

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2186

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Deanna Bellis
Operator's Signature

10/17/03
Date

2003 SENATE POLITICAL SUBDIVISIONS

SB 2186

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10/17/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2186

Senate Political Subdivisions Committee

Conference Committee

Hearing Date: January 24, 2003

Tape Number	Side A	Side B	Meter #
1	X		4539 - End
		X	0 - 1124
		X	2607 - 3140 Action
Committee Clerk Signature <i>Shirley Berg</i>			

Minutes:

CHAIRMAN COOK opened the hearing on SB 2186. All members (6) in attendance.

SB 2186 is relating to fees for recording land survey monuments.

SENATOR WARDNER, Dist 37, Dickinson ND, introduced SB 2186 as a sponsor for the land surveyors. The bill has to do with filing for land monuments. Back in the days when they surveyed, the country monuments were put on the corner of each section and also on the half mile lines. Any time there is any work done with the monuments, it has to be recorded. Last session there was a fee increase and the cost went from five dollars to ten dollars each time you file information on each monument. The land surveyors would like that fee dropped back to five dollars.

Testimony in support of SB 2186.

Curt Glascoe, Land Surveyor and Engineer, (See attached testimony)

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Date

Page 2

Senate Political Subdivisions Committee

Bill/Resolution Number SB 2186

Hearing Date January 24, 2003

Steve Ackerman, self employed practicing land surveyor in Wahpeton ND. (See attached testimony)

Larry Smith, Registered Land Surveyor in ND and SD, principle at Swenson Hagen & Inc. He has worked for 30 years as a surveyor and has had the opportunity to record many of these section and quarter corners. The information in these forms is extremely valuable for the surveyors of today and future surveyors and also for the land owners. He feels ten dollars for recording the monuments is high and feels it should be reduced to five dollars.

Opposition to SB 2186.

Sheila Dalen, Ward County Recorder from Minot & County Recorders Association. (See attached testimony)

Ms Dalen also brought 30 signed testimonies in opposition. (See attached)

CHAIRMAN COOK closed the hearing on SB 2186.

Discussion:

CHAIRMAN COOK ask for questions and discussion on SB 2186

SENATOR JUDY LEE said there had been a lot of discussion on this in previous sessions. She does not feel ten dollars is to much for a recording fee.

SENATOR JUDY LEE moved a DO NOT PASS on SB 2186

SENATOR CHRISTENSON second the motion

Roll call vote 6 yes 0 no 0 absent

SENATOR SYVERSON will be the carrier.

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FISCAL NOTE STATEMENT

Senate Bill or Resolution No. 2186

This bill or resolution appears to affect revenues, expenditures, or fiscal liability of counties, cities, or school districts. However, no state agency has primary responsibility for compiling and maintaining the information necessary for the proper preparation of a fiscal note regarding this bill or resolution. Pursuant to Joint Rule 502, this statement meets the fiscal note requirement.

John Walstad
Code Revisor

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Date: 1-24-03
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2186 Do Not Pass

Senate Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken _____

Motion Made By Senator Judy Lee Seconded By Senator Christenson

Senators	Yes	No	Senators	Yes	No
Senator Dwight Cook, Chairman	X				
Senator John O. Syverson, V C	X				
Senator Gary A. Lee	X				
Senator Judy Lee	X				
Senator Linda Christenson	X				
Senator Michael Polovitz	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Syverson

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

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Deanna Hall Operator's Signature 01/17/03 Date

REPORT OF STANDING COMMITTEE (410)
January 24, 2003 1:16 p.m.

Module No: SR-14-1069
Carrier: Syverson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
SB 2186: Political Subdivisions Committee (Sen. Cook, Chairman) recommends DO NOT
PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2186 was placed on the
Eleventh order on the calendar.

(2) DESK, (3) COMM

Page No. 1

SR-14-1069

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01/17/03
Date

2003 TESTIMONY

SB 2186

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Testimony for SB2186

My name is Curtis Glasoe, I am a native North Dakotan, attended a one room country school in Upland Township in Divide County, Crosby High School, and NDSU in Fargo where I obtained an Engineering degree. I have been working in the surveying and engineering field for over 30 years. I am currently a Registered Land Surveyor in North Dakota, South Dakota, and Montana.

Today, I represent myself along with the North Dakota Society of Professional Land Surveyors (NDSPLS). NDSPLS has over 200 practicing members spread across the Great State of North Dakota. We are a small organization and apologize for not being here at the last Legislative session to testify when this corner recordation fee along with other fees were increased or changed for more efficiency.

Back to the Recordation law, this is the form (attached) that is required to be filed in the County courthouse for every Public Land Corner that is used in a survey in that County throughout North Dakota. This record has to be filed within 90 days of completing the survey. It is a good law in that it makes the data for the corner in question available for the public to know the history and status of the corner for any future land boundary determination. It is definitely in the public interest to perpetuate these corners due to the fact that all land ownership both surface and subsurface (i.e. Mineral acres) is tied to these monuments.

However, when this increase went into effect, it was a surprise. The cost of business just went up. Many surveyors had survey projects/contracts in force that had the \$5 recordation fee included, but when the fee changed to \$10, the surveyor had to cover that cost increase if he could not get the landowner to pay it. Now a year later, most surveyors have increased the survey cost to include the new fee structure, so the landowner or whoever orders the survey pays the recordation fee.

For the record, we agree with what the last Legislative session did with all the other fees with this one exception. We as a group file thousands of these corner recordation forms every year. Most survey projects have at least two corners and up to eight corners for a section breakdown that require a recordation form to be filed. All adjoining States have approximately the same corner recordation law. Not that we have to follow our neighbors in costs, but fees of our neighbors are as follows: Montana-no charge, they feel they it should be a public service of the State. They also feel they have less violators of the law by not charging the landowner or the surveyor a recordation fee. South Dakota-\$5. Minnesota-no charge.

We feel the fee is too expensive for the job required by the recorders of the various counties. We feel the time required to file these forms is minimal, as shown by the times placed on the form by the various Recorders around the State. About 5 minutes of recorder time is needed to file a corner record in the courthouse. With multiple corner records in the same survey area, usually a section, less than five minutes per form is needed as shown by the attachments. These are examples of what the overall time and

resulting costs are in reference to a survey project. One example is a survey project in McKenzie County last year that had almost 90 corners to file. It took the Recorder just over an hour and half to do the job, resulting in a \$900 bill for that short time period. We feel this is a not a fair price for the public to pay for this service. We realize the price has to be paid by someone, but we feel this price should be more fair to the public.

In summary, we support SB2186, to reduce the corner recordation fee back to the 2001 level.



Curtis W. Glasoe, Professional Engineer and Registered Land Surveyor
1/24/2003

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01/17/03
Date



ACKERMAN LAND SURVEYING

Steven A. Ackerman
Registered Professional Land Surveyor
North Dakota
South Dakota
Minnesota

107 South 2nd Street
Wahpeton, ND 58075-4705

Tel: (701) 642-9404
Fax: (701) 642-4810

SB 2186

Jan 24, 2003

Mr. Chairman & Distinguished Members:

My name is Steve Ackerman, I am a self employed practicing land surveyor in Wahpeton.

I have been in the land surveying business since 1985.

Over the years I have prepared many, many, of the Land Survey Monument Record Forms as required by State law.

Last year I prepared around 160 of these records at various deeds offices throughout the state.

I have seen the recording fees rise for these instruments go from \$2.00 in 1974 to \$3.00 in 1977 to \$5.00 in 1987 and to \$10.00 in 2001.

The requirement or the work load in dealing with these instruments however has not increased on the part of the Register of Deeds. In other words, these documents are treated the same in 2003 as the were treated in 1974. It takes no more effort on the part of the Recorder today than it did in 1974.

Lets walk through the process:

A surveyor submits a Land Survey Monument Record to the Recorders Office

1. The recorder walks to the vault and opens the book where these are stored and looks up the index number of the last certificate filed.
2. The recorder fills in the blanks in the certification portion, (colored yellow on your set) consisting of
 - a. the county name,
 - b. the date,
 - c. the time;
 - d. the document or index number,
 - e. the fee amount;
 - f. inserts the document number a second time in the bottom right hand portion of the sheet, (Some do and some do not do this step)
 - g. signs the certificate Time, no more than 1 minute.

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Deanna Hall SB

Date

1/17/03

4. The recorder then gets the index book, finds the page corresponding to the township and range, and enters the index number or the page number on the line corresponding to the index reference number on the document. The recorder will then make a circle on the index page corresponding to the corner record. The recorder then places the record form into the book and puts it away. ...Time, about 30 seconds.

On a typical section subdivision job I would normally file 8 of these certificates. At one and a half minutes each, the recorder spends 12 minutes in the filing process and I get a bill for 80.00. That's \$400 per hour.

This past summer I filed 90 of these records at one time in McKenzie County. Upon inspection of these documents I see it took the recorder exactly 1.5 hours to fill them out...that's 90 records in 90 minutes.

Because I was standing there, I know that time did not include putting the record number into the index book or putting the document into its final book, I have a lot of experience with that, and I can tell you that you could do at least 4 of these every minute.

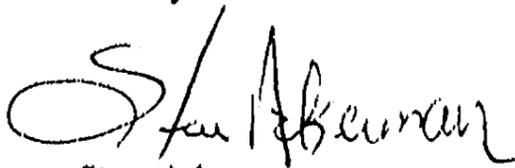
So it would have taken no more than an additional half hour to index these 90 records. The total time commitment by the recorder was somewhere around 2 to 2.5 hours to get the job done.

I get a bill for \$900.00, which I pass on to my client.

My math tells me that the county recorder made \$360 to \$400 per hour! I have brought these certificates along if anyone wants to check!

I think you can now understand my concern, therefore on behalf of all of my future clients, and on behalf of the citizens of the State of North Dakota who are paying these fees, I wish to go on record in support of this bill to change the recording fee from \$10.00 to \$5.00

Thank you



Steve Ackerman
Registered Land Surveyor

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10/17/03
Date

NORTH DAKOTA LAND SURVEY MONUMENT RECORD
(Report only one monument per form)

1. The NE Corner of Section 5, Township 148 North, Range 103 West of the 6th P.M.
Or other corner as described _____

2. DESCRIPTION OF ORIGINAL MONUMENT (From GLO notes or deed description):
If original call is not known, explain.

In 1991 the BLM set a 2.5" x 30" stainless steel post 22" in the ground with a 3.25" dia brass cap marked as shown below, and buried the original stone alongside the new monument. Redg pits 3ft E and W and S 7ft. dist.

3. DESCRIPTION OF CORNER EVIDENCE FOUND:

Also describe the method used to verify or contradict evidence found.

Found a BLM iron with 3.25" brass cap stamped as shown below, top 6" above grade.

Found pits E. and W. 5ft distant and 1 pit 7ft. S. of cor.

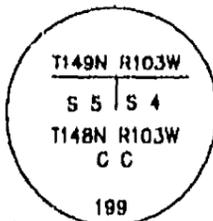
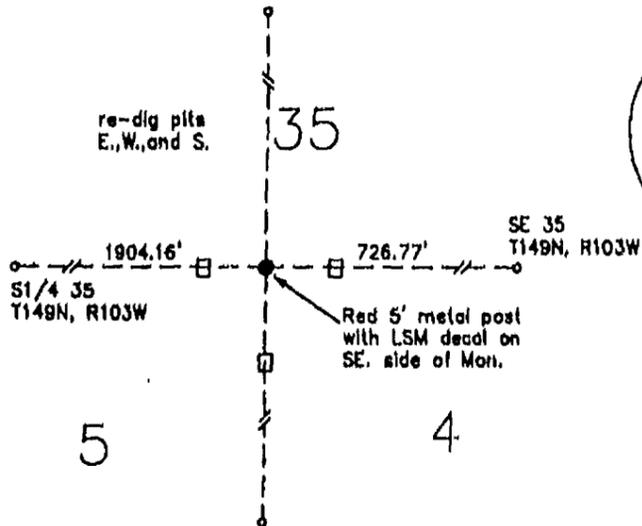
4. DESCRIPTION OF METHOD USED TO RESTORE OR RE-ESTABLISH THIS CORNER:

- Measure from accessories, Testimony Lines of occupation, or Proportional measure from other corners.
 Other (Explain below)

Accepted BLM monument as perpetuated section corner.

5. SKETCH SHOWING MONUMENTATION:

Describe monument set, accessories, and dimension a minimum of 3 permanent ties to the corner. Indicate angles and distances to nearest government corner, if determined.



7-8-02
Date of Survey

Steven A. Ackerman
Party Chief

6. CERTIFICATION

I hereby certify that under the requirements of NDCG 47-26.1-06 and as permitted by NDCG 47-26.1-04, this corner record correctly represents work performed by me or under my direct supervision and is in compliance with the current BLM "MANUAL OF SURVEYING INSTRUCTIONS".

DATE: 9-03-02 APPROVED AND SIGNED BY: [Signature] ND RLS NO. 2058

ACCEPTED FOR FILING

State of North Dakota

County of McKenzie

By: Ann M. Johnson

Date: Sept 4, 2002

Time: 3:00 p.m.

Document No. - 2842

Fee: \$ 1000

Record to be filed by Index Reference Number, numerically, then alphabetically, under appropriate Township, Range.



7.

A	1	2	3	4	5	6	7	8	9	10	11	12	13
B													
C													
D													
E													
F													
G													
H													
I													
J													
K													
L													
M													
N													

8. Township _____ Index Ref. No. _____ Township T148N, R103W Index Ref. No. 5 A

2842

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[Signature]
Operator's Signature

10/17/03
Date

NORTH DAKOTA LAND SURVEY MONUMENT RECORD

(Report only one monument per form)

1. The SE Corner of Section 13, Township 148 North, Range 105 West of the 6th P.M.
Or other corner as described _____

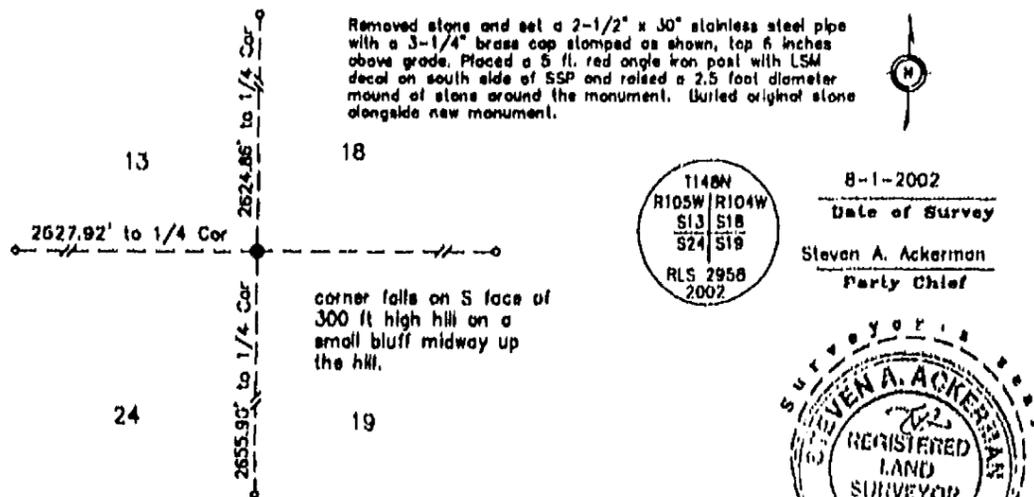
2. DESCRIPTION OF ORIGINAL MONUMENT (From GLO notes or deed description):
If original call is not known, explain.
80.00 Set a sandstone 20x12x8 ins., 15 ins. in the ground for cor. of secs. 13, 18, 19, and 24, marked with 3 notches on N. and S. edges; dug pits 18x18x12 ins. in each sec. 5-1/2 ft. dist. and raised a mound of earth 4 ft. base 2 ft. high W. of cor.

3. DESCRIPTION OF CORNER EVIDENCE FOUND:
Also describe the method used to verify or contradict evidence found.
Found original stone monument as described above with 3 notches on N and S faces.

4. DESCRIPTION OF METHOD USED TO RESTORE OR RE-ESTABLISH THIS CORNER:
 Measure from accessories, Testimony Lines of occupation, or Proportional measure from other corners.
 Other (Explain below)

N/A

5. SKETCH SHOWING MONUMENTATION:
Describe monument set, accessories, and dimensions a minimum of 3 permanent lines to the corner. Indicate angles and distances to nearest government corner, if determined.



6. CERTIFICATION
I hereby certify that under the requirements of NDCC 47-26.1-08 and as permitted by NDCC 47-26.1-04, this corner record correctly represents work performed by me or under my direct supervision and is in compliance with the current NDCC "MANUAL OF SURVEYING INSTRUCTIONS".

DATE: 9-04-02 APPROVED AND SIGNED BY: Steven A. Ackerman ND RLS NO. 2958

ACCEPTED FOR FILING
State of North Dakota)
County of McKenzie)
By: Ann M. Johnson
Date: Sept 9, 2002
Time: 4:30 pm
Document No.: 2930
Fee: \$ 10.00
Record to be filed by Index Reference Number, numerically, then alphabetically, under appropriate Township, Range.



7.

A	1	2	3	4	5	6	7	8	9	10	11	12	13
B													
C													
D													
E													
F													
G													
H													
I													
J													
K													
L													
M													
N													

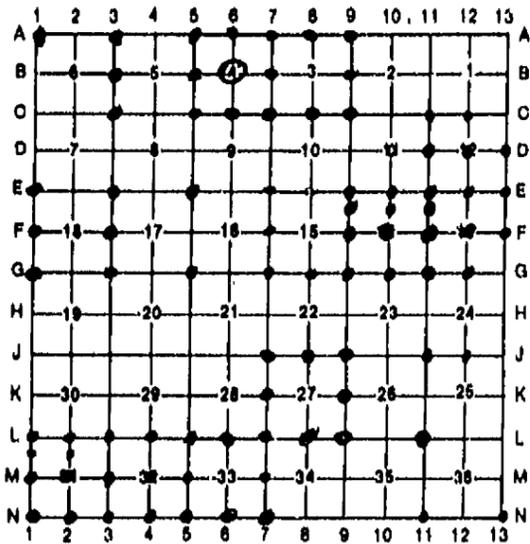
8. Township 148-104 Index Ref. No. 1 G Township 1148N, R105W Index Ref. No. 13-0

2130

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Deanna Hall
Operator's Signature

01/17/03
Date



CORNER INDEX

CODE FILING NO.	FILING NUMBER	CODE FILING NO.	FILING NUMBER	CODE FILING NO.	FILING NUMBER
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2-G		2-K		2-N	2100
3-G	2837	3-K		3-N	736
4-G		4-K		4-N	735
5-G	176	5-K		5-N	734
6-G		6-K		6-N	2916
7-G	2242	7-K	2120	7-N	2915
8-G	2243	8-K		8-N	
9-G	135-	9-K	2119	9-N	
10-G	137-	10-K		10-N	
11-G	127-	11-K		11-N	709
12-G	1371-	12-K		12-N	
13-G		13-K		13-N	708-

CORNER INDEX

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2-A		2-C		2-E	
3-A	148-	3-C	169-	3-E	171
4-A		4-C		4-E	
5-A	170-	5-C	171-	5-E	175
6-A	1826	6-C	1840	6-E	
7-A	1857	7-C	1841	7-E	
8-A	1853	8-C	1856	8-E	
9-A	1854	9-C	1857	9-E	137-138
10-A		10-C		10-E	133-134
11-A		11-C	598	11-E	129-130-
12-A		12-C	599	12-E	1380
13-A		13-C		13-E	1381

CODE FILING NO.	FILING NUMBER	CODE FILING NO.	FILING NUMBER
1-H		1-L	2075 11.5' 201
2-H		2-L	2076 24.5' 2099
3-H		3-L	730
4-H		4-L	727-
5-H		5-L	728-
6-H		6-L	718
7-H		7-L	718
8-H		8-L	717
9-H		9-L	716
10-H		10-L	
11-H		11-L	2257
12-H		12-L	
13-H		13-L	

1-B		1-D		1-F	2890
2-B		2-D		2-F	
3-B	173-	3-D		3-F	2888
4-B		4-D		4-F	
5-B	172-	5-D		5-F	
6-B	1838	6-D		6-F	
7-B	1839	7-D		7-F	
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9-B	1855	9-D		9-F	136
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11-B		11-D	1590	11-F	128-
12-B		12-D	1591	12-F	1382
13-B		13-D	1592	13-F	1383

1-J		1-M	2097
2-J		2-M	2098
3-J		3-M	731
4-J		4-M	732
5-J		5-M	733
6-J		6-M	
7-J	1860	7-M	2917
8-J	2121	8-M	
9-J	1861	9-M	
10-J		10-M	
11-J	862	11-M	
12-J	863	12-M	
13-J		13-M	

LEGEND

● = Location of Monument, Record Filed under this Township

⊕ OR ⊖ = Location of Monument, Record Filed under adjoining Township as indicated by solid quadrant (s)

CORNER RECORDATION

INDEX TO PUBLIC LAND SURVEY CORNER RECORDATION FILED IN

Antelope Township 133 North Range 50 West

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Operator's Signature: Deanne Hall Date: 10/17/03

To: Chairman Dwight Cook – Political Subdivisions
And Committee members

From: Sheila Dalen – Legislative Chairperson
County Recorders Association

Re: SB2186

- **Filing fees are currently uniform for filing any type of document in the Recorders Office.**
- **Filing process and time involved is the same for every type of document.**
- **Excluding one group from paying the normal filing fee would cause confusion to the people filing documents as well as those of us receiving these filing fees.**
- **Cost to the Counties is not lower for filing corner monuments than any other document filed in the Recorders Office.**

Good morning Chairman Cook, and members of the committee. I am Sheila Dalen; I am the Ward County Recorder from Minot and am here today to represent the County Recorders Association.

