generations about us. Those who wrote the state law 55-02-07 understood this. Please keep their vision intact and please give a do not pass recommendation on SB2264.

*Amy Guthrie Salonen*



State  
Historical  
Society of  
North Dakota

Since 1895

**North Dakota  
State Historical Board**

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Alvin A. Jaeger  
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*Parks and Recreation Department*

Samuel J. Wegner  
*Superintendent*

**SB 2264**

**Testimony of Samuel J. Wegner  
*State Historical Society of North Dakota Superintendent  
& North Dakota State Historic Preservation Officer***

Mr. Chairman and members of the committee, for the record I am Sam Wegner, Superintendent of the State Historical Society and North Dakota State Historic Preservation Officer. I want to state my support for Senate Bill 2264 as presented to the committee.

The Society feels that the existing legislation is vitally important in the ongoing preservation of North Dakota's historic resources. For that reason, it is prudent to have a mechanism in place – such as the State Historical Board – to review decisions for demolition or alteration of properties on the State Historic Sites Registry from the perspective of preserving the state's significant historical sites.

But, in the course of reviewing this bill as it made its way through the Senate, we did realize that there is no existing mechanism for units of state government to appeal a State Historical Board decision. I would point out that since the arbitration section of the law was passed in 1987, it has never been utilized. However, we think that the amendment to provide an appropriate mechanism for a unit of government to appeal a decision regarding a historic property is an improvement on existing legislation and good for the people of North Dakota.

I encourage the committee to give SB 2264 a DO PASS.

Thank you.

*Accredited by the  
American Association  
of Museums*

Testimony on SB 2264  
House Government and Veterans Affairs  
March 4, 1999

Mister Chairman and members of the Government and Veterans Affairs Committee, for the record I am Senator Rod St. Aubyn, from District 43 in Grand Forks.

SB 2264 is a bill that originated from the Budget Section this past summer. It was initiated as a result of a situation which was brought to the Budget Section's attention, in which the State Historical Society decided to list a state building as a historic facility, despite the fact that there was knowledge of the scheduled razing at least 1 year before, was approved for razing by the appropriations committee, and was approved for razing by the State Board of Higher Education. Failure to raze the facility would have resulted in additional maintenance costs, utility costs, insurance costs, and potential liability and vandalism. The Budget Section was concerned that the State Historical Board and the State Historic Department, both unaccountable to the voters, had the authority to stop the demolition and also had the authority to pass on additional costs to state entities and political subdivisions, such as cities, counties, school boards, park boards, etc. I have several other situations which I could recite involving cities and school districts, however I think the point is already clear. I am not aware of any other state with this much authority given to the State Historic Board. I have visited with Mr. Sam Wegner, the new Superintendent of the State Historical Board. I am confident that these same problems will probably not occur during his tenure, however, the current law gives too much authority to an unaccountable board, and Mr. Wegner will not always be here to deal with these problems. The Senate GVA Committee significantly changed this bill. What this bill now does is allow for an appeal process for state agencies, the same process currently available for cities, counties, school districts, and other

political subdivisions. While I don't totally agree with the amendments, I am willing to see how these amendments work. I must say that I am not opposed to preservation, but we can not preserve every old building, bridge, road surface or other structure. And we should not have a system where a minority view can dictate higher costs upon the state or political subdivisions without some form of appeal to an entity accountable to the taxpayers, without some form of appeal or review. Mister Chairman and committee members, I ask for your support in giving SB 2264 a Do Pass recommendation. Mister Chairman, I would be willing to answer any questions your committee may have. Thank you.