Our Association is speaking out in opposition for SB2186 as we feel it could only bring more groups forward asking that their recording fees or filing fees be reduced. Where do you begin picking and choosing which private entities will pay one fee and another pay another fee?

I would like to give you a little history on how the filing fee became \$10.00 for filing Corner Monuments. Last legislative session the Recorders adjusted their filing fees for the sake of uniformity. Our office took over many filing duties formerly in the Clerk of District office as of Jan. 2001, at that time they were charging \$10.00 to file these items while we had a fee of \$5.00 for filing in our office.

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Sheila Dalen
Operator's Signature

10/17/03
Date

There are several Recorders that are also the Clerks of District Court and rather than trying to charge two separate filing fees depending on what a customer was filing, we felt it much less confusing for everyone if the filing fees were uniform no matter what they were filing.

To address some of those supporting the bill:

It has been said that many of these can be filed in a short period of time and there is not much involved in this process. Filing a corner monument entails several different steps from putting a date, time and signature on them to indexing them, punching holes in them and placing them in the proper books. In essence this process is no shorter than filing anything else, such as a will, a death certificate, a marriage license etc. Many filings can be date and time stamped very close together, but the actual time to complete the process of filing them, is much longer than just looking at the time stamped on the filing.

Also the cost to the counties on filing corner monuments is also no different than the cost of filing, preserving and storing any other filed documents in our offices. The same equipment, books etc. is needed when filing all of these documents.

My written testimony is long enough as is, but I carry with me today several emails I am not including in my written testimony to spare you any more reading. These emails are from several Recorders around the state, echoing the concerns I have shared with you today.

We would ask that you keep our fees uniform and intact for all filed documents including Corner Monuments.

I would be happy to answer any questions that you Chairman Cook or the other Senators may have.

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Deanna Bell
Operator's Signature

01/17/03
Date

North Dakota Real Estate Commission
Compilation of Complaints

2000

Number of complaints	9
Number dismissed after investigation	6
Hearings held	3
Appealed to a higher court	1
Decision by Commission overturned	0

2001

Number of complaints	8
Number dismissed after investigation	5
Hearings held	3
Appealed to a higher court	0
Decision by Commission overturned	0

2002

Number of complaints	11
Number dismissed after investigation	3 (8 remain under investigation)
Hearings held	0
Appealed to a higher court	0
Decision by Commission overturned	0

Costs of some of the investigations/hearings

Hearings

Case# 2000-06	\$7,700.00 (appealed to district court)	Fine: \$500 and letter of reprimand
Case# 2000-08	\$3,600.00	Fine: \$500 and letter of reprimand
Case# 2001-04	\$1,200.00	Fine: \$500 and 30 day suspension of license
Case# 2001-05	\$3,100.00	Fine: \$1000 and 6 month suspension of license
Case# 2001-08	\$2,700.00	Fine: \$1000 and letter of reprimand

Investigations

Case# 2000-01	\$740.00
Case# 2000-03	\$725.00
Case# 2001-01	\$510.00
Case# 2001-02	\$560.00
Case# 2001-03	\$700.00
Case# 2002-02	\$360.00

To our recollection there has never been a decision made by the Commission that has been overturned in

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Deanna Hall
Operator's Signature

10/17/03
Date

Deanna D. Sobczak

From: Sheila Dalen <sdalen@state.nd.us>
To: <recorders@ndaco.org>
Sent: Monday, July 01, 2002 2:18 PM
Subject: Legislative Issues

I have to tell you I have waited a week and there are still 22 recorders who did not answer my call for legislative info. I am hoping the messages are getting out to you and you are choosing not to respond. Remember though if you want to be heard, you need to respond.

At this point I will try and put down for those of you that care, the issues some have brought forward and where we are at with them. Please take a look at the Century Codes I have listed and let me know your thoughts.

1. NDCC 67-29-04 Code States we are certifying this information to the auditors. The question has been brought forth asking if we can be held liable for missing something?

We were told at convention by the States Attorney that as long as it was done in a good faith effort, he did not see that we would be held liable. Also not all of us are signing any kind of certification, some counties just use worksheets that are not even signed.

Please let me know if you feel we need to do anything about changing the language in it is century code. *No*

2. The surveyors may be bringing a bill this session to eliminate the recording fees on corner monuments. Do you want the association to provide testimony in favor of this bill, provide testimony to oppose the bill, or just let it fall where it may?

3. Cass County may bring a bill this session asking for a waiting period for marriage licenses. Do you want the association to provide testimony in favor of this bill, provide testimony to oppose the bill, or just let it fall where it may?

4. It had been suggested to specify a paper size we would accept for recording. What are your thoughts: Specify a size, if so what size. Or do not mess with?

5. It had been suggested to specify a margin length? Should be 1" margin with minimum of 5" in length. Do we want to mess with sizes here or leave well enough alone?

6. NDCC 11-18-09 & 11-18-10. Should the word "immediately" be removed from this section of the code? *Yes or No*

7. NDCC 47-18-10. Should wording be added to reflect separate books or other media. I was hoping NDCC 11-18-01.1 covered it back a few years ago when we added the language. This section could be fixed to if you want. *Yes or No*

8. Several issues under the marriage license area.

a. Do we pursue a bill to raise counties portion of marriage licenses? How many of us are issuing licenses? *only if domestic violence fees increased*

b. Should we try to remove the social security number requirement from the law?

c. Clear up wording in law as to where you can purchase a license and where you can be married?

Just as a footnote to number 8a above: Wade Williams was going to check on the last time these fees were increased. There are not many of us issuing licenses so I am not sure this should be a bill coming out of the Recorders Assn. alone. We will check into that further. But would like to know how you feel about it. As far as 8b & 8c, I spoke with Carmell at Vital Records to see if there were administrative rules we could follow in interpreting these two portions of the law. There is not, but she informed me that Mike Abel is planning on having a meeting of the marriage license program users and these to her seem to be items we could resolve as a group without legislation. Either we accept the Canadian numbers in place of a social security number or we don't. And all counties treat temporarily domiciled in the same fashion when issuing a license. Do we really need to pursue changing this law?

That's all I have for you to this point, please let your feelings be known or forever hold your peace as they say. Also please let me know if you know of anything I have not listed above for your Legislative Committee to look

Deanna D. Sobczak
in County

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Deanna D. Sobczak
Operator's Signature

10/17/03
Date

Sheila Dalen

From: "Anderson, Annetta" <AAnderson@ndcourts.com>
To: "Sheila Dalen" <sdalen@state.nd.us>
Sent: Monday, July 01, 2002 4:57 PM
Subject: RE: Legislative Issues

Sheila, I'll answer your questions just as you have them listed.

1. I worry about the answer the States Attorney of Billings Co gave on this question, although I'm not sure what kind of a language change we could make. Sometimes when things are changed, new unforeseen things come up down the road like what happened with the Marriage Licenses being in several different offices in the Court House. It made things more confusing for the public. ✓

2. We must have the \$5 at least for recording the corner monuments. This is a little amount to pay compared to the other costs a surveyor charges.

3. I agree sometimes there should be a waiting period, but then how do you judge an appropriate waiting period. The better thing would be for a waiting period for a Divorce. Sometimes they are done in haste. I think we should leave this alone.

4. Do not mess with the paper sizes. Please!!!

5. Leave this alone.

6.No. Some Recorders Offices need this to keep them in Order.

7. No

8. No. I think asking for more money isn't the answer. There isn't that much work to a marriage license anyway. We in Bowman Co do Marriage Licenses as Clerks of Court.

9. House Bill 1275 royally messed up the Counties on who is to do the Marriage Licenses. It is now more confusing to the public than it ever was before. The high courts reason for this change was to keep doing things all the same in ND. They sure messed up when this was changed. There are many different offices in the court houses over our great state doing marriage licenses now. I think if a clarification needs to be made as to where to pick up your marriage license, it would just say in your Local County Court House. The social security numbers were just put on marriage licenses a couple years ago. The reason being for Child Support reasons down the line in case of Divorce. I don't know why they need to be there, because in a Divorce Case the Social Security number should be listed on the information sheet. Since we are not to use Social Security numbers any more, I think they should be removed from the marriage license also.

Sheila, I hope this helps you, sometimes I get pretty radical about that drastic change in the Court Systems over House bill 1275. I don't trust the changes that are made in our legislature since that bill. I wonder if the law makers listen at all to the people who work with the changes they make to know if they are in the best interest of all our citizens or in the best interest of polititions. Good Luck. Annetta

> -----
> From: Sheila Dalen[SMTP:sdalen@state.nd.us]
> Sent: Monday, July 01, 2002 1:16 PM
> To: recorders@ndaco.org
> Subject: Legislative Issues

07/02/2002

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Deanna Nellis
Operator's Signature

10/17/03
Date

Sheila Dalen

From: "Helen Christenson" <hchrste@state.nd.us>
To: "Sheila Dalen" <sdalen@state.nd.us>
Sent: Monday, July 01, 2002 4:02 PM
Subject: RE: Legislative Issues
Good Afternoon Sheila:

1. Leave as it reads.
2. Provide testimony to oppose the bill
3. No comment, don't have marriage licenses in our office
4. Do not mess with
5. Leave well enough alone
6. No
7. No
8. No comment, don't have marriage licenses in our office

Have a good evening.

Helen

-----Original Message-----

From: Sheila Dalen [mailto:sdalen@state.nd.us]
Sent: Monday, July 01, 2002 1:16 PM
To: recorders@ndaco.org
Subject: Legislative Issues

I have to tell you I have waited a week and there are still 22 recorders who did not answer my call for legislative info. I am hoping the messages are getting out to you and you are choosing not to respond. Remember though if you want to be heard, you need to respond.

At this point I will try and put down for those of you that care, the issues some have brought forward and where we are at with them. Please take a look at the Century Codes I have listed and let me know your thoughts.

1. NDCC 57-28-04 Code States we are certifying this information to the auditors. The question has been brought forth asking if we can be held liable for missing something?
We were told at convention by the States Attorney that as long as it was done in a good faith effort, he did not see that we would be held liable. Also not all of us are signing any kind of certification, some counties just use worksheets that are not even signed.
Please let me know if you feel we need to do anything about changing the language in this century code.
2. The surveyors may be bringing a bill this session to eliminate the recording fees on corner monuments.
Do you want the association to provide testimony in favor of this bill, provide testimony to oppose the bill, or just let it fall where it may?
3. Cass County may bring a bill this session asking for a waiting period for marriage licenses.
Do you want the association to provide testimony in favor of this bill, provide testimony to oppose the bill, or just let it fall where it may?
4. It had been suggested to specify a paper size we would accept for recording.
What are your thoughts: Specify a size, if so what size. Or do not mess with?
5. It had been suggested to specify a margin length? Should be 1" margin with minimum of 5" in length.
Do we want to mess with sizes here or leave well enough alone?
6. NDCC 11-18-09 & 11-18-10, Should the word "immediately" be removed from this section of the code? **Yes or No**
7. NDCC 47-19-10, Should wording be added to reflect separate books or other media. I was hoping

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10/17/03
Date

Sheila Dalen

From: "Janelle Beneda" <jbeneda@state.nd.us>
To: "Sheila Dalen" <sdalen@state.nd.us>
Sent: Monday, July 01, 2002 3:59 PM
Subject: RE: Legislative Issues
Hi Sheila - boy have you been busy!!

1st - I wanted to let you know that I will be out of the office from July 11th through the 17th, so if the Leg Committee meeting would be any of those dates, I won't be able to attend.

2nd - Issues

1. I don't think we need to do anything with this.
2. I think we should DEFINITELY provide testimony against a bill from the surveyors to get rid of our fee. All of our records are for public use, why should we file them for free.
3. Personally, I wouldn't want the waiting period - I think it would make one more step for us when issuing, but I don't know if the Recorder's need to be involved or not - do you know how many of us issue the marriage licenses?
4. Don't mess with it.
5. Don't mess with it.
6. yes
7. yes
- 8a. I'm a little leery of going for a fee increase right now - since we got one last time, but if the clerks were looking at starting the bill, I think we should support and testify in support of the bill.
- 8b. It would be nice if we could work w/vital records to do this administratively rather than legislatively.
- 8c. I don't think we need to mess with this.

Well - those are just my opinions, I hope you get a majority response so we know which way to go with these issues.

Have a good 4th - Janelle

-----Original Message-----

From: Sheila Dalen [mailto:sdalen@state.nd.us]
Sent: Monday, July 01, 2002 2:16 PM
To: recorders@ndaco.org
Subject: Legislative Issues

I have to tell you I have waited a week and there are still 22 recorders who did not answer my call for legislative info. I am hoping the messages are getting out to you and you are choosing not to respond. Remember though if you want to be heard, you need to respond.

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Please let me know if you feel we need to do anything about changing the language in this century code.
2. The surveyors may be bringing a bill this session to eliminate the recording fees on corner monuments.
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01/17/03
Date

Sheila Dalen

From: "Sue A. Juntunen" <sjuntune@pioneer.state.nd.us>
To: "Sheila Dalen" <sdalen@state.nd.us>
Sent: Monday, July 01, 2002 4:31 PM
Subject: Re: Legislative Issues

Sheila, 1. leave as is, has anyone been affected or sued because of the certification wording.
2. the counties need the fees for recordings.
3. don't really think there needs to be a waiting period, but perhaps in some counties it would be beneficial.
4. no more regulations on paper size.
5. no to margin requirements
6. no
7. no
8. a. no
b. no
c. get someone to define "temporarily domiciled" and the rest will fall into place.

Sue Juntunen, Slope County

— Original Message —

From: Sheila Dalen
To: recorders@ndaco.org
Sent: Monday, July 01, 2002 1:16 PM
Subject: Legislative Issues

I have to tell you I have waited a week and there are still 22 recorders who did not answer my call for legislative info. I am hoping the messages are getting out to you and you are choosing not to respond. Remember though if you want to be heard, you need to respond.

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Do you want the association to provide testimony in favor of this bill, provide testimony to oppose the bill, or just let it fall where it may?
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4. It had been suggested to specify a paper size we would accept for recording.
What are your thoughts: Specify a size, if so what size. Or do not mess with?
5. It had been suggested to specify a margin length? Should be 1" margin with minimum of 5" in length.
Do we want to mess with sizes here or leave well enough alone?
6. NDCC 11-18-09 & 11-18-10, Should the word "immediately" be removed from this section of the code?
Yes or No
7. NDCC 47-19-10, Should wording be added to reflect separate books or other media. I was hoping NDCC 11-18-01.1 covered it back a few years ago when we added the language. This section could be fixed to if you want. **Yes or No**
8. Several issues under the marriage license area.
 - a. **Do we pursue a bill to raise counties portion of marriage licenses? How many of us are issuing licenses?**
 - b. **Should we try to remove the social security number requirement from the law?**

07/02/2002

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Deanne Hall
Operator's Signature

10/17/03
Date

Sheila Dalen

From: "Kari Evenson" <KarlE@co.williams.nd.us>
To: "Sheila Dalen (E-mail)" <sdalen@pioneer.state.nd.us>
Cc: "ND Recorders (Group) (E-mail)" <loccrec@state.nd.us>; "Jinny marmon" <jmarmon@co.williams.nd.us>; "Jodi Hanson" <jhanson@co.williams.nd.us>; "t gerhardt" <tgerhardt@co.williams.nd.us>
Sent: Tuesday, July 02, 2002 12:21 PM
Subject: Legislative Issues
Sheila & Recorders,

Here's Williams County's two-cents worth:

1. 57-28-04: Williams County's certification presently says " I hereby certify that the following is a correct, true and complete list of Title Owners, Mortgages, Judgment and Lien Holders of the above described Real Estate as appear of record the day and year written" Then requires the Recorder's & the Clerk of Court's signature and seal. From reading the Century Code I think the County Auditor can change the wording of the certification to read "appear to be interested as owners...."

We see no reason for legislation on this as we can handle in house.

2. Eliminate recording fees of monuments: We only have one surveyor in Williams County who will pay the recording fee. It's the law now (NDCC 47-20.1-03) and they don't do it. The surveyors could pass this minimal cost on to the customer. We need "surveyor police". We ride the fence on this.

3. Williams County Auditor handles marriage licenses.

4. Specific paper size - we don't think we need to limit the paper size unless we establish a minimum to get rid of the forms smaller than letter size.

5. Leave margin at 1" and don't mess with a 5" in length - that defeats the 1" margin. Sounds like having to measure too much.

6. Remove "immediately" - we say "YES"

7. Leave alone for now unless it becomes a problem.

8. Williams County Auditor handles marriage licenses.

Kari "Will-Be-Working-July-5th" Evenson
Williams County Treasurer/Recorder

07/02/2002

Deanne Dalen
Operator's Signature

10/17/03
Date

Sheila Dalen

From: "Carol J. Bertsch" <cabertsc@state.nd.us>
To: "Sheila Dalen" <sdalen@state.nd.us>
Sent: Tuesday, July 02, 2002 9:49 AM
Subject: RE: Legislative Issues

Good Morning Sheila, In response to some legislative issues. Here goes:

1. I would rather not have to sign but again, why are some of us signing a certificate and others not. Apparently not all Auditors do this the same way.
2. I think they should have to pay. I think they can afford this. They charge plenty when they do a survey.
3. I don't think a couple should have a waiting period or ce they have made application for a Marriage License.
4. Definitely no paper size. NO NO NO!
5. "LEAVE ALONE"
6. Yes, remove
7. "YES"
8. Yes, we need increase on our portion of the Marriage License.
 - b. Maybe removing the SS# would be a good idea. I guess if these people had some form of picture ID so we know at the time of issuing a license, they are the persons they say they are, this should be sufficient.
 - c. Lets not make it impossible. If its not broke do we need to fix it. Sometimes I think we make things more difficult then they really are.

[Carol J. Bertsch]
Sent Monday, July 01, 2002 2:16 P
To: recorders@ndaco.org
Subject: Legislative Issues

I have to tell you I have waited a week and there are still 22 recorders who did not answer my call for legislative info. I am hoping the messages are getting out to you and you are choosing not to respond. Remember though if you want to be heard, you need to respond.

At this point I will try and put down for those of you that care, the issues some have brought forward and where we are at with them. Please take a look at the Century Codes I have listed and let me know your thoughts.

1. NDCC 57-28-04 Code States we are certifying this information to the auditors. The question has been brought forth asking if we can be held liable for missing something?

We were told at convention by the States Attorney that as long as it was done in a good faith effort, he did not see that we would be held liable. Also not all of us are signing any kind of certification, some counties just use worksheets that are not even signed.

Please let me know if you feel we need to do anything about changing the language in this century code.

2. The surveyors may be bringing a bill this session to eliminate the

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Deanne Hall
Operator's Signature

01/17/03
Date

Sheila Dalen

From: "Ann Johnsrud" <ajohnsru@state.nd.us>
To: "Sheila Dalen" <sdalen@state.nd.us>; <recorders@ndaco.org>
Sent: Tuesday, July 02, 2002 1:33 PM
Subject: Re: Legislative Issues
Sheila & Recorders,

*OPPOING
SB 2186*

McKenzie County's two-cents worth:

1. 57-28-04: We will try to change the wording in-house.
2. Everyone is paying the \$10.00 fee to us now. We have to maintain these records and catalogue them as well, buy new binders etc. I don't see why they shouldn't pay the fee. Aren't they charging their customers? We get quite a few corner records in a year so it does create work for us. I never minded having the buried cable file, as they came in and did their own work on that, but in the case of corner records, we are doing all the recording, etc etc.
3. McKenzie County Clerk of Court handles marriage licenses.
4. Do not mess with the paper size.
5. Do not mess with the 1" margin, it is confusing enough people as it is. Let's get everyone used to this before we change again. Leave well enough alone.
6. Yes
7. The law read now "Grants, absolute in terms, are to be recorded in one set of records and mortgages in another." It doesn't say "book". I take records to mean computer, book, etc etc. If I am reading 47-19-10 right, then I don't think there is a need to change anything, we should be covered.
8. McKenzie County Clerk of Court has marriage license. For my two cents, I don't think that the County Recorders Association **alone** should take these issues on. More departments are involved and **should be involved in the process** if a fee increase or any other change is going to be pursued.
As to SS#'s it sounds like this could be changed in-house without legislation according to what Vital Records has said

Ann "Also working July 5th" Johnsrud
McKenzie County Recorder

*Ann, Steve, Jody
of course*

*Steve Wickman
7-10-02*

*Ann Johnsrud
no hearing*

*74-3
77-3
57-3
2001-10*

07/02/2002

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Deanna Nellis
Operator's Signature

10/17/03
Date

Sheila Dalen

From: "Dewey Oster" <doster@state.nd.us>
To: "Sheila Dalen" <sdalen@state.nd.us>
Sent: Tuesday, July 02, 2002 1:32 PM
Subject: LEGISLATIVE ISSUES

1) Nobody has been sued in over 100 years. Each session of the legislature is full of trivial bills....why add to it? I have revamped my certificate to use language such as Karl suggested. Adjust to suit your needs. I vote, leave it alone.

2) I don't know why the surveyors think they should be exempt from paying a filing fee. I don't understand how Kari and Williams County is operating. It is my understanding at present that you have to pay a filing fee or it doesn't get filed. Yes, this bill if it is introduced will have to be watched and yes I'd say there would have to be opposing testimony.

3) N/A. I don't handle marriage licenses.

4) Oh my God, no. We've had enuf crap going on with the infamous one-linch.

5) Do not mess with it.

6) Must we be so picky? Leave it alone.

7) I think 47-19-10 may be a bit archaic....but do we have to get bogged down in insignificant jargon. As the Beatles would say "Let it Be!"

8) N/A. This area is not in my ballwick....yet!! I'll let my CR brethren act in my/their best interests.

Sheila....if it wouldn't be for the upstart surveyors, I'd say as far as I am concerned, no need for any legislative chairman, committee or action!!! Have a good Fourth.

Dewey
7-2-02

P.S. I could sense your irritation in your opening paragraph of your e-mail. It has galled me to no end since I "got involved" in this association of ours, that why can't people respond....even if they tell you to "go to hell". 22 that is despicable!! And they bitch cuz our name got changed, right??

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Dewey Oster
Operator's Signature

07/17/03
Date

Sheila Dalen

From: "Colleen J. Bertsch" <cbertsch@pioneer.state.nd.us>
To: "Sheila Dalen" <sdalen@state.nd.us>
Sent: Tuesday, July 02, 2002 11:02 AM
Subject: Re: Legislative Issues

Hi Sheila: I'll key my responses by number.

1. If we can legally change this wording from "certified" to just list it would certainly make the liability go away; but as the wording in the law continues it reads, "all persons who APPEAR TO BE INTERESTED AS OWNERS, MORTGAGEES, LIENHOLDERS, OR OTHERWISE, ETC. so if we change it, I think we should have a specified date (say 20 years back) to search instead of the beginning of time. I have never signed any certification in all the year's I've been doing this, but whether we sign or not probably would not be the issue -- since the law says we are certifying the list when we provide it--I think we would all be subject to the same liability. Just my thoughts.

2. On the side of the surveyors, they are filing these corners "for the public good"; however, our office is still the legal point of public information and everyone else has to pay for the publication so to speak of the legal information, so why are they different?? Many counties index and record these corners just like any other recorded document, so that would make them subject to recording fees, I feel. In Rolette County they have never been recorded, but rather filed in a Corner Monument Record Book which has it's own Index and I have retained all the originals there also. If they win the NO PAY battle, then would none of them be recorded? If we don't oppose the no fee for recording this document, will easements be the next no pay? Perhaps we should get together with them before session and try to work something out??

3. The Clerks have been dealing with this marriage thing for years and never tried to change it. Are we being too particular and going above our heads in being the watchdog of people getting married? Do we have the authority to deny a license just because the people look like a couple who's marriage won't last? I think we should just decide to be uniform in accepting the Canadian numbers because maybe they are never planning on becoming citizens--so do we need to make them get a social security number, yes they need it to work here but who is to say they plan to work just because they want to get married. If it already says the temporary domicile can be a motel address, and it has been that way for 100 years, why go to all the work to change the law. The Clerks want a SSN so they can track people getting married that owe child support from another marriage, but is that our responsibility? I don't marry people in Rolette County--the Clerk of Court or the District Judge have the responsibility. I think the waiting period could be more problematic than helpful. We have several couples come back to Rolette County to marry, even though they haven't resided here since childhood--they have been engaged for more than a year, come home 2 days before the wedding, or the day before and now are going to have a 10-day waiting period???? Not a good idea. Let's just try to get clarification on the SSN as a basis for denial and not worry about whether they give a temporary address as long as the law allows it.

4. Don't mess with. I think we have to accept all size of paper, but they may have to pay additional fees if they don't allow amply recording information space.

5. To my way of thinking a margin is not a margin unless it extends the entire length or width of the page. Don't mess with.

6. Yes, because if deeds don't contain the transfer of the county auditor, we cannot immediately number them.

7. I pulled this code book and it says "one set of records & mortgages in another, etc" so wouldn't that cover all media? I don't think we need to change this.

8. I answered this above partially, but just feel the need to add the State's Attorneys need to get this law cleared up for us, there are too many things left open to interpretation, and that should not be our job to interpret what they Might have meant. Definitely needs work and should be jointly worked on, and supported by Clerks, States Attorneys and Recorders.

Have a great 4th of July Holiday, Cooky

----- Original Message -----

From: Sheila Dalen

To: recorders@ndaco.org

Sent: Monday, July 01, 2002 2:16 PM

Subject: Legislative Issues

07/02/2002

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Operator's Signature

Date

GOLDEN VALLEY COUNTY

Office of

COUNTY RECORDER

P.O. Box 130

Beach, ND 58621

(701) 872-3713

DATE: July 3, 2002

TO: Sheila Dalen

FROM: Susan Davidson, Golden Valley County Recorder

SUBJECT: Legislative Issues

1. When we certify the information, aren't we saying that we have searched our records to the best of our ability? After visiting with my auditor, she states that I would be protected under our county's insurance policy being the, "Errors and Omissions Policy." Maybe just leave it alone.
2. Oppose the bill. Why shouldn't there be a recording fee to record monument records?
3. Oppose the bill
4. Just leave it alone.
5. It has been confusing enough with 1" margin. Let's leave well enough alone.
6. Yes. Remove the immediately.
7. NDCC 11-18-01.1 covers the language. Leave as is.
8. a. I think that the county fee should be raised. I will be doing licenses' in January.
b. No
c. Since I have issued marriage licenses' before, the law needs to be very clear where a person can purchase one and also where you can get married.

HAVE A GREAT 4TH OF JULY!!!!!!!

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Susan Davidson
Operator's Signature

10/17/03
Date

Sheila Dalen

From: "Kensrud, Deanna J." <Kensrud@co.cass.nd.us>
To: "Sheila Dalen" <sdalen@state.nd.us>
Sent: Wednesday, July 03, 2002 7:13 PM
Subject: RE: Legislative Issues

Sheila,

I am sorry for the delay in responding. I had to do some thinking and even after lots of thought I still have some mixed emotions.

1. I think our county was sued a long time ago because some interested party did not receive proper notice. We list the information on the work sheet provided by the Auditor's office, but it does not have a certificate. I think we could be sued either way, with or without a certificate if we missed something.

2. I think we should have a fee for corner monument records.

3. Since I don't have marriage licenses I can't give an explanation of why we need a waiting period for marriage licenses. Our Treasurer has the marriage licenses and I am sure it is a lot different in Cass County than the smaller counties. We have all these people from other countries, etc. and I don't know the specific problems but you could contact Charlotte Sandvik for an explanation and I am sure there would be a good reason for the request to have the waiting period.

4. I am not sure what is meant by paper size and I think we should let it go this time around.

5. Don't mess with.

6. Yes

7. I would say leave alone for now.

8. The Treasurer has charge of marriage licenses in Cass County.

Deanna Kensrud
Cass County Recorder

-----Original Message-----

From: Sheila Dalen [mailto:sdalen@state.nd.us]
Sent: Monday, July 01, 2002 12:16 PM
To: recorders@ndaco.org
Subject: Legislative Issues

I have to tell you I have waited a week and there are still 22 recorders who did not answer my call for legislative info. I am hoping the messages are getting out to you and you are choosing not to respond. Remember though if you want to be heard, you need to respond.

At this point I will try and put down for those of you that care, the issues some have brought forward and where we are at with them. Please take a look at the Century Codes I have listed and let me know your thoughts.

1. NDCC 57-28-04 Code States we are certifying this information to the auditors. The question has been brought forth asking if we can be held liable for missing something?

We were told at convention by the States Attorney that as long as it was done in a good faith effort, he did not see that we would be held liable. Also not all of us are signing any kind of certification, some counties just use worksheets that are not even signed.

Please let me know if you feel we need to do anything about changing the language in this century code.

07/08/2002

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Deanna Kensrud
Operator's Signature

07/17/03
Date

Sheila Dalen

From: "Ginger Dangerud" <gdangeru@pioneer.state.nd.us>
To: "Sheila Dalen" <sdalen@state.nd.us>
Sent: Wednesday, July 03, 2002 10:39 AM
Subject: Legislative Issues
Hi Sheila,

Sorry I took so long. Sometimes my E-mails get shoved down on the priority list when they shouldn't.

1. 57-28-04. I would agree with Karl on this one. We are certifying to the auditor those "who appear to be interested as owners..." I have a slight problem when we're "certifying" as that to me runs close to giving a title opinion, which we are not qualified to do.

2. Corner recordations are just that, recordations, which require a fee. I don't think these should be exempted and the \$10.00 fee should remain.

3. Unless Cass County has a specific reason for a waiting period, I see no reason for it.

4. I don't see any reason to complicate things further. Don't mess with it.

5. Ditto #4.

6. 11-18-09 and 11-18-10. Remove "Immediately".

7. Yes.

8. Adams County is issuing marriage licenses as County Recorder/Ex Officio Clerk of Court.

a. I would approve of a slight increase to \$39.00 for marriage licenses, and suggest \$10.00 to the county instead of \$6.00, with the \$29.00 continuing to the State.

b. Seems that removing the social security number would solve our problems, unless someone is using it for something that we are unaware of. Who proposed the legislation when they added social security numbers and what was their reason? If socials are needed, I think we need to add wordage that those from out of the country can use a social security number equivalent or some identifying number.

c. I think the law is pretty clear on who we can issue licenses to. 1. "Either of the contracting parties reside or is temporarily domiciled"; 2. A parent of either of the parties resides or is temporary domiciled" or 3. The county in which the marriage is to be solemnized.

In my opinion the temporary domiciled thing should not be a catch-all for everybody else. Maybe the word "temporary" is what needs to be strictly defined as that seems to be what is open to interpretation. I don't consider temporary domicile those traveling through town and staying the night, though some states attorneys disagree and they are the legal word. I consider temporary domicile as those temporarily working and living in the county.

I did E-mail Karen on this and what Jim Ganje's opinion was when it was strictly with the Clerk of Courts. He said "In other words, the parties cannot obtain a license in County A (to take to County B) if neither of them lives in County A and neither of their parents lives in County A..." I understand, and he is the first to point out, he is not the legal advisor for the Recorders, but on this one, I agree with him.

Thanks for all your work on this committee. To me it is the toughest committee and you do an outstanding job.

Ginger

07/08/2002

Deanne Hall
Operator's Signature

01/17/03
Date

Shella Dalen

From: "Alice Grove" <agrove@state.nd.us>
To: "Shella Dalen" <sdalen@state.nd.us>
Cc: "County Recorders" <Recorders@NDACO.org>
Sent: Wednesday, July 03, 2002 5:20 PM
Subject: Re: Legislative Issues

Here is Kidder County's response:

1--Our county **was sued** because we failed to list one individual heir's interest in a piece of property. And, on the advice of our States Attorney, the county paid out a settlement. So, yes, I think that we can be held liable. Yes, we do sign and certify our report to the County Auditor.

2--I think that this filing fee is fair and defensible and that we should fight to keep it in place.

3--I don't know the reasoning on this and would say "let it fall wherever".

4--Do not mess with it.

5--Do not mess with it. It's already caused quite a bit of fuss and confusion.

6--Yes

7--No. I would think "records" could be interpreted to cover whatever medium.

8--We issue licenses. I agree with the response from another county that said, if an effort is made, it should be combined with the other agencies that are involved.

SS#'s: from our county's standpoint, it hasn't been a problem, so I would say "no". However, maybe there is the larger issue of the confidentiality of SS #'s.

I think that it should be clearly stated that "there is no residency requirement to obtain a license, if the parties intend to marry in the State of ND". (This issue has been discussed over and over again. Why can't the law be clear on it??)

Sorry, Shella, for the delay.

Alice

----- Original Message -----

From: Shella Dalen
To: recorders@ndaco.org
Sent: Monday, July 01, 2002 2:16 PM
Subject: Legislative Issues

I have to tell you I have waited a week and there are still 22 recorders who did not answer my call for legislative info. I am hoping the messages are getting out to you and you are choosing not to respond. Remember though if you want to be heard, you need to respond.

At this point I will try and put down for those of you that care, the issues some have brought forward and where we are at with them. Please take a look at the Century Codes I have listed and let me know your thoughts.

1. NDCC 57-28-04 Code States we are certifying this information to the auditors. The question has been brought forth asking if we can be held liable for missing something?

We were told at convention by the States Attorney that as long as it was done in a good faith effort, he did not see that we would be held liable. Also not all of us are signing any kind of certification, some counties just use worksheets that are not even signed.

07/08/2002

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Deanne Hall
Operator's Signature

10/17/03
Date

Sheila Dalen

From: "Linda Estes" <lestes@state.nd.us>
To: "Recorders@Ndaco. Org" <recorders@ndaco.org>
Sent: Thursday, July 04, 2002 11:48 AM
Subject: RE: Legislative Issues

-----Original Message-----

From: Linda Estes [mailto:lestes@state.nd.us]
Sent: Thursday, July 04, 2002 11:09 AM
To: recorders@ndaco.com
Subject: Legislative Issues

Sheila and Recorders,

Pierce County's point of view:

1. 5/7-08-04: After discussing this with the Auditor, she is going to reword our certification and it will read: "Pursuant to the aforesaid request I, Linda K Estes, Recorder of Pierce County, hereby certify that the following appears to be a complete list of the interests of record and on file in this office." The Auditor will make the changes today. I agree this can be handled in house. She will also make the changes for the Clerks certification.
2. We have never had a problem collecting this fee. I would like to see us retain this fee. I will go along with the majority of this.
3. Pierce County Clerk handles marriage licenses.
4. I do not think we should rness with paper size.
5. We have too many regulations now with our recordings. For now, leave ~~well~~ enough alone.
6. Yes
7. I agree with Ann, I think the wording is okay. Leave it alone.
8. Pierce County Clerk handles marriage licenses.

Linda "Will have the day off the 5th of July"
Pierce County Recorder.

07/08/2002

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Deanne Hall
Operator's Signature

10/17/03
Date

Sheila Dalen

From: "Pamela Tamayo Stenehjem" <pstenehj@state.nd.us>
To: "Sheila Dalen" <sdalen@state.nd.us>
Cc: "All Recorders/Grp-LOC" <loccrec@state.nd.us>
Sent: Monday, July 08, 2002 12:46 PM
Subject: Response to Sheila's Legislative issues

Sheila,

I was out of the office last week and just read this email today.

1. NDCC 57-28-04: Dunn county inserts after the "*I hereby certify, to the best of staff's ability,*"

Also, the staff person that does the search/completes the form also is the one who "signs" and "dates" the form on the date each respective form is completed. We do not "sign" *en masse* nor "date" *en masse*.

2. Monument filing fee: There **should be a filing fee** for monuments as there is labor involved. Especially so, when a stack of 10; 15; 20 are presented at one time-as is often the case in Dunn County.

3. Waiting period for marriage licenses: **let it fall wherever.**

4. **Leave alone:** NDCC 11-18-05 [1.][a.][1] which is on the recording fee schedule, already limits maximum size of paper presented for recording:

"Page" means one side of a single legal size sheet of paper not exceeding eight and one-half inches (21.59 centimeters) in width and fourteen inches (35.56 centimeters) in length."

Never had a problem recording anything less in size.

5. 1-inch margin: **Leave well enough alone.**
Law is specific and easy to follow if you use the template.

Added note: the term "margin" as described in the dictionary would no longer be a "margin" if you are talking in terms of "length". Instead, it would be a "space" and we already have the 4" x 3 1/2 " statutory space requirement.

6. **Leave alone.** I would guess the reason statute 11-18-09 uses the word "immediately" was purposeful in the fact that ND is a "race notice" state and the word "immediately" reinforces such purpose of this statute as indicated by the title:

11-18-09 DOCUMENT TO BE NUMBERED-PRIORITY IN FILING.

and those document numbers are to be affixed in the order in which such instruments *actually come to the recorder's hand on opening ...*

Without the use of the term "immediately", the importance of affixing those document numbers and the fact that they are "prima facie evidence" (in a court of law) of the priority of filing, is diminished.

7. NDCC 47-19-10. **Leave alone.**

8. Marriage Licenses NDCC 14-03-10:

- **\$6.00 filing fee (county keeps) should be raised.**
My office issues licenses on the clerk of court side.

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Deanna Hall
Operator's Signature

07/17/03
Date

Sheila Dalen

From: "Donna Adams" <dadams@state.nd.us>
To: "Sheila Dalen" <sdalen@state.nd.us>
Sent: Monday, July 08, 2002 1:07 PM
Subject: Legislative Issues

1. Billings county just gets a form from the Auditor's office that we fill out, this is not a problem in this county.
2. I believe the surveyors should be charged a recordation fee for the monument records. They are time consuming and we have to buy the materials etc. and also there's a recording fee on everything else. I think we should make sure that they continue paying a fee.
3. I think that we should not be concerned with a waiting period on marriages, it would be a burden for some that are getting married in a different County to have to make (2) trips etc. We get alot of people that are on vacation and are staying in Medora and decide to get married. This would not happen if there was a waiting period.
4. I don't think we should make any more confusion in our office with the public as far as demanding a paper size. They're having enough problems with the 1" margin.
5. I agree with Ann, do not mess any more with the 1" margin.
6. Yes
7. I don't think there is a need to change this
8. Yes, I believe the county should receive a bigger percentage, because we are doing the work, providing the service and materials.
Billings County Clerk of Court handles the marriages
I think we should leave the SSN's required.

Sorry I didn't get back to you sooner Sheila, I was on vacation last week. Take care
Donna Adams



07/08/2002

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Donna Adams
Operator's Signature

10/17/03
Date

Sheila Dalen

From: "Carol Beckert" <cbeckert@state.nd.us>
To: "Sheila Dalen" <sdalen@state.nd.us>
Sent: Monday, July 08, 2002 10:15 AM
Subject: Re: Legislative Issues
Sorry I'm late...

1. No. We can change the wording if we feel the need.
2. Let it fall where it may.
3. Let it fall where it may.
4. Do not mess with it.
5. Leave well enough alone.
6. Yes
7. No. Other Media should suffice.
8. a. Yes (\$6 is nothing). Our office issues licenses.
b. No. We haven't had a problem.
c. No. I would think we could clear this up without legislation.

Bye..... Carol @ Stark

----- Original Message -----

From: Sheila Dalen
To: recorders@ndaco.org
Sent: Monday, July 01, 2002 2:16 PM
Subject: Legislative Issues

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At this point I will try and put down for those of you that care, the issues some have brought forward and where we are at with them. Please take a look at the Century Codes I have listed and let me know your thoughts.

1. NDCC 57-28-04 Code States we are certifying this information to the auditors. The question has been brought forth asking if we can be held liable for missing something?
We were told at convention by the States Attorney that as long as it was done in a good faith effort, he did not see that we would be held liable. Also not all of us are signing any kind of certification, some counties just use worksheets that are not even signed.
Please let me know if you feel we need to do anything about changing the language in this century code.
2. The surveyors may be bringing a bill this session to eliminate the recording fees on corner monuments.
Do you want the association to provide testimony in favor of this bill, provide testimony to oppose the bill, or just let it fall where it may?
3. Cass County may bring a bill this session asking for a waiting period for marriage licenses.
Do you want the association to provide testimony in favor of this bill, provide testimony to oppose the

07/08/2002

Deanne Hall
Operator's Signature

01/17/03
Date

Sheila Dalen

From: "Doris E. Randle" <drandle@state.nd.us>
To: <sdalen@state.nd.us>
Sent: Tuesday, July 09, 2002 9:05 AM
Subject: Legislative issues

Hi Sheila,

Sorry I am so slow. Funerals, Anniversaries, class reunions and doctor appointments for my husband keeps me kind of busy. I think my answers are pretty much the same as some of the others..

1. I have had some issues with the deliquent tax form. We do sign and seal that it is a correct statement. I think this can be taken care of in our own county,

2, I vote to keep the corner marker fee. and I think they documents need to be recorded.

3. don't do marriage licenses.

4. Making these document requirements is just a nightmare. Leave it alone.

5. This is the same as 4. No

6. YES

7. I hope a record is a record. I think there is a code that we are responsible for a record. I hope our judgment would be sufficient to have a "RECORD"

8. Again, I don't have licenses and I am not up on these issues.

I sure appreciate the committee that works on these issues and you hawking the issue. It, to me is a confusing issue.
Thanks a lot. Doris Randle



07/10/2002

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Dorcas Nell
Operator's Signature

10/17/03
Date

Sheila Dalen

From: "Vicki Kubat" <vkubat@state.nd.us>
To: "Sheila Dalen" <sdalen@state.nd.us>
Sent: Thursday, July 11, 2002 8:22 AM
Subject: RE: Legislative Issues

Good Afternoon Sheila,

As to the responses to the questions below here goes:

1. I do not sign anything and I talked to my Auditor and he didn't think it was a problem. So we will take care of this in house.
2. I think that we should keep the fee in place.
3. The Clerk of Court does the marriages in our county. (I don't think it is a problem here)
4. I say leave as is but it will probably be coming in the future. (Isn't it already being talked about to standardize the size with all states??)
5. Leave as it is.....
6. Are some counties having a problem on this????? Whatever the majority want is OK with me.
7. Leave as is....
8. Clerk of Court takes care of this also.

Was great seeing you yesterday. If you ever want me to do anything on the NDRIN advertising area just let me know. Wish I was a little closer to Bismarck and I would also attend the other conventions. Have a great evening. Vicki

-----Original Message-----

From: Sheila Dalen [mailto:sdalen@state.nd.us]
Sent: Monday, July 01, 2002 2:16 PM
To: recorders@ndaco.org
Subject: Legislative Issues

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Do you want the association to provide testimony in favor of this bill, provide testimony to oppose the bill, or just let it fall where it may?

3. Cass County may bring a bill this session asking for a waiting period for marriage licenses.

07/11/2002

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Sheila Dalen
Operator's Signature

10/17/03
Date

Sheila Dalen

From: "Marlene Gunderson" <mgunders@pioneer.state.nd.us>
To: "Sheila Dalen" <sdalen@state.nd.us>
Sent: Friday, July 12, 2002 3:41 PM
Subject: Legislative Issues.
Sheila,

Sorry that I have taken so long to answer, but I have been busy since the convention. I am just now getting a chance to answer some of my e-mail.

You asked several questions that you wanted our responses. Here is my response.

1. I would like to see that we have something in the law to protect us if we should overlook a mortgage or a lien or something vital. We always try our best, but sometimes it happens that something is overlooked.
2. I would like to see that the fees for recording Corner Marker Recordations stays intact. Why should we have to file the recordations and not get anything for it?
3. The marriage licenses are not my responsibility. They were kept in the Clerk of Court's office.
4. The law already limits the size of the document to 8 1/2 x 14 inches.
5. Leave it alone. I am afraid that the more that it is changed, the more complicated it will become for some.
6. Leave it alone.
7. I don't care.
8. Again, I don't have anything to do with the marriage licenses.

Hope that this answers your questions.

Marlene
Mountrail County



07/12/2002

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Deanna Hall
Operator's Signature

01/17/03
Date

Sheila Dalen

From: "Pam Kuk" <pkuk@state.nd.us>
To: "Sheila Dalen" <sdalen@state.nd.us>
Sent: Friday, July 12, 2002 2:09 PM
Subject: Re: Legislative Response Deadline

Sheila, I'm sorry this is so late but after the convention I was on vacation for 2 weeks and am just trying to get caught up w/everything. My response to your questions is:

1. We can handle internally
2. I think we should stand up for keeping fee. The code says "A surveyor SHALL complete, etc, and file w/the recorder of the county.....for EVERY public land survey corner which is established...." And we do have work involved with these so they should do it (I've heard some don't) and they should pay the fee.
3. COC does our marriage licenses
4. leave alone - this is covered well enough
5. leave well enough alone
6. only if anyone feels that if we didn't do it EXACTLY immediately that someone could sue us or the county. And the States Attorney that spoke at the convention and the summary we got from the "Law & Liability" class we went to in Minot both tell us that if we are acting with due care and conscientiously, we shouldn't have to worry. The only time I've been a little concerned is when an attorney asks me to hold a deed until the next day so they can get the taxes paid and I can record it. They are told tho that its only UNTIL THE NEXT DAY!! And it doesn't happen very often. The previous ROD did hold mineral documents until more money came for recording fee-and I do this once in a great while also, but most of the time I either send them back or go ahead and record & bill them.
7. I don't think this is so important to do because it is covered in 11-18-01.1
8. COC does marriage licenses

Well, that's my feelings. And again, I'm sorry its so late. Pam, McHenry

----- Original Message -----

From: Sheila Dalen
To: recorders@ndaco.org
Sent: Friday, July 12, 2002 10:10 AM
Subject: Legislative Response Deadline

Hate to bother everyone again, but want to send a gentle reminder that if you would like to weigh in on the Legislative Items I sent out to you all on July 1st, now is the time. I need to get your responses to our board and let them decide what our association wants to see happen this legislative session. So please **today** take time to respond if you have any input, I will be tallying up the results come Monday.

Thanks to the 24 of you that have voiced your opinions, with your input our Association will only be stronger. It would be nice to hear from the rest of you on these issues as well. Have a great weekend everyone.
 Sheila



07/12/2002

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Deanne Hall
 Operator's signature

07/17/03
 Date

Sheila Dalen

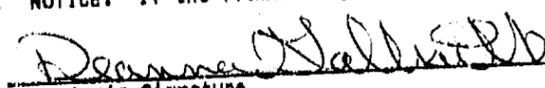
From: "Karen Samek" <ksamek@pioneer.state.nd.us>
To: "Sheila Dalen" <sdalen@state.nd.us>
Sent: Friday, July 12, 2002 2:09 PM
Subject: Legislative Issues
Hi Sheila,

I apologize for being late with this.

1. This will be handled in house here. No reason for legislation.
2. Monument fees - Our surveyor wants the fees removed completely because he says, they (the surveyor) must pay for the filling of these not the property owner. He states it's for the benefit of many and therefore wants the fees removed. He said the owners would never agree to pay a fee for monument pins. I'm not sure if they will address this during this legislative session. Have you heard if they are contemplating this?
3. I do the marriage licenses here and the people coming in for licenses like the idea of no waiting period. So it doesn't make any difference to me. My daughter just got married in MN and there was a waiting period and she didn't like it at all. What are the reasons for the waiting period? Perhaps there are good reasons, but I just don't see them.
4. I think we should just leave the paper size alone. I know Max has mentioned standardizing the paper size at different meetings. I think it would cause more confusion. So many are still confused about the one inch margin and one more thing might be difficult for them to digest.
5. Leave it alone.
6. Yes 
7. Leave it alone.
8. I do think there should more Associations than just ours trying to increase our fees. It would be nice to get more of the monies for our counties. It doesn't make sense to me why it should have ever been divided at such an uneven amount \$29.00 & \$6.00. We are not getting much \$\$ for our time etc. If we can eliminate the SSN, go for it. I suppose there are pros and cons for the good of it. I feel very strongly we DO NEED TO GET THE LAW CLEARED UP REGARDING THE PURCHASE OF A LICENSE AND WHERE YOU CAN & CAN'T GET MARRIED. There are too many doing it one way or the other. This really needs to be clarified for all RECORDERS/C OF C or which ever other office is issuing them. I know Jim Gange told the C of C one thing and we've been told another. I had an email from one of the Recorders/C of C & she said she is following Jim's opinion which is different from what we've been told.
Sheila, I think your office & mine are on the same wave length regarding these marriage license issues.

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Date

Sheila Dalen

From: "Susan Froemke" <sfroemke@pioneer.state.nd.us>
To: "Sheila Dalen" <sdalen@state.nd.us>
Sent: Friday, July 12, 2002 11:42 AM
Subject: Re: Legislative Response Deadline
Hi, Sheila

I was just working on my response when you e-mailed your reminder. Sorry for the delay, as I just returned from vacation.

1. We will try and change wording in-house also.
2. I would like to try and keep this \$10.00 fee. I know some of the surveyors are unhappy about the increase.
3. Ransom County Clerk handles marriage licenses.
4. I say don't mess with it. Some businesses have adjusted their forms to 8 1/2" x 14" to accommodate the 1" margin.
5. Leave alone---1" margin confusing enough for everyone.
6. Yes
7. I think 11-18-01 "proper books or other storage media" covers it.
8. Clerk handles this

Again, I apologize for the delay. ✓

Have a great weekend.

Susan

----- Original Message -----

From: Sheila Dalen
To: recorders@ndaco.org
Sent: Friday, July 12, 2002 10:10 AM
Subject: Legislative Response Deadline

Hate to bother everyone again, but want to send a gentle reminder that if you would like to weigh in on the Legislative Items I sent out to you all on July 1st, now is the time. I need to get your responses to our board and let them decide what our association wants to see happen this legislative session. So please **today** take time to respond if you have any input, I will be tallying up the results come Monday. Thanks to the 24 of you that have voiced your opinions, with your input our Association will only be stronger. It would be nice to hear from the rest of you on these issues as well. Have a great weekend everyone.
Sheila

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10/17/03
Date

Sheila Dalen

From: "Janice Steffen" <jsteffen@pioneer.state.nd.us>
To: "Sheila Dalen" <sdalen@state.nd.us>
Sent: Friday, July 12, 2002 11:20 AM
Subject: RE: Legislative Response Deadline
Hi Sheila,

Sorry is all I can say. Except we extremely busy w/both offices and short staffed again. But here goes.....

1. Doesn't apply - but when it does, it would be nice to have clarification
2. I would like us to retain the fees.
3. We do marriages on the Clerks side. No problems..... What is the logic of Cass County for changing?
4. Don't mess with.
5. Leave alone.
6. We do these thing immediately unless there is a problem w/statutory requirements. Have ROD's had big problems w?
7. Leave alone.
8. a. Leave fees alone unless we have more immediate costs added to counties.
b. I believe SS# regulation was added just a few years ago. What purpose was it added for? We haven't gotten many that require Canadian #'s. Barb recalled at one time we used a passport number for someone from another country.
c. Yes

Thanks for your hard work.....

Jan in Griggs



From: Sheila Dalen[SMTP:sdalen@state.nd.us]
Sent: Friday, July 12, 2002 10:10 AM
To: recorders@ndaco.org
Subject: Legislative Response Deadline

<<File: ATT00090.htm>>

Hate to bother everyone again, but want to send a gentle reminder that if you would like to weigh in on the Legislative items I sent out to you all on July 1st, now is the time. I need to get your responses to our board and let them decide what our association wants to see happen this legislative session. So please today take time to respond if you have

07/12/2002

Deanne Hall
Operator's Signature

10/17/03
Date

- (2) Any claim that a physician with knowledge of the claimant's medical condition determines is a "claim involving urgent care" must be treated as such.
- (3) The plan must notify the claimant of its determination as soon as possible, taking into account the medical exigencies, but not later than **72 hours** after receipt of the claim.

B. Pre-service claims:

- (1) "Pre-service claims" means "any claim for a benefit under a group health plan with respect to which the terms of the plan condition receipt of the benefit, in whole or in part, on approval of the benefit in advance of obtaining medical care."
- (2) The plan must notify the claimant of its determination (whether adverse or not) within a reasonable period time appropriate to the medical circumstances, but not later than **15 days** after receipt of the claim.
- (3) The plan may extend the initial time period once for up to **15 days** if the extension is necessary due to matters beyond the control of the plan.

C. Post-service claims:

- (1) "Post-service claims" means "any claim for a benefit a under a group health plan that is not a pre-service claim."
- (2) The plan must notify the claimant of an adverse determination within a reasonable period of time, but not later than **30 days** after receipt of the claim;
- (3) The plan may extend the initial period once for up to **15 days** if the extension is necessary due to matters beyond the control of the plan.

3. Content of Claim Notification. Every group health plan must provide a claimant with a written or electronic notification of any adverse benefit determination which contains:

- A. The reason(s) for adverse determinations;
- B. The specific plan provisions on which the determination is based;
- C. A description of any additional material or information necessary for the claimant to perfect the claim and an explanation of why the information is necessary;
- D. A description of the plan's appeal procedures and the time frames applicable to those procedures;
- E. Either a copy of any specific rule or guideline relied on by the plan in making the determination or a statement that the rule or guideline was used and will be provided free of charge;

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- F. If the adverse determination is based on medical necessity or other exclusion or limit involving medical judgment, either an explanation of the scientific or clinical judgment for the determination or a statement that the scientific or clinical judgment will be provided free of charge;
- G. If the claim involved urgent care, a description of the plan's expedited appeal process.

4. Appeals from Adverse Determinations. Every plan must establish and maintain a procedure by which a claimant shall have a reasonable opportunity to appeal an adverse benefit determination and under which there will be a full and fair review of the claim and the adverse benefit determination. The appeal procedures for a group health plan will be deemed reasonable only if the procedures:

- A. Provide the claimant to submit written comments, documents, records, and other information relating to the claim;
- B. Provide the claimant access, upon request and free of charge, access to, and copies of, all relevant information to the claim;
- C. Provide for a review that takes into account all comments, documents and other information submitted by the claimant relating to the claim;
- D. Provide at least **180 days** following receipt of a notification of an adverse benefit determination in which to appeal;
- E. Provide for a review that does not defer to the initial determination and is conducted by an individual who is neither the individual who made the initial determination nor that persons subordinate;

5. Time Frames Governing Appeals.

- A. Urgent Care Claims. The plan must make a determination on review and notify the claimant as soon as possible, taking into account the medical exigencies, but not later than **72 hours** after receipt of the request for review.
- B. Pre-service Claims. The plan must make a determination on review and notify the claimant within a reasonable period of time appropriate to the medical circumstances, but not later than **30 days** after receipt of the request for review.
- C. Post-service Claims. The plan must make a determination on review and notify the claimant within a reasonable period of time, but not later than **60 days** after receipt of the request for review.

6. Content of Appeal Notification. Every group health plan must provide a claimant with a written or electronic notification of its determination on appeal which contains:

- A. The specific reason(s) for the adverse determination;

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- B. A reference to the specific plan provisions on which the benefit determination is based;
 - C. A statement that the claimant is entitled to receive, free of charge, reasonable access to, and copies of, all documents and information relevant to the claim;
 - D. A statement describing any voluntary appeal procedures offered by the plan;
 - E. Either a copy of any specific rule or guideline relied on by the plan in making the determination or a statement that the rule or guideline was used and will be provided free of charge;
 - F. If the adverse determination is based on medical necessity or other exclusion or limit involving medical judgment, either an explanation of the scientific or clinical judgment for the determination or a statement that the scientific or clinical judgement will be provided free of charge;
 - G. If the claim involved urgent care, a description of the plan's expedited appeal process.
7. Preemption of State Law. The Department of Labor regulation does not preempt state law regulating insurance except to the extent the state law "prevents the application of a requirement of" the regulation.

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MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2186

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2003 SENATE POLITICAL SUBDIVISIONS

SB 2186

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2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2186

Senate Political Subdivisions Committee

Conference Committee

Hearing Date: January 24, 2003

Tape Number	Side A	Side B	Meter #
1	X		4539 - End
		X	0 - 1124
		X	2607 - 3140 Action
Committee Clerk Signature <i>Shirley Berg</i>			

Minutes:

CHAIRMAN COOK opened the hearing on SB 2186. All members (6) in attendance.

SB 2186 is relating to fees for recording land survey monuments.

SENATOR WARDNER, Dist 37, Dickinson ND, introduced SB 2186 as a sponsor for the land surveyors. The bill has to do with filing for land monuments. Back in the days when they surveyed, the country monuments were put on the corner of each section and also on the half mile lines. Any time there is any work done with the monuments, it has to be recorded. Last session there was a fee increase and the cost went from five dollars to ten dollars each time you file information on each monument. The land surveyors would like that fee dropped back to five dollars.

Testimony in support of SB 2186.

Curt Glascoe, Land Surveyor and Engineer, (See attached testimony)

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Page 2

Senate Political Subdivisions Committee

Bill/Resolution Number SB 2186

Hearing Date January 24, 2003

Steve Ackerman, self employed practicing land surveyor in Wahpeton ND. (See attached testimony)

Larry Smith, Registered Land Surveyor in ND and SD, principle at Swenson Hagen & Inc. He has worked for 30 years as a surveyor and has had the opportunity to record many of these section and quarter corners. The information in these forms is extremely valuable for the surveyors of today and future surveyors and also for the land owners. He feels ten dollars for recording the monuments is high and feels it should be reduced to five dollars.

Opposition to SB 2186.

Sheila Dalen, Ward County Recorder from Minot & County Recorders Association. (See attached testimony)

Ms Dalen also brought 30 signed testimonies in opposition. (See attached)

CHAIRMAN COOK closed the hearing on SB 2186.

Discussion:

CHAIRMAN COOK ask for questions and discussion on SB 2186

SENATOR JUDY LEE said there had been a lot of discussion on this in previous sessions. She does not feel ten dollars is to much for a recording fee.

SENATOR JUDY LEE moved a DO NOT PASS on SB 2186

SENATOR CHRISTENSON second the motion

Roll call vote 6 yes 0 no 0 absent

SENATOR SYVERSON will be the carrier.

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FISCAL NOTE STATEMENT

Senate Bill or Resolution No. 2186

This bill or resolution appears to affect revenues, expenditures, or fiscal liability of counties, cities, or school districts. However, no state agency has primary responsibility for compiling and maintaining the information necessary for the proper preparation of a fiscal note regarding this bill or resolution. Pursuant to Joint Rule 502, this statement meets the fiscal note requirement.

John Walstad
Code Revisor

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Date: 1-24-03
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2186 Do Not Pass

Senate Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken _____

Motion Made By Senator Judy Lee Seconded By Senator Christenson

Senators	Yes	No	Senators	Yes	No
Senator Dwight Cook, Chairman	X				
Senator John O. Syverson, V C	X				
Senator Gary A. Lee	X				
Senator Judy Lee	X				
Senator Linda Christenson	X				
Senator Michael Polovitz	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Syverson

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

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Deanne Hall Operator's Signature 01/17/03 Date

REPORT OF STANDING COMMITTEE (410)
January 24, 2003 1:16 p.m.

Module No: SR-14-1069
Carrier: Syverson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
SB 2186: Political Subdivisions Committee (Sen. Cook, Chairman) recommends DO NOT
PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2186 was placed on the
Eleventh order on the calendar.

(2) DESK, (3) COMM

Page No. 1

SR-14-1069

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2003 TESTIMONY

SB 2186

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Testimony for SB2186

My name is Curtis Glasoe, I am a native North Dakotan, attended a one room country school in Upland Township in Divide County, Crosby High School, and NDSU in Fargo where I obtained an Engineering degree. I have been working in the surveying and engineering field for over 30 years. I am currently a Registered Land Surveyor in North Dakota, South Dakota, and Montana.

Today, I represent myself along with the North Dakota Society of Professional Land Surveyors (NDSPLS). NDSPLS has over 200 practicing members spread across the Great State of North Dakota. We are a small organization and apologize for not being here at the last Legislative session to testify when this corner recordation fee along with other fees were increased or changed for more efficiency.

Back to the Recordation law, this is the form (attached) that is required to be filed in the County courthouse for every Public Land Corner that is used in a survey in that County throughout North Dakota. This record has to be filed within 90 days of completing the survey. It is a good law in that it makes the data for the corner in question available for the public to know the history and status of the corner for any future land boundary determination. It is definitely in the public interest to perpetuate these corners due to the fact that all land ownership both surface and subsurface (i.e. Mineral acres) is tied to these monuments.

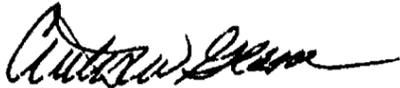
However, when this increase went into effect, it was a surprise. The cost of business just went up. Many surveyors had survey projects/contracts in force that had the \$5 recordation fee included, but when the fee changed to \$10, the surveyor had to cover that cost increase if he could not get the landowner to pay it. Now a year later, most surveyors have increased the survey cost to include the new fee structure, so the landowner or whoever orders the survey pays the recordation fee.

For the record, we agree with what the last Legislative session did with all the other fees with this one exception. We as a group file thousands of these corner recordation forms every year. Most survey projects have at least two corners and up to eight corners for a section breakdown that require a recordation form to be filed. All adjoining States have approximately the same corner recordation law. Not that we have to follow our neighbors in costs, but fees of our neighbors are as follows: Montana-no charge, they feel they it should be a public service of the State. They also feel they have less violators of the law by not charging the landowner or the surveyor a recordation fee. South Dakota-\$5. Minnesota-no charge.

We feel the fee is too expensive for the job required by the recorders of the various counties. We feel the time required to file these forms is minimal, as shown by the times placed on the form by the various Recorders around the State. About 5 minutes of recorder time is needed to file a corner record in the courthouse. With multiple corner records in the same survey area, usually a section, less than five minutes per form is needed as shown by the attachments. These are examples of what the overall time and

resulting costs are in reference to a survey project. One example is a survey project in McKenzie County last year that had almost 90 corners to file. It took the Recorder just over an hour and half to do the job, resulting in a \$900 bill for that short time period. We feel this is a not a fair price for the public to pay for this service. We realize the price has to be paid by someone, but we feel this price should be more fair to the public.

In summary, we support SB2186, to reduce the corner recordation fee back to the 2001 level.



Curtis W. Glasoe, Professional Engineer and Registered Land Surveyor
1/24/2003

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ACKERMAN LAND SURVEYING

Steven A. Ackerman
Registered Professional Land Surveyor
North Dakota
South Dakota
Minnesota

107 South 2nd Street
Wahpeton, ND 58075-4705

Tel: (701) 642-9404
Fax: (701) 642-4810

SB 2186

Jan 24, 2003

Mr. Chairman & Distinguished Members:

My name is Steve Ackerman, I am a self employed practicing land surveyor in Wahpeton.

I have been in the land surveying business since 1985.

Over the years I have prepared many, many, of the Land Survey Monument Record Forms as required by State law.

Last year I prepared around 160 of these records at various deeds offices throughout the state.

I have seen the recording fees rise for these instruments go from \$2.00 in 1974 to \$3.00 in 1977 to \$5.00 in 1987 and to \$10.00 in 2001.

The requirement or the work load in dealing with these instruments however has not increased on the part of the Register of Deeds. In other words, these documents are treated the same in 2003 as the were treated in 1974. It takes no more effort on the part of the Recorder today than it did in 1974.

Lets walk through the process:

A surveyor submits a Land Survey Monument Record to the Recorders Office

1. The recorder walks to the vault and opens the book where these are stored and looks up the index number of the last certificate filed.
2. The recorder fills in the blanks in the certification portion, (colored yellow on your set) consisting of
 - a. the county name,
 - b. the date,
 - c. the time;
 - d. the document or index number,
 - e. the fee amount;
 - f. inserts the document number a second time in the bottom right hand portion of the sheet, (Some do and some do not do this step)
 - g. signs the certificate Time, no more than 1 minute.

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4. The recorder then gets the index book, finds the page corresponding to the township and range, and enters the index number or the page number on the line corresponding to the index reference number on the document. The recorder will then make a circle on the index page corresponding to the corner record. The recorder then places the record form into the book and puts it away. ...Time, about 30 seconds.

On a typical section subdivision job I would normally file 8 of these certificates. At one and a half minutes each, the recorder spends 12 minutes in the filing process and I get a bill for 80.00. That's \$400 per hour.

This past summer I filed 90 of these records at one time in McKenzie County. Upon inspection of these documents I see it took the recorder exactly 1.5 hours to fill them out...that's 90 records in 90 minutes.

Because I was standing there, I know that time did not include putting the record number into the index book or putting the document into its final book, I have a lot of experience with that, and I can tell you that you could do at least 4 of these every minute.

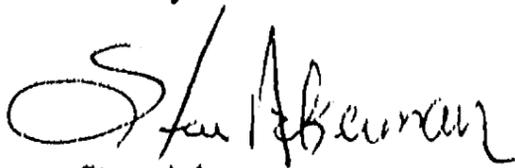
So it would have taken no more than an additional half hour to index these 90 records. The total time commitment by the recorder was somewhere around 2 to 2.5 hours to get the job done.

I get a bill for \$900.00, which I pass on to my client.

My math tells me that the county recorder made \$360 to \$400 per hour! I have brought these certificates along if anyone wants to check!

I think you can now understand my concern, therefore on behalf of all of my future clients, and on behalf of the citizens of the State of North Dakota who are paying these fees, I wish to go on record in support of this bill to change the recording fee from \$10.00 to \$5.00

Thank you



Steve Ackerman
Registered Land Surveyor

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10/17/03
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NORTH DAKOTA LAND SURVEY MONUMENT RECORD
(Report only one monument per form)

1. The NE Corner of Section 5, Township 148 North, Range 103 West of the 6th P.M.
Or other corner as described _____

2. DESCRIPTION OF ORIGINAL MONUMENT (From GLO notes or deed description):
If original call is not known, explain.

In 1991 the BLM set a 2.5" x30" stainless steel post 22" in the ground with a 3.25" dia brass cap marked as shown below, and buried the original stone alongside the new monument. Redg pits 3ft E and W and S 7ft. dist.

3. DESCRIPTION OF CORNER EVIDENCE FOUND:

Also describe the method used to verify or contradict evidence found.

Found a BLM iron with 3.25" brass cap stamped as shown below, top 6" above grade.

Found pits E. and W. 5ft distant and 1 pit 7ft. S. of cor.

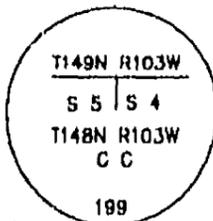
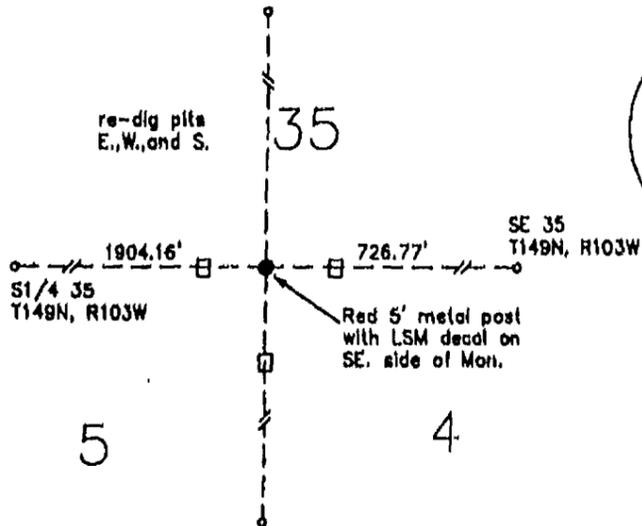
4. DESCRIPTION OF METHOD USED TO RESTORE OR RE-ESTABLISH THIS CORNER:

- Measure from accessories, Testimony Lines of occupation, or Proportional measure from other corners.
 Other (Explain below)

Accepted BLM monument as perpetuated section corner.

5. SKETCH SHOWING MONUMENTATION:

Describe monument set, accessories, and dimension a minimum of 3 permanent ties to the corner. Indicate angles and distances to nearest government corner, if determined.



7-8-02
Date of Survey
Steven A. Ackerman
Party Chief

6. CERTIFICATION

I hereby certify that under the requirements of NDCG 47-26.1-06 and as permitted by NDCG 47-26.1-04, this corner record correctly represents work performed by me or under my direct supervision and is in compliance with the current BLM "MANUAL OF SURVEYING INSTRUCTIONS".

DATE: 9-03-02 APPROVED AND SIGNED BY: [Signature] ND RLS NO. 2058

ACCEPTED FOR FILING

State of North Dakota
County of McKenzie
By: Ann M. Johnson
Date: Sept 4, 2002
Time: 3:00 p.m.
Document No. - 2842
Fee: \$ 1000

Record to be filed by Index Reference Number, numerically, then alphabetically, under appropriate Township, Range.



7.

A	1	2	3	4	5	6	7	8	9	10	11	12	13
B													
C													
D													
E													
F													
G													
H													
I													
J													
K													
L													
M													
N													

8. Township _____ Index Ref. No. _____ Township T148N, R103W Index Ref. No. 5 A

2842

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[Signature]
Operator's Signature

10/17/03
Date

NORTH DAKOTA LAND SURVEY MONUMENT RECORD

(Report only one monument per form)

1. The SE Corner of Section 13, Township 148 North, Range 105 West of the 6th P.M.
Or other corner as described _____

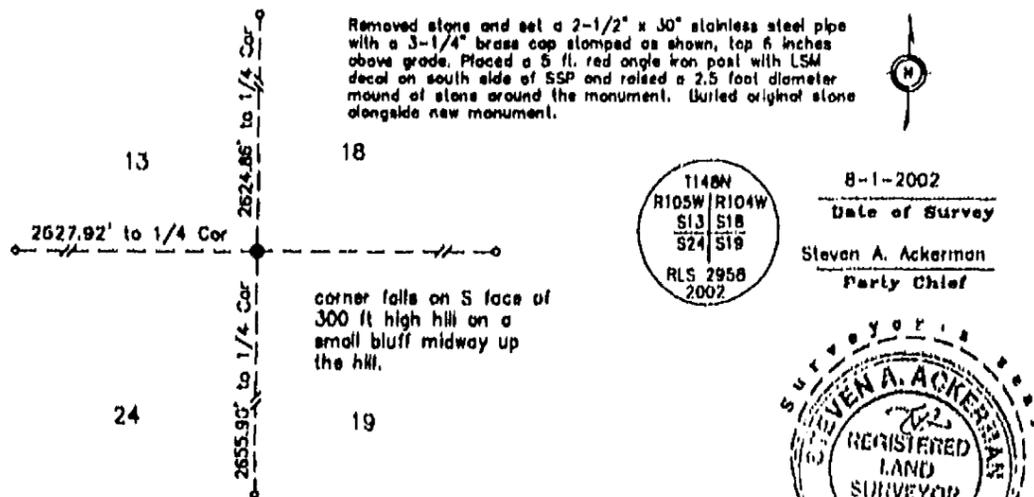
2. DESCRIPTION OF ORIGINAL MONUMENT (From GLO notes or deed description):
If original call is not known, explain.
80.00 Set a sandstone 20x12x8 ins., 15 ins. in the ground for cor. of secs. 13, 18, 19, and 24, marked with 3 notches on N. and S. edges; dug pits 18x18x12 ins. in each sec. 5-1/2 ft. dist. and raised a mound of earth 4 ft base 2 ft high W. of cor.

3. DESCRIPTION OF CORNER EVIDENCE FOUND:
Also describe the method used to verify or contradict evidence found.
Found original stone monument as described above with 3 notches on N and S faces.

4. DESCRIPTION OF METHOD USED TO RESTORE OR RE-ESTABLISH THIS CORNER:
 Measure from accessories, Testimony Lines of occupation, or Proportional measure from other corners.
 Other (Explain below)

N/A

5. SKETCH SHOWING MONUMENTATION:
Describe monument set, accessories, and dimensions a minimum of 3 permanent lines to the corner. Indicate angles and distances to nearest government corner, if determined.



1148N
R105W/R104W
S13 S18
S24 S19
RLS 2958
2002

8-1-2002
Date of Survey
Steven A. Ackerman
Party Chief



6. CERTIFICATION
I hereby certify that under the requirements of NDCC 47-26.1-08 and as permitted by NDCC 47-26.1-04, this corner record correctly represents work performed by me or under my direct supervision and is in compliance with the current NDCC "MANUAL OF SURVEYING INSTRUCTIONS".

DATE: 9-04-02 APPROVED AND SIGNED BY: Steven A. Ackerman ND RLS NO. 2858

ACCEPTED FOR FILING
State of North Dakota)
County of McKenzie)
By: Ann M. Johnson
Date: Sept 9, 2002
Time: 4:30 pm
Document No.: 2930
Fee: \$ 10.00
Record to be filed by Index Reference Number, numerically, then alphabetically, under appropriate Township, Range.



7.

A	1	2	3	4	5	6	7	8	9	10	11	12	13
B													
C													
D													
E													
F													
G													
H													
I													
J													
K													
L													
M													
N													

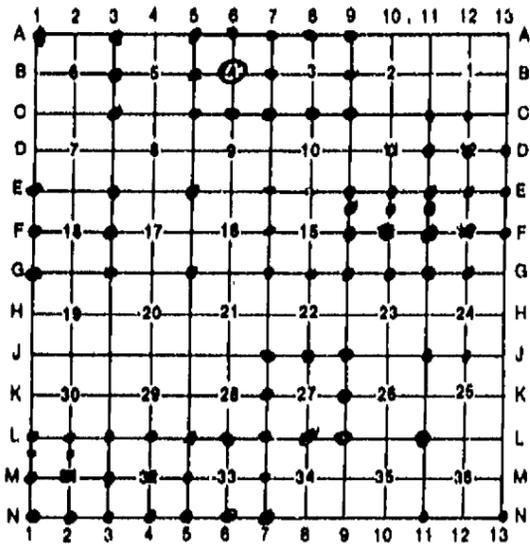
8. Township 148-104 Index Ref. No. 1 G Township 1148N, R105W Index Ref. No. 13-0

2130

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Deanna Hall
Operator's Signature

10/17/03
Date



CORNER INDEX

CODE FILING NO.	FILING NUMBER	CODE FILING NO.	FILING NUMBER	CODE FILING NO.	FILING NUMBER
1-G	2871	1-K		1-N	985
2-G		2-K		2-N	2100
3-G	2837	3-K		3-N	736
4-G		4-K		4-N	735
5-G	176	5-K		5-N	734
6-G		6-K		6-N	2916
7-G	2242	7-K	2120	7-N	2915
8-G	2243	8-K		8-N	
9-G	135-	9-K	2119	9-N	
10-G	137-	10-K		10-N	
11-G	127-	11-K		11-N	709
12-G	1371-	12-K		12-N	
13-G		13-K		13-N	708-

CORNER INDEX

CODE FILING NO.	FILING NUMBER	CODE FILING NO.	FILING NUMBER	CODE FILING NO.	FILING NUMBER
1-A	137-	1-C		1-E	2881
2-A		2-C		2-E	
3-A	148-	3-C	169-	3-E	171
4-A		4-C		4-E	
5-A	170-	5-C	171-	5-E	175
6-A	1826	6-C	1840	6-E	
7-A	1857	7-C	1841	7-E	
8-A	1853	8-C	1856	8-E	
9-A	1854	9-C	1857	9-E	137-138
10-A		10-C		10-E	133-134
11-A		11-C	500	11-E	129-130-
12-A		12-C	500	12-E	1380
13-A		13-C		13-E	1381

CODE FILING NO.	FILING NUMBER	CODE FILING NO.	FILING NUMBER
1-H		1-L	2075 11.5' 201
2-H		2-L	2076 24.5' 2099
3-H		3-L	730
4-H		4-L	727-
5-H		5-L	728-
6-H		6-L	718
7-H		7-L	718
8-H		8-L	717
9-H		9-L	716
10-H		10-L	
11-H		11-L	2257
12-H		12-L	
13-H		13-L	

1-B		1-D		1-F	2890
2-B		2-D		2-F	
3-B	173-	3-D		3-F	2888
4-B		4-D		4-F	
5-B	172-	5-D		5-F	
6-B	1838	6-D		6-F	
7-B	1839	7-D		7-F	
8-B		8-D		8-F	
9-B	1855	9-D		9-F	136
10-B		10-D		10-F	132-
11-B		11-D	1590	11-F	128-
12-B		12-D	1591	12-F	1382
13-B		13-D	1592	13-F	1383

1-J		1-M	2097
2-J		2-M	2098
3-J		3-M	731
4-J		4-M	732
5-J		5-M	733
6-J		6-M	
7-J	1860	7-M	2917
8-J	2121	8-M	
9-J	1861	9-M	
10-J		10-M	
11-J	862	11-M	
12-J	863	12-M	
13-J		13-M	

LEGEND

● = Location of Monument, Record Filed under this Township

⊕ OR ⊙ = Location of Monument, Record Filed under adjoining Township as indicated by solid quadrant (s)

CORNER RECORDATION

INDEX TO PUBLIC LAND SURVEY CORNER RECORDATION FILED IN

Antelope Township 133 North Range 50 West

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Operator's Signature: Deanne Hall Date: 10/17/03

To: Chairman Dwight Cook – Political Subdivisions
And Committee members

From: Sheila Dalen – Legislative Chairperson
County Recorders Association

Re: SB2186

- **Filing fees are currently uniform for filing any type of document in the Recorders Office.**
- **Filing process and time involved is the same for every type of document.**
- **Excluding one group from paying the normal filing fee would cause confusion to the people filing documents as well as those of us receiving these filing fees.**
- **Cost to the Counties is not lower for filing corner monuments than any other document filed in the Recorders Office.**

Good morning Chairman Cook, and members of the committee. I am Sheila Dalen; I am the Ward County Recorder from Minot and am here today to represent the County Recorders Association.

Our Association is speaking out in opposition for SB2186 as we feel it could only bring more groups forward asking that their recording fees or filing fees be reduced. Where do you begin picking and choosing which private entities will pay one fee and another pay another fee?

I would like to give you a little history on how the filing fee became \$10.00 for filing Corner Monuments. Last legislative session the Recorders adjusted their filing fees for the sake of uniformity. Our office took over many filing duties formerly in the Clerk of District office as of Jan. 2001, at that time they were charging \$10.00 to file these items while we had a fee of \$5.00 for filing in our office.

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Deanne Hall
Operator's Signature

10/17/03
Date

There are several Recorders that are also the Clerks of District Court and rather than trying to charge two separate filing fees depending on what a customer was filing, we felt it much less confusing for everyone if the filing fees were uniform no matter what they were filing.

To address some of those supporting the bill:

It has been said that many of these can be filed in a short period of time and there is not much involved in this process. Filing a corner monument entails several different steps from putting a date, time and signature on them to indexing them, punching holes in them and placing them in the proper books. In essence this process is no shorter than filing anything else, such as a will, a death certificate, a marriage license etc. Many filings can be date and time stamped very close together, but the actual time to complete the process of filing them, is much longer than just looking at the time stamped on the filing.

Also the cost to the counties on filing corner monuments is also no different than the cost of filing, preserving and storing any other filed documents in our offices. The same equipment, books etc. is needed when filing all of these documents.

My written testimony is long enough as is, but I carry with me today several emails I am not including in my written testimony to spare you any more reading. These emails are from several Recorders around the state, echoing the concerns I have shared with you today.

We would ask that you keep our fees uniform and intact for all filed documents including Corner Monuments.

I would be happy to answer any questions that you Chairman Cook or the other Senators may have.

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Deanna Bell
Operator's Signature

10/17/03
Date

North Dakota Real Estate Commission
Compilation of Complaints

2000

Number of complaints	9
Number dismissed after investigation	6
Hearings held	3
Appealed to a higher court	1
Decision by Commission overturned	0

2001

Number of complaints	8
Number dismissed after investigation	5
Hearings held	3
Appealed to a higher court	0
Decision by Commission overturned	0

2002

Number of complaints	11
Number dismissed after investigation	3 (8 remain under investigation)
Hearings held	0
Appealed to a higher court	0
Decision by Commission overturned	0

Costs of some of the investigations/hearings

Hearings

Case# 2000-06	\$7,700.00 (appealed to district court)	Fine: \$500 and letter of reprimand
Case# 2000-08	\$3,600.00	Fine: \$500 and letter of reprimand
Case# 2001-04	\$1,200.00	Fine: \$500 and 30 day suspension of license
Case# 2001-05	\$3,100.00	Fine: \$1000 and 6 month suspension of license
Case# 2001-08	\$2,700.00	Fine: \$1000 and letter of reprimand

Investigations

Case# 2000-01	\$740.00
Case# 2000-03	\$725.00
Case# 2001-01	\$510.00
Case# 2001-02	\$560.00
Case# 2001-03	\$700.00
Case# 2002-02	\$360.00

To our recollection there has never been a decision made by the Commission that has been overturned in

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Deanna Hall
Operator's Signature

10/17/03
Date

Deanna D. Sobczak

From: Sheila Dalen <sdalen@state.nd.us>
To: <recorders@ndaco.org>
Sent: Monday, July 01, 2002 2:18 PM
Subject: Legislative Issues

I have to tell you I have waited a week and there are still 22 recorders who did not answer my call for legislative info. I am hoping the messages are getting out to you and you are choosing not to respond. Remember though if you want to be heard, you need to respond.

At this point I will try and put down for those of you that care, the issues some have brought forward and where we are at with them. Please take a look at the Century Codes I have listed and let me know your thoughts.

1. NDCC 67-29-04 Code States we are certifying this information to the auditors. The question has been brought forth asking if we can be held liable for missing something?

We were told at convention by the States Attorney that as long as it was done in a good faith effort, he did not see that we would be held liable. Also not all of us are signing any kind of certification, some counties just use worksheets that are not even signed.

Please let me know if you feel we need to do anything about changing the language in it is century code. *No*

2. The surveyors may be bringing a bill this session to eliminate the recording fees on corner monuments. Do you want the association to provide testimony in favor of this bill, provide testimony to oppose the bill, or just let it fall where it may?

3. Cass County may bring a bill this session asking for a waiting period for marriage licenses. Do you want the association to provide testimony in favor of this bill, provide testimony to oppose the bill, or just let it fall where it may?

4. It had been suggested to specify a paper size we would accept for recording. What are your thoughts: Specify a size, if so what size. Or do not mess with?

5. It had been suggested to specify a margin length? Should be 1" margin with minimum of 5" in length. Do we want to mess with sizes here or leave well enough alone?

6. NDCC 11-18-09 & 11-18-10. Should the word "immediately" be removed from this section of the code? *Yes or No*

7. NDCC 47-18-10. Should wording be added to reflect separate books or other media. I was hoping NDCC 11-18-01.1 covered it back a few years ago when we added the language. This section could be fixed to if you want. *Yes or No*

8. Several issues under the marriage license area.

a. Do we pursue a bill to raise counties portion of marriage licenses? How many of us are issuing licenses? *only if domestic violence fees increased*

b. Should we try to remove the social security number requirement from the law?

c. Clear up wording in law as to where you can purchase a license and where you can be married?

Just as a footnote to number 8a above: Wade Williams was going to check on the last time these fees were increased. There are not many of us issuing licenses so I am not sure this should be a bill coming out of the Recorders Asscn. alone. We will check into that further. But would like to know how you feel about it. As far as 8b & 8c, I spoke with Carmell at Vital Records to see if there were administrative rules we could follow in interpreting these two portions of the law. There is not, but she informed me that Mike Abel is planning on having a meeting of the marriage license program users and these to her seem to be items we could resolve as a group without legislation. Either we accept the Canadian numbers in place of a social security number or we don't. And all counties treat temporarily domiciled in the same fashion when issuing a license. Do we really need to pursue changing this law?

That's all I have for you to this point, please let your feelings be known or forever hold your peace as they say. Also please let me know if you know of anything I have not listed above for your Legislative Committee to look

Deanna D. Sobczak
in County

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Deanna D. Sobczak
Operator's Signature

10/17/03
Date

Sheila Dalen

From: "Anderson, Annetta" <AAnderson@ndcourts.com>
To: "Sheila Dalen" <sdalen@state.nd.us>
Sent: Monday, July 01, 2002 4:57 PM
Subject: RE: Legislative Issues

Sheila, I'll answer your questions just as you have them listed.

1. I worry about the answer the States Attorney of Billings Co gave on this question, although I'm not sure what kind of a language change we could make. Sometimes when things are changed, new unforeseen things come up down the road like what happened with the Marriage Licenses being in several different offices in the Court House. It made things more confusing for the public. ✓

2. We must have the \$5 at least for recording the corner monuments. This is a little amount to pay compared to the other costs a surveyor charges.

3. I agree sometimes there should be a waiting period, but then how do you judge an appropriate waiting period. The better thing would be for a waiting period for a Divorce. Sometimes they are done in haste. I think we should leave this alone.

4. Do not mess with the paper sizes. Please!!!

5. Leave this alone.

6.No. Some Recorders Offices need this to keep them in Order.

7. No

8. No. I think asking for more money isn't the answer. There isn't that much work to a marriage license anyway. We in Bowman Co do Marriage Licenses as Clerks of Court.

9. House Bill 1275 royally messed up the Counties on who is to do the Marriage Licenses. It is now more confusing to the public than it ever was before. The high courts reason for this change was to keep doing things all the same in ND. They sure messed up when this was changed. There are many different offices in the court houses over our great state doing marriage licenses now. I think if a clarification needs to be made as to where to pick up your marriage license, it would just say in your Local County Court House. The social security numbers were just put on marriage licenses a couple years ago. The reason being for Child Support reasons down the line in case of Divorce. I don't know why they need to be there, because in a Divorce Case the Social Security number should be listed on the information sheet. Since we are not to use Social Security numbers any more, I think they should be removed from the marriage license also.

Sheila, I hope this helps you, sometimes I get pretty radical about that drastic change in the Court Systems over House bill 1275. I don't trust the changes that are made in our legislature since that bill. I wonder if the law makers listen at all to the people who work with the changes they make to know if they are in the best interest of all our citizens or in the best interest of polititions. Good Luck. Annetta

> -----
> From: Sheila Dalen[SMTP:sdalen@state.nd.us]
> Sent: Monday, July 01, 2002 1:16 PM
> To: recorders@ndaco.org
> Subject: Legislative Issues

07/02/2002

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Deanna Nellis
Operator's Signature

10/17/03
Date

Sheila Dalen

From: "Helen Christenson" <hchrste@state.nd.us>
To: "Sheila Dalen" <sdalen@state.nd.us>
Sent: Monday, July 01, 2002 4:02 PM
Subject: RE: Legislative Issues
Good Afternoon Sheila:

1. Leave as it reads.
2. Provide testimony to oppose the bill
3. No comment, don't have marriage licenses in our office
4. Do not mess with
5. Leave well enough alone
6. No
7. No
8. No comment, don't have marriage licenses in our office

Have a good evening.

Helen

-----Original Message-----

From: Sheila Dalen [mailto:sdalen@state.nd.us]
Sent: Monday, July 01, 2002 1:16 PM
To: recorders@ndaco.org
Subject: Legislative Issues

I have to tell you I have waited a week and there are still 22 recorders who did not answer my call for legislative info. I am hoping the messages are getting out to you and you are choosing not to respond. Remember though if you want to be heard, you need to respond.

At this point I will try and put down for those of you that care, the issues some have brought forward and where we are at with them. Please take a look at the Century Codes I have listed and let me know your thoughts.

1. NDCC 57-28-04 Code States we are certifying this information to the auditors. The question has been brought forth asking if we can be held liable for missing something?
We were told at convention by the States Attorney that as long as it was done in a good faith effort, he did not see that we would be held liable. Also not all of us are signing any kind of certification, some counties just use worksheets that are not even signed.
Please let me know if you feel we need to do anything about changing the language in this century code.
2. The surveyors may be bringing a bill this session to eliminate the recording fees on corner monuments.
Do you want the association to provide testimony in favor of this bill, provide testimony to oppose the bill, or just let it fall where it may?
3. Cass County may bring a bill this session asking for a waiting period for marriage licenses.
Do you want the association to provide testimony in favor of this bill, provide testimony to oppose the bill, or just let it fall where it may?
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What are your thoughts: Specify a size, if so what size. Or do not mess with?
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Do we want to mess with sizes here or leave well enough alone?
6. NDCC 11-18-09 & 11-18-10, Should the word "immediately" be removed from this section of the code? **Yes or No**
7. NDCC 47-19-10, Should wording be added to reflect separate books or other media. I was hoping

07/02/2002

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Operator's Signature

10/17/03
Date

Sheila Dalen

From: "Janelle Beneda" <jbeneda@state.nd.us>
To: "Sheila Dalen" <sdalen@state.nd.us>
Sent: Monday, July 01, 2002 3:59 PM
Subject: RE: Legislative Issues
Hi Sheila - boy have you been busy!!

1st - I wanted to let you know that I will be out of the office from July 11th through the 17th, so if the Leg Committee meeting would be any of those dates, I won't be able to attend.

2nd - Issues

1. I don't think we need to do anything with this.
2. I think we should DEFINITELY provide testimony against a bill from the surveyors to get rid of our fee. All of our records are for public use, why should we file them for free.
3. Personally, I wouldn't want the waiting period - I think it would make one more step for us when issuing, but I don't know if the Recorder's need to be involved or not - do you know how many of us issue the marriage licenses?
4. Don't mess with it.
5. Don't mess with it.
6. yes
7. yes
- 8a. I'm a little leery of going for a fee increase right now - since we got one last time, but if the clerks were looking at starting the bill, I think we should support and testify in support of the bill.
- 8b. It would be nice if we could work w/vital records to do this administratively rather than legislatively.
- 8c. I don't think we need to mess with this.

Well - those are just my opinions, I hope you get a majority response so we know which way to go with these issues.

Have a good 4th - Janelle

-----Original Message-----

From: Sheila Dalen [mailto:sdalen@state.nd.us]
Sent: Monday, July 01, 2002 2:16 PM
To: recorders@ndaco.org
Subject: Legislative Issues

I have to tell you I have waited a week and there are still 22 recorders who did not answer my call for legislative info. I am hoping the messages are getting out to you and you are choosing not to respond. Remember though if you want to be heard, you need to respond.

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Please let me know if you feel we need to do anything about changing the language in this century code.
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Do you want the association to provide testimony in favor of this bill, provide testimony to oppose the bill, or just let it fall where it may?

07/02/2002

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Operator's Signature

01/17/03
Date

Sheila Dalen

From: "Sue A. Juntunen" <sjuntune@pioneer.state.nd.us>
To: "Sheila Dalen" <sdalen@state.nd.us>
Sent: Monday, July 01, 2002 4:31 PM
Subject: Re: Legislative Issues

Sheila, 1. leave as is, has anyone been affected or sued because of the certification wording.
2. the counties need the fees for recordings.
3. don't really think there needs to be a waiting period, but perhaps in some counties it would be beneficial.
4. no more regulations on paper size.
5. no to margin requirements
6. no
7. no
8. a. no
b. no
c. get someone to define "temporarily domiciled" and the rest will fall into place.

Sue Juntunen, Slope County

— Original Message —

From: Sheila Dalen
To: recorders@ndaco.org
Sent: Monday, July 01, 2002 1:16 PM
Subject: Legislative Issues

I have to tell you I have waited a week and there are still 22 recorders who did not answer my call for legislative info. I am hoping the messages are getting out to you and you are choosing not to respond. Remember though if you want to be heard, you need to respond.

At this point I will try and put down for those of you that care, the issues some have brought forward and where we are at with them. Please take a look at the Century Codes I have listed and let me know your thoughts.

1. NDCC 57-28-04 Code States we are certifying this information to the auditors. The question has been brought forth asking if we can be held liable for missing something?
We were told at convention by the States Attorney that as long as it was done in a good faith effort, he did not see that we would be held liable. Also not all of us are signing any kind of certification, some counties just use worksheets that are not even signed.
Please let me know if you feel we need to do anything about changing the language in this century code.
2. The surveyors may be bringing a bill this session to eliminate the recording fees on corner monuments.
Do you want the association to provide testimony in favor of this bill, provide testimony to oppose the bill, or just let it fall where it may?
3. Cass County may bring a bill this session asking for a waiting period for marriage licenses.
Do you want the association to provide testimony in favor of this bill, provide testimony to oppose the bill, or just let it fall where it may?
4. It had been suggested to specify a paper size we would accept for recording.
What are your thoughts: Specify a size, if so what size. Or do not mess with?
5. It had been suggested to specify a margin length? Should be 1" margin with minimum of 5" in length.
Do we want to mess with sizes here or leave well enough alone?
6. NDCC 11-18-09 & 11-18-10, Should the word "immediately" be removed from this section of the code?
Yes or No
7. NDCC 47-19-10, Should wording be added to reflect separate books or other media. I was hoping NDCC 11-18-01.1 covered it back a few years ago when we added the language. This section could be fixed to if you want. **Yes or No**
8. Several issues under the marriage license area.
 - a. **Do we pursue a bill to raise counties portion of marriage licenses? How many of us are issuing licenses?**
 - b. **Should we try to remove the social security number requirement from the law?**

07/02/2002

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Operator's Signature

Deanne Hall

10/17/03
Date

Sheila Dalen

From: "Kari Evenson" <KarlE@co.williams.nd.us>
To: "Sheila Dalen (E-mail)" <sdalen@pioneer.state.nd.us>
Cc: "ND Recorders (Group) (E-mail)" <loccrec@state.nd.us>; "Jinny marmon" <jmarmon@co.williams.nd.us>; "Jodi Hanson" <jhanson@co.williams.nd.us>; "t gerhardt" <tgerhardt@co.williams.nd.us>
Sent: Tuesday, July 02, 2002 12:21 PM
Subject: Legislative Issues
Sheila & Recorders,

Here's Williams County's two-cents worth:

1. 5/7-28-04: Williams County's certification presently says " I hereby certify that the following is a correct, true and complete list of Title Owners, Mortgages, Judgment and Lien Holders of the above described Real Estate as appear of record the day and year written" Then requires the Recorder's & the Clerk of Court's signature and seal. From reading the Century Code I think the County Auditor can change the wording of the certification to read "appear to be interested as owners...."

We see no reason for legislation on this as we can handle in house.

2. Eliminate recording fees of monuments: We only have one surveyor in Williams County who will pay the recording fee. It's the law now (NDCC 47-20.1-03) and they don't do it. The surveyors could pass this minimal cost on to the customer. We need "surveyor police". We ride the fence on this.

3. Williams County Auditor handles marriage licenses.

4. Specific paper size - we don't think we need to limit the paper size unless we establish a minimum to get rid of the forms smaller than letter size.

5. Leave margin at 1" and don't mess with a 5" in length - that defeats the 1" margin. Sounds like having to measure too much.

6. Remove "immediately" - we say "YES"

7. Leave alone for now unless it becomes a problem.

8. Williams County Auditor handles marriage licenses.

Kari "Will-Be-Working-July-5th" Evenson
Williams County Treasurer/Recorder

07/02/2002

Deanne Dalen
Operator's Signature

10/17/03
Date

Sheila Dalen

From: "Carol J. Bertsch" <cabertsc@state.nd.us>
To: "Sheila Dalen" <sdalen@state.nd.us>
Sent: Tuesday, July 02, 2002 9:49 AM
Subject: RE: Legislative Issues

Good Morning Sheila, In response to some legislative issues. Here goes:

1. I would rather not have to sign but again, why are some of us signing a certificate and others not. Apparently not all Auditors do this the same way.
2. I think they should have to pay. I think they can afford this. They charge plenty when they do a survey.
3. I don't think a couple should have a waiting period once they have made application for a Marriage License.
4. Definitely no paper size. NO NO NO!
5. "LEAVE ALONE"
6. Yes, remove
7. "YES"
8. Yes, we need increase on our portion of the Marriage License.
 - b. Maybe removing the SS# would be a good idea. I guess if these people had some form of picture ID so we know at the time of issuing a license, they are the persons they say they are, this should be sufficient.
 - c. Lets not make it impossible. If its not broke do we need to fix it. Sometimes I think we make things more difficult then they really are.

[Carol J. Bertsch]
Sent Monday, July 01, 2002 2:16 P
To: recorders@ndaco.org
Subject: Legislative Issues

I have to tell you I have waited a week and there are still 22 recorders who did not answer my call for legislative info. I am hoping the messages are getting out to you and you are choosing not to respond. Remember though if you want to be heard, you need to respond.

At this point I will try and put down for those of you that care, the issues some have brought forward and where we are at with them. Please take a look at the Century Codes I have listed and let me know your thoughts.

1. NDCC 57-28-04 Code States we are certifying this information to the auditors. The question has been brought forth asking if we can be held liable for missing something?

We were told at convention by the States Attorney that as long as it was done in a good faith effort, he did not see that we would be held liable. Also not all of us are signing any kind of certification, some counties just use worksheets that are not even signed.

Please let me know if you feel we need to do anything about changing the language in this century code.

2. The surveyors may be bringing a bill this session to eliminate the

07/02/2002

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Deanne Hall
Operator's Signature

01/17/03
Date

Sheila Dalen

From: "Ann Johnsrud" <ajohnsru@state.nd.us>
To: "Sheila Dalen" <sdalen@state.nd.us>; <recorders@ndaco.org>
Sent: Tuesday, July 02, 2002 1:33 PM
Subject: Re: Legislative Issues
Sheila & Recorders,

*Opposing
SB 2186*

McKenzie County's two-cents worth:

1. 57-28-04: We will try to change the wording in-house.
2. Everyone is paying the \$10.00 fee to us now. We have to maintain these records and catalogue them as well, buy new binders etc. I don't see why they shouldn't pay the fee. Aren't they charging their customers? We get quite a few corner records in a year so it does create work for us. I never minded having the buried cable file, as they came in and did their own work on that, but in the case of corner records, we are doing all the recording, etc etc.
3. McKenzie County Clerk of Court handles marriage licenses.
4. Do not mess with the paper size.
5. Do not mess with the 1" margin, it is confusing enough people as it is. Let's get everyone used to this before we change again. Leave well enough alone.
6. Yes
7. The law read now "Grants, absolute in terms, are to be recorded in one set of records and mortgages in another." It doesn't say "book". I take records to mean computer, book, etc etc. If I am reading 47-19-10 right, then I don't think there is a need to change anything, we should be covered.
8. McKenzie County Clerk of Court has marriage license. For my two cents, I don't think that the County Recorders Association **alone** should take these issues on. More departments are involved and **should be involved in the process** if a fee increase or any other change is going to be pursued.
As to SS#'s it sounds like this could be changed in-house without legislation according to what Vital Records has said

Ann "Also working July 5th" Johnsrud
McKenzie County Recorder

*Ann, Steve, Jody
of course*

*Steve Wickman SM
7-10-02*

*Ann
no hearing*

*74-3
77-3
57-3
2002-10*

07/02/2002

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Deanna Nellis
Operator's Signature

10/17/03
Date

Sheila Dalen

From: "Dewey Oster" <doster@state.nd.us>
To: "Sheila Dalen" <sdalen@state.nd.us>
Sent: Tuesday, July 02, 2002 1:32 PM
Subject: LEGISLATIVE ISSUES

1) Nobody has been sued in over 100 years. Each session of the legislature is full of trivial bills....why add to it? I have revamped my certificate to use language such as Karl suggested. Adjust to suit your needs. I vote, leave it alone.

2) I don't know why the surveyors think they should be exempt from paying a filing fee. I don't understand how Kari and Williams County is operating. It is my understanding at present that you have to pay a filing fee or it doesn't get filed. Yes, this bill if it is introduced will have to be watched and yes I'd say there would have to be opposing testimony.

3) N/A. I don't handle marriage licenses.

4) Oh my God, no. We've had enuf crap going on with the infamous one-inch.

5) Do not mess with it.

6) Must we be so picky? Leave it alone.

7) I think 47-19-10 may be a bit archaic....but do we have to get bogged down in insignificant jargon. As the Beatles would say "Let it Be!"

8) N/A. This area is not in my ballwick....yet!! I'll let my CR brethren act in my/their best interests.

Sheila....if it wouldn't be for the upstart surveyors, I'd say as far as I am concerned, no need for any legislative chairman, committee or action!!! Have a good Fourth.

Dewey
7-2-02

P.S. I could sense your irritation in your opening paragraph of your e-mail. It has galled me to no end since I "got involved" in this association of ours, that why can't people respond....even if they tell you to "go to hell". 22 that is despicable!! And they bitch cuz our name got changed, right??

07/02/2002

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Dewey Oster
Operator's Signature

07/17/03
Date

Sheila Dalen

From: "Colleen J. Bertsch" <cbertsch@pioneer.state.nd.us>
To: "Sheila Dalen" <sdalen@state.nd.us>
Sent: Tuesday, July 02, 2002 11:02 AM
Subject: Re: Legislative Issues

Hi Sheila: I'll key my responses by number.

1. If we can legally change this wording from "certified" to just list it would certainly make the liability go away; but as the wording in the law continues it reads, "all persons who APPEAR TO BE INTERESTED AS OWNERS, MORTGAGEES, LIENHOLDERS, OR OTHERWISE, ETC. so if we change it, I think we should have a specified date (say 20 years back) to search instead of the beginning of time. I have never signed any certification in all the year's I've been doing this, but whether we sign or not probably would not be the issue -- since the law says we are certifying the list when we provide it--I think we would all be subject to the same liability. Just my thoughts.

2. On the side of the surveyors, they are filing these corners "for the public good"; however, our office is still the legal point of public information and everyone else has to pay for the publication so to speak of the legal information, so why are they different?? Many counties index and record these corners just like any other recorded document, so that would make them subject to recording fees, I feel. In Rolette County they have never been recorded, but rather filed in a Corner Monument Record Book which has it's own Index and I have retained all the originals there also. If they win the NO PAY battle, then would none of them be recorded? If we don't oppose the no fee for recording this document, will easements be the next no pay? Perhaps we should get together with them before session and try to work something out??

3. The Clerks have been dealing with this marriage thing for years and never tried to change it. Are we being too particular and going above our heads in being the watchdog of people getting married? Do we have the authority to deny a license just because the people look like a couple who's marriage won't last? I think we should just decide to be uniform in accepting the Canadian numbers because maybe they are never planning on becoming citizens--so do we need to make them get a social security number, yes they need it to work here but who is to say they plan to work just because they want to get married. If it already says the temporary domicile can be a motel address, and it has been that way for 100 years, why go to all the work to change the law. The Clerks want a SSN so they can track people getting married that owe child support from another marriage, but is that our responsibility? I don't marry people in Rolette County--the Clerk of Court or the District Judge have the responsibility. I think the waiting period could be more problematic than helpful. We have several couples come back to Rolette County to marry, even though they haven't resided here since childhood--they have been engaged for more than a year, come home 2 days before the wedding, or the day before and now are going to have a 10-day waiting period???? Not a good idea. Let's just try to get clarification on the SSN as a basis for denial and not worry about whether they give a temporary address as long as the law allows it.

4. Don't mess with. I think we have to accept all size of paper, but they may have to pay additional fees if they don't allow amply recording information space.

5. To my way of thinking a margin is not a margin unless it extends the entire length or width of the page. Don't mess with.

6. Yes, because if deeds don't contain the transfer of the county auditor, we cannot immediately number them.

7. I pulled this code book and it says "one set of records & mortgages in another, etc" so wouldn't that cover all media? I don't think we need to change this.

8. I answered this above partially, but just feel the need to add the State's Attorneys need to get this law cleared up for us, there are too many things left open to interpretation, and that should not be our job to interpret what they Might have meant. Definitely needs work and should be jointly worked on, and supported by Clerks, States Attorneys and Recorders.

Have a great 4th of July Holiday, Cooky

----- Original Message -----

From: Sheila Dalen
To: recorders@ndaco.org
Sent: Monday, July 01, 2002 2:16 PM
Subject: Legislative Issues

07/02/2002

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Operator's Signature

Date

GOLDEN VALLEY COUNTY

Office of

COUNTY RECORDER

P.O. Box 130

Beach, ND 58621

(701) 872-3713

DATE: July 3, 2002

TO: Sheila Dalen

FROM: Susan Davidson, Golden Valley County Recorder

SUBJECT: Legislative Issues

1. When we certify the information, aren't we saying that we have searched our records to the best of our ability? After visiting with my auditor, she states that I would be protected under our county's insurance policy being the, "Errors and Omissions Policy." Maybe just leave it alone.
2. Oppose the bill. Why shouldn't there be a recording fee to record monument records?
3. Oppose the bill
4. Just leave it alone.
5. It has been confusing enough with 1" margin. Let's leave well enough alone.
6. Yes. Remove the immediately.
7. NDCC 11-18-01.1 covers the language. Leave as is.
8. a. I think that the county fee should be raised. I will be doing licenses' in January.
b. No
c. Since I have issued marriage licenses' before, the law needs to be very clear where a person can purchase one and also where you can get married.

HAVE A GREAT 4TH OF JULY!!!!!!!

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Susan Davidson
Operator's Signature

10/17/03
Date

Sheila Dalen

From: "Kensrud, Deanna J." <Kensrud@co.cass.nd.us>
To: "Sheila Dalen" <sdalen@state.nd.us>
Sent: Wednesday, July 03, 2002 7:13 PM
Subject: RE: Legislative Issues

Sheila,

I am sorry for the delay in responding. I had to do some thinking and even after lots of thought I still have some mixed emotions.

1. I think our county was sued a long time ago because some interested party did not receive proper notice. We list the information on the work sheet provided by the Auditor's office, but it does not have a certificate. I think we could be sued either way, with or without a certificate if we missed something.

2. I think we should have a fee for corner monument records.

3. Since I don't have marriage licenses I can't give an explanation of why we need a waiting period for marriage licenses. Our Treasurer has the marriage licenses and I am sure it is a lot different in Cass County than the smaller counties. We have all these people from other countries, etc. and I don't know the specific problems but you could contact Charlotte Sandvik for an explanation and I am sure there would be a good reason for the request to have the waiting period.

4. I am not sure what is meant by paper size and I think we should let it go this time around.

5. Don't mess with.

6. Yes

7. I would say leave alone for now.

8. The Treasurer has charge of marriage licenses in Cass County.

Deanna Kensrud
Cass County Recorder

-----Original Message-----

From: Sheila Dalen [mailto:sdalen@state.nd.us]
Sent: Monday, July 01, 2002 12:16 PM
To: recorders@ndaco.org
Subject: Legislative Issues

I have to tell you I have waited a week and there are still 22 recorders who did not answer my call for legislative info. I am hoping the messages are getting out to you and you are choosing not to respond. Remember though if you want to be heard, you need to respond.

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We were told at convention by the States Attorney that as long as it was done in a good faith effort, he did not see that we would be held liable. Also not all of us are signing any kind of certification, some counties just use worksheets that are not even signed.

Please let me know if you feel we need to do anything about changing the language in this century code.

07/08/2002

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Deanna Kensrud
Operator's Signature

07/17/03
Date

Sheila Dalen

From: "Ginger Dangerud" <gdangeru@pioneer.state.nd.us>
To: "Sheila Dalen" <sdalen@state.nd.us>
Sent: Wednesday, July 03, 2002 10:39 AM
Subject: Legislative Issues
Hi Sheila,

Sorry I took so long. Sometimes my E-mails get shoved down on the priority list when they shouldn't.

1. 57-28-04. I would agree with Karl on this one. We are certifying to the auditor those "who appear to be interested as owners..." I have a slight problem when we're "certifying" as that to me runs close to giving a title opinion, which we are not qualified to do.

2. Corner recordations are just that, recordations, which require a fee. I don't think these should be exempted and the \$10.00 fee should remain.

3. Unless Cass County has a specific reason for a waiting period, I see no reason for it.

4. I don't see any reason to complicate things further. Don't mess with it.

5. Ditto #4.

6. 11-18-09 and 11-18-10. Remove "Immediately".

7. Yes.

8. Adams County is issuing marriage licenses as County Recorder/Ex Officio Clerk of Court.

a. I would approve of a slight increase to \$39.00 for marriage licenses, and suggest \$10.00 to the county instead of \$6.00, with the \$29.00 continuing to the State.

b. Seems that removing the social security number would solve our problems, unless someone is using it for something that we are unaware of. Who proposed the legislation when they added social security numbers and what was their reason? If socials are needed, I think we need to add wordage that those from out of the country can use a social security number equivalent or some identifying number.

c. I think the law is pretty clear on who we can issue licenses to. 1. "Either of the contracting parties reside or is temporarily domiciled"; 2. A parent of either of the parties resides or is temporary domiciled" or 3. The county in which the marriage is to be solemnized.

In my opinion the temporary domiciled thing should not be a catch-all for everybody else. Maybe the word "temporary" is what needs to be strictly defined as that seems to be what is open to interpretation. I don't consider temporary domicile those traveling through town and staying the night, though some states attorneys disagree and they are the legal word. I consider temporary domicile as those temporarily working and living in the county.

I did E-mail Karen on this and what Jim Ganje's opinion was when it was strictly with the Clerk of Courts. He said "In other words, the parties cannot obtain a license in County A (to take to County B) if neither of them lives in County A and neither of their parents lives in County A..." I understand, and he is the first to point out, he is not the legal advisor for the Recorders, but on this one, I agree with him.

Thanks for all your work on this committee. To me it is the toughest committee and you do an outstanding job.

Ginger

07/08/2002

Deanna Hall
Operator's Signature

01/17/03
Date

Shella Dalen

From: "Alice Grove" <agrove@state.nd.us>
To: "Shella Dalen" <sdalen@state.nd.us>
Cc: "County Recorders" <Recorders@NDACO.org>
Sent: Wednesday, July 03, 2002 5:20 PM
Subject: Re: Legislative Issues

Here is Kidder County's response:

1--Our county **was sued** because we failed to list one individual heir's interest in a piece of property. And, on the advice of our States Attorney, the county paid out a settlement. So, yes, I think that we can be held liable. Yes, we do sign and certify our report to the County Auditor.

2--I think that this filing fee is fair and defensible and that we should fight to keep it in place.

3--I don't know the reasoning on this and would say "let it fall wherever".

4--Do not mess with it.

5--Do not mess with it. It's already caused quite a bit of fuss and confusion.

6--Yes

7--No. I would think "records" could be interpreted to cover whatever medium.

8--We issue licenses. I agree with the response from another county that said, if an effort is made, it should be combined with the other agencies that are involved.

SS#'s: from our county's standpoint, it hasn't been a problem, so I would say "no". However, maybe there is the larger issue of the confidentiality of SS #'s.

I think that it should be clearly stated that "there is no residency requirement to obtain a license, if the parties intend to marry in the State of ND". (This issue has been discussed over and over again. Why can't the law be clear on it??)

Sorry, Shella, for the delay.

Alice

----- Original Message -----

From: Shella Dalen
To: recorders@ndaco.org
Sent: Monday, July 01, 2002 2:16 PM
Subject: Legislative Issues

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07/08/2002

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Deanne Hall
Operator's Signature

10/17/03
Date

Sheila Dalen

From: "Linda Estes" <lestes@state.nd.us>
To: "Recorders@Ndaco. Org" <recorders@ndaco.org>
Sent: Thursday, July 04, 2002 11:48 AM
Subject: RE: Legislative Issues

-----Original Message-----

From: Linda Estes [mailto:lestes@state.nd.us]
Sent: Thursday, July 04, 2002 11:09 AM
To: recorders@ndaco.com
Subject: Legislative Issues

Sheila and Recorders,

Pierce County's point of view:

1. 5/7-08-04: After discussing this with the Auditor, she is going to reword our certification and it will read: "Pursuant to the aforesaid request I, Linda K Estes, Recorder of Pierce County, hereby certify that the following appears to be a complete list of the interests of record and on file in this office." The Auditor will make the changes today. I agree this can be handled in house. She will also make the changes for the Clerks certification.
2. We have never had a problem collecting this fee. I would like to see us retain this fee. I will go along with the majority of this.
3. Pierce County Clerk handles marriage licenses.
4. I do not think we should rness with paper size.
5. We have too many regulations now with our recordings. For now, leave ~~well~~ enough alone.
6. Yes
7. I agree with Ann, I think the wording is okay. Leave it alone.
8. Pierce County Clerk handles marriage licenses.

Linda "Will have the day off the 5th of July"
Pierce County Recorder.

07/08/2002

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Deanne Hall
Operator's Signature

10/17/03
Date

Sheila Dalen

From: "Pamela Tamayo Stenehjem" <pstenehj@state.nd.us>
To: "Sheila Dalen" <sdalen@state.nd.us>
Cc: "All Recorders/Grp-LOC" <loccrec@state.nd.us>
Sent: Monday, July 08, 2002 12:46 PM
Subject: Response to Sheila's Legislative issues

Sheila,

I was out of the office last week and just read this email today.

1. NDCC 57-28-04: Dunn county inserts after the "*I hereby certify, to the best of staff's ability,*"

Also, the staff person that does the search/completes the form also is the one who "signs" and "dates" the form on the date each respective form is completed. We do not "sign" *en masse* nor "date" *en masse*.

2. Monument filing fee: There **should be a filing fee** for monuments as there is labor involved. Especially so, when a stack of 10; 15; 20 are presented at one time-as is often the case in Dunn County.

3. Waiting period for marriage licenses: **let it fall wherever.**

4. **Leave alone:** NDCC 11-18-05 [1.][a.][1] which is on the recording fee schedule, already limits maximum size of paper presented for recording:

"Page" means one side of a single legal size sheet of paper not exceeding eight and one-half inches (21.59 centimeters) in width and fourteen inches (35.56 centimeters) in length."

Never had a problem recording anything less in size.

5. 1-inch margin: **Leave well enough alone.**
Law is specific and easy to follow if you use the template.

Added note: the term "margin" as described in the dictionary would no longer be a "margin" if you are talking in terms of "length". Instead, it would be a "space" and we already have the 4" x 3 1/2 " statutory space requirement.

6. **Leave alone.** I would guess the reason statute 11-18-09 uses the word "immediately" was purposeful in the fact that ND is a "race notice" state and the word "immediately" reinforces such purpose of this statute as indicated by the title:

11-18-09 DOCUMENT TO BE NUMBERED-PRIORITY IN FILING.

and those document numbers are to be affixed in the order in which such instruments *actually come to the recorder's hand on opening ...*

Without the use of the term "immediately", the importance of affixing those document numbers and the fact that they are "prima facie evidence" (in a court of law) of the priority of filing, is diminished.

7. NDCC 47-19-10. **Leave alone.**

8. Marriage Licenses NDCC 14-03-10:

- **\$6.00 filing fee (county keeps) should be raised.**
My office issues licenses on the clerk of court side.

07/08/2002

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Deanna Hall
Operator's Signature

07/17/03
Date

Sheila Dalen

From: "Donna Adams" <dadams@state.nd.us>
To: "Sheila Dalen" <sdalen@state.nd.us>
Sent: Monday, July 08, 2002 1:07 PM
Subject: Legislative Issues

1. Billings county just gets a form from the Auditor's office that we fill out, this is not a problem in this county.
2. I believe the surveyors should be charged a recordation fee for the monument records. They are time consuming and we have to buy the materials etc. and also there's a recording fee on everything else. I think we should make sure that they continue paying a fee.
3. I think that we should not be concerned with a waiting period on marriages, it would be a burden for some that are getting married in a different County to have to make (2) trips etc. We get alot of people that are on vacation and are staying in Medora and decide to get married. This would not happen if there was a waiting period.
4. I don't think we should make any more confusion in our office with the public as far as demanding a paper size. They're having enough problems with the 1" margin.
5. I agree with Ann, do not mess any more with the 1" margin.
6. Yes
7. I don't think there is a need to change this
8. Yes, I believe the county should receive a bigger percentage, because we are doing the work, providing the service and materials.
Billings County Clerk of Court handles the marriages
I think we should leave the SSN's required.

Sorry I didn't get back to you sooner Sheila, I was on vacation last week. Take care
Donna Adams



07/08/2002

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Donna Adams
Operator's Signature

10/17/03
Date

Sheila Dalen

From: "Carol Beckert" <cbeckert@state.nd.us>
To: "Sheila Dalen" <sdalen@state.nd.us>
Sent: Monday, July 08, 2002 10:15 AM
Subject: Re: Legislative Issues
Sorry I'm late...

1. No. We can change the wording if we feel the need.
2. Let it fall where it may.
3. Let it fall where it may.
4. Do not mess with it.
5. Leave well enough alone.
6. Yes
7. No. Other Media should suffice.
8. a. Yes (\$6 is nothing). Our office issues licenses.
b. No. We haven't had a problem.
c. No. I would think we could clear this up without legislation.

Bye..... Carol @ Stark

----- Original Message -----

From: Sheila Dalen
To: recorders@ndaco.org
Sent: Monday, July 01, 2002 2:16 PM
Subject: Legislative Issues

I have to tell you I have waited a week and there are still 22 recorders who did not answer my call for legislative info. I am hoping the messages are getting out to you and you are choosing not to respond. Remember though if you want to be heard, you need to respond.

At this point I will try and put down for those of you that care, the issues some have brought forward and where we are at with them. Please take a look at the Century Codes I have listed and let me know your thoughts.

1. NDCC 57-28-04 Code States we are certifying this information to the auditors. The question has been brought forth asking if we can be held liable for missing something?
We were told at convention by the States Attorney that as long as it was done in a good faith effort, he did not see that we would be held liable. Also not all of us are signing any kind of certification, some counties just use worksheets that are not even signed.
Please let me know if you feel we need to do anything about changing the language in this century code.
2. The surveyors may be bringing a bill this session to eliminate the recording fees on corner monuments.
Do you want the association to provide testimony in favor of this bill, provide testimony to oppose the bill, or just let it fall where it may?
3. Cass County may bring a bill this session asking for a waiting period for marriage licenses.
Do you want the association to provide testimony in favor of this bill, provide testimony to oppose the

07/08/2002

Deanne Bell
Operator's Signature

07/17/03
Date

Sheila Dalen

From: "Doris E. Randle" <drandle@state.nd.us>
To: <sdalen@state.nd.us>
Sent: Tuesday, July 09, 2002 9:05 AM
Subject: Legislative issues

Hi Sheila,

Sorry I am so slow. Funerals, Anniversaries, class reunions and doctor appointments for my husband keeps me kind of busy. I think my answers are pretty much the same as some of the others..

1. I have had some issues with the delquent tax form. We do sign and seal that it is a correct statement. I think this can be taken care of in our own county,

2, I vote to keep the corner marker fee. and I think they documents need to be recorded.

3. don't do marriage licenses.

4. Making these document requirements is just a nightmare. Leave it alone.

5. This is the same as 4. No

6. YES

7. I hope a record is a record. I think there is a code that we are responsible for a record. I hope our judgment would be sufficient to have a "RECORD"

8. Again, I don't have licenses and I am not up on these issues.

I sure appreciate the committee that works on these issues and you hawking the issue. It, to me is a confusing issue.
Thanks a lot. Doris Randle



07/10/2002

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Dorcas Nell
Operator's Signature

10/17/03
Date

Sheila Dalen

From: "Vicki Kubat" <vkubat@state.nd.us>
To: "Sheila Dalen" <sdalen@state.nd.us>
Sent: Thursday, July 11, 2002 8:22 AM
Subject: RE: Legislative Issues

Good Afternoon Sheila,

As to the responses to the questions below here goes:

1. I do not sign anything and I talked to my Auditor and he didn't think it was a problem. So we will take care of this in house.
2. I think that we should keep the fee in place.
3. The Clerk of Court does the marriages in our county. (I don't think it is a problem here)
4. I say leave as is but it will probably be coming in the future. (Isn't it already being talked about to standardize the size with all states??)
5. Leave as it is.....
6. Are some counties having a problem on this????? Whatever the majority want is OK with me.
7. Leave as is....
8. Clerk of Court takes care of this also.

Was great seeing you yesterday. If you ever want me to do anything on the NDRIN advertising area just let me know. Wish I was a little closer to Bismarck and I would also attend the other conventions. Have a great evening. Vicki

-----Original Message-----

From: Sheila Dalen [mailto:sdalen@state.nd.us]
Sent: Monday, July 01, 2002 2:16 PM
To: recorders@ndaco.org
Subject: Legislative Issues

I have to tell you I have waited a week and there are still 22 recorders who did not answer my call for legislative info. I am hoping the messages are getting out to you and you are choosing not to respond. Remember though if you want to be heard, you need to respond.

At this point I will try and put down for those of you that care, the issues some have brought forward and where we are at with them. Please take a look at the Century Codes I have listed and let me know your thoughts.

1. NDCC 57-28-04 Code States we are certifying this information to the auditors. The question has been brought forth asking if we can be held liable for missing something?

We were told at convention by the States Attorney that as long as it was done in a good faith effort, he did not see that we would be held liable. Also not all of us are signing any kind of certification, some counties just use worksheets that are not even signed.

Please let me know if you feel we need to do anything about changing the language in this century code.

2. The surveyors may be bringing a bill this session to eliminate the recording fees on corner monuments.

Do you want the association to provide testimony in favor of this bill, provide testimony to oppose the bill, or just let it fall where it may?

3. Cass County may bring a bill this session asking for a waiting period for marriage licenses.

07/11/2002

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Sheila Dalen
Operator's Signature

10/17/03
Date

Sheila Dalen

From: "Marlene Gunderson" <mgunders@pioneer.state.nd.us>
To: "Sheila Dalen" <sdalen@state.nd.us>
Sent: Friday, July 12, 2002 3:41 PM
Subject: Legislative Issues.
Sheila,

Sorry that I have taken so long to answer, but I have been busy since the convention. I am just now getting a chance to answer some of my e-mail.

You asked several questions that you wanted our responses. Here is my response.

1. I would like to see that we have something in the law to protect us if we should overlook a mortgage or a lien or something vital. We always try our best, but sometimes it happens that something is overlooked.
2. I would like to see that the fees for recording Corner Marker Recordations stays intact. Why should we have to file the recordations and not get anything for it?
3. The marriage licenses are not my responsibility. They were kept in the Clerk of Court's office.
4. The law already limits the size of the document to 8 1/2 x 14 inches.
5. Leave it alone. I am afraid that the more that it is changed, the more complicated it will become for some.
6. Leave it alone.
7. I don't care.
8. Again, I don't have anything to do with the marriage licenses.

Hope that this answers your questions.

Marlene
Mountrail County



07/12/2002

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Operator's Signature

01/17/03
Date

Sheila Dalen

From: "Pam Kuk" <pkuk@state.nd.us>
To: "Sheila Dalen" <sdalen@state.nd.us>
Sent: Friday, July 12, 2002 2:09 PM
Subject: Re: Legislative Response Deadline

Sheila, I'm sorry this is so late but after the convention I was on vacation for 2 weeks and am just trying to get caught up w/everything. My response to your questions is:

1. We can handle internally
2. I think we should stand up for keeping fee. The code says "A surveyor SHALL complete, etc, and file w/the recorder of the county.....for EVERY public land survey corner which is established...." And we do have work involved with these so they should do it (I've heard some don't) and they should pay the fee.
3. COC does our marriage licenses
4. leave alone - this is covered well enough
5. leave well enough alone
6. only if anyone feels that if we didn't do it EXACTLY immediately that someone could sue us or the county. And the States Attorney that spoke at the convention and the summary we got from the "Law & Liability" class we went to in Minot both tell us that if we are acting with due care and conscientiously, we shouldn't have to worry. The only time I've been a little concerned is when an attorney asks me to hold a deed until the next day so they can get the taxes paid and I can record it. They are told tho that its only UNTIL THE NEXT DAY!! And it doesn't happen very often. The previous ROD did hold mineral documents until more money came for recording fee-and I do this once in a great while also, but most of the time I either send them back or go ahead and record & bill them.
7. I don't think this is so important to do because it is covered in 11-18-01.1
8. COC does marriage licenses

Well, that's my feelings. And again, I'm sorry its so late. Pam, McHenry

----- Original Message -----

From: Sheila Dalen
To: recorders@ndaco.org
Sent: Friday, July 12, 2002 10:10 AM
Subject: Legislative Response Deadline

Hate to bother everyone again, but want to send a gentle reminder that if you would like to weigh in on the Legislative Items I sent out to you all on July 1st, now is the time. I need to get your responses to our board and let them decide what our association wants to see happen this legislative session. So please **today** take time to respond if you have any input, I will be tallying up the results come Monday.

Thanks to the 24 of you that have voiced your opinions, with your input our Association will only be stronger. It would be nice to hear from the rest of you on these issues as well. Have a great weekend everyone.
 Sheila

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Deanne Hall
 Operator's Signature

01/17/03
 Date

Sheila Dalen

From: "Karen Samek" <ksamek@pioneer.state.nd.us>
To: "Sheila Dalen" <sdalen@state.nd.us>
Sent: Friday, July 12, 2002 2:09 PM
Subject: Legislative Issues
Hi Sheila,

I apologize for being late with this.

1. This will be handled in house here. No reason for legislation.
2. Monument fees - Our surveyor wants the fees removed completely because he says, they (the surveyor) must pay for the filling of these not the property owner. He states it's for the benefit of many and therefore wants the fees removed. He said the owners would never agree to pay a fee for monument pins. I'm not sure if they will address this during this legislative session. Have you heard if they are contemplating this?
3. I do the marriage licenses here and the people coming in for licenses like the idea of no waiting period. So it doesn't make any difference to me. My daughter just got married in MN and there was a waiting period and she didn't like it at all. What are the reasons for the waiting period? Perhaps there are good reasons, but I just don't see them.
4. I think we should just leave the paper size alone. I know Max has mentioned standardizing the paper size at different meetings. I think it would cause more confusion. So many are still confused about the one inch margin and one more thing might be difficult for them to digest.
5. Leave it alone.
6. Yes ✓
7. Leave it alone.
8. I do think there should more Associations than just ours trying to increase our fees. It would be nice to get more of the monies for our counties. It doesn't make sense to me why it should have ever been divided at such an uneven amount \$29.00 & \$6.00. We are not getting much \$\$ for our time etc. If we can eliminate the SSN, go for it. I suppose there are pros and cons for the good of it. I feel very strongly we DO NEED TO GET THE LAW CLEARED UP REGARDING THE PURCHASE OF A LICENSE AND WHERE YOU CAN & CAN'T GET MARRIED. There are too many doing it one way or the other. This really needs to be clarified for all RECORDERS/C OF C or which ever other office is issuing them. I know Jim Gange told the C of C one thing and we've been told another. I had an email from one of the Recorders/C of C & she said she is following Jim's opinion which is different from what we've been told.
Sheila, I think your office & mine are on the same wave length regarding these marriage license issues.

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Operator's Signature

07/17/03
Date

Sheila Dalen

From: "Susan Froemke" <sfroemke@pioneer.state.nd.us>
To: "Sheila Dalen" <sdalen@state.nd.us>
Sent: Friday, July 12, 2002 11:42 AM
Subject: Re: Legislative Response Deadline
Hi, Sheila

I was just working on my response when you e-mailed your reminder. Sorry for the delay, as I just returned from vacation.

1. We will try and change wording in-house also.
2. I would like to try and keep this \$10.00 fee. I know some of the surveyors are unhappy about the increase.
3. Ransom County Clerk handles marriage licenses.
4. I say don't mess with it. Some businesses have adjusted their forms to 8 1/2" x 14" to accommodate the 1" margin.
5. Leave alone---1" margin confusing enough for everyone.
6. Yes
7. I think 11-18-01 "proper books or other storage media" covers it.
8. Clerk handles this

Again, I apologize for the delay. ✓

Have a great weekend.

Susan

----- Original Message -----

From: Sheila Dalen
To: recorders@ndaco.org
Sent: Friday, July 12, 2002 10:10 AM
Subject: Legislative Response Deadline

Hate to bother everyone again, but want to send a gentle reminder that if you would like to weigh in on the Legislative Items I sent out to you all on July 1st, now is the time. I need to get your responses to our board and let them decide what our association wants to see happen this legislative session. So please **today** take time to respond if you have any input, I will be tallying up the results come Monday. Thanks to the 24 of you that have voiced your opinions, with your input our Association will only be stronger. It would be nice to hear from the rest of you on these issues as well. Have a great weekend everyone.
Sheila

07/12/2002

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Operator's Signature

07/17/03
Date

Sheila Dalen

From: "Janice Steffen" <jsteffen@pioneer.state.nd.us>
To: "Sheila Dalen" <sdalen@state.nd.us>
Sent: Friday, July 12, 2002 11:20 AM
Subject: RE: Legislative Response Deadline
Hi Sheila,

Sorry is all I can say. Except we extremely busy w/both offices and short staffed again. But here goes.....

1. Doesn't apply - but when it does, it would be nice to have clarification
2. I would like us to retain the fees.
3. We do marriages on the Clerks side. No problems..... What is the logic of Cass County for changing?
4. Don't mess with.
5. Leave alone.
6. We do these thing immediately unless there is a problem w/statutory requirements. Have ROD's had big problems w?
7. Leave alone.
8. a. Leave fees alone unless we have more immediate costs added to counties.
b. I believe SS# regulation was added just a few years ago. What purpose was it added for? We haven't gotten many that require Canadian #'s. Barb recalled at one time we used a passport number for someone from another country.
c. Yes

Thanks for your hard work.....

Jan in Griggs



From: Sheila Dalen[SMTP:sdalen@state.nd.us]
Sent: Friday, July 12, 2002 10:10 AM
To: recorders@ndaco.org
Subject: Legislative Response Deadline

<<File: ATT00090.htm>>

Hate to bother everyone again, but want to send a gentle reminder that if you would like to weigh in on the Legislative items I sent out to you all on July 1st, now is the time. I need to get your responses to our board and let them decide what our association wants to see happen this legislative session. So please today take time to respond if you have

07/12/2002

Deanne Hall
Operator's Signature

10/17/03
Date

MASTER CONTRACT # 005-01770
ADDENDUM # 450-04455

ADDENDUM TO MASTER GRANT AGREEMENT

WHEREAS, on or about July 1, 1997, THE VILLAGE FAMILY SERVICE CENTER, herein referred to as "Grantee" and the State of North Dakota, acting through its North Dakota Department of Human Services, herein referred to as "Grantor" entered into a Master Grant Agreement, and

WHEREAS, now the State of North Dakota, acting through its North Dakota Department of Human Services, Children and Family Services Division, wishes to enter into an addendum to the agreement with The Village Family Service Center, and

WHEREAS, this addendum shall be subject to the terms of the Master Grant Agreement,

NOW, THEREFORE, the parties enter into the following:

ADDENDUM

1) TERM OF THE GRANT

The term of this addendum shall be from the 1st day of July 2001 through the 30th day of June 2002. However, this addendum may be terminated with or without cause upon thirty (30) days written notice by either party.

2) SCOPE OF SERVICE

Grantee agrees to utilize grant funds to operate the Adults Adopting Special Kids (AASK) program. The Grantee will provide adoption services for children being adopted from foster care and the families who are adopting them with specialists located in Bismarck, Fargo and Minot. The services will include recruitment, assessment, training, placement and post placement services, and post adoption services.

3) COMPENSATION

The Grantor, upon written request from the Grantee, agrees to reimburse the allowable expenses incurred, as defined by the OMB Circular cited under Section VII of the Master Grant Agreement, while performing the scope of service. The total amount of this grant addendum shall not exceed \$306,956. No funds will be advanced prior to services actually being provided. Request for reimbursement by the Grantee should be sent monthly to the Grantor. Final reimbursement requests shall be submitted to the Grantor no later than fifteen (15) days after the expiration of this addendum.

Payment for services under this addendum may include federal monies. The funding sources at the time of the addendum execution are listed below. The funding source of actual payments and the federal program can be verified by contacting the Grantor's Fiscal Administration Division.

Anticipated Funding:

Federal	\$	<u>177,008</u>	Other	\$	<u> </u>
State	\$	<u>129,948</u>	Unknown	\$	<u> </u>

-1-

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Operator's Signature

10/17/03
Date

Catalog of Federal Domestic Assistance Number, Department of Health and Human Services, 93.603 Adoption Incentive Payments and 93.659 Adoption Assistance.

4) CONFIDENTIAL INFORMATION

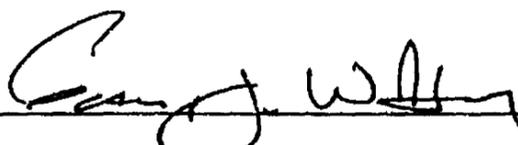
Grantee shall maintain all data furnished by Grantor as confidential information and shall not, unless otherwise required by law, disclose the source of such data to any person except with written consent of the Grantor. All data furnished by the Grantor shall remain in the custody of the Grantee or the Grantor during the term of this addendum. Grantee shall promptly notify the Grantor of any data which is required by law to be disclosed to any person.

5) DIRECT AND INDIRECT COSTS

The terms of this agreement provide for an indirect rate. This rate is limited to the rate approved for the time frame the direct expenditures were incurred. The Grantee may claim such direct and indirect costs provided they are consistent with Federal OMB Circular A-122 which is attached by reference and made a part of this addendum.

Dated this 1st day of July, 2001.

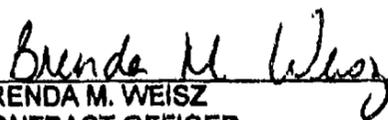
THE VILLAGE FAMILY SERVICE CENTER

By 
Its President/CEO
(TITLE)

STATE OF NORTH DAKOTA

NORTH DAKOTA DEPARTMENT OF HUMAN SERVICES

By 
CAROL K. OLSON
EXECUTIVE DIRECTOR

By 
BRENDA M. WEISZ
CONTRACT OFFICER

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01/17/03
Date

MASTER GRANT AGREEMENT

WHEREAS, the State of North Dakota acting through the North Dakota Department of Human Services herein referred to as "Grantor" and the ~~VILLAGE FAMILY SERVICE CENTER~~, PO Box 9859, Fargo, ND 58106-9859, herein referred to as "Grantee" agree that the following terms of this agreement govern any applicable scopes of service subsequently defined by amendment and signed by both parties;

NOW, THEREFORE, the Grantor and Grantee enter into the following:

A G R E E M E N T

I. EFFECTIVE DATE

The effective date of this agreement shall be July 1, 1997. Either party may terminate this agreement or any amendment hereto, with or without cause upon thirty (30) days notice by either party.

II. SCOPE OF SERVICE

Scope of service will be defined by a series of amendments with any other applicable terms including compensation and become a part of this agreement when signed by the parties and attached hereto.

III. GRANTEE'S UNDERSTANDING OF TERM OF FUNDING

The Grantee understands that this agreement is a one-time grant, and acknowledges that it has been furnished no assurances that this agreement may be extended for periods beyond the termination date of this agreement or applicable amendment.

IV. GRANTEE ASSURANCES

The Grantee agrees to comply with the applicable assurances set forth on Attachment "A" attached hereto.

V. AUTHORITY TO CONTRACT

The Grantee shall not have the authority to contract for or on behalf of or incur obligations on behalf of the Grantor. However, the Grantee may subcontract with qualified providers of services, provided that any such subcontract shall acknowledge the binding nature of this agreement, and incorporate this agreement, together with its attachments as appropriate. The Grantee agrees to be solely responsible for the performance of any subcontractor.

VI. INDEPENDENT ENTITY

The Grantee shall perform as an independent entity under this agreement. The Grantee, its employees, agents or representatives are not employees of the Grantor for all purposes, including but not limited to, the application of the Social Security Act, the Fair Labor Standards Act, the Federal Insurance Contribution Act,

the Federal Unemployment Act, the North Dakota Unemployment Compensation Law and the North Dakota Workers' Compensation Act. No part of this agreement shall be construed to represent the creation of an employer/employee relationship. The Grantee will retain sole and absolute discretion in the judgment of the manner and means of carrying out the Grantee's activities and responsibilities under this agreement.

VII. AUDIT RESPONSIBILITY AND EXPENSE ALLOWABILITY

The Grantee agrees to keep such financial records as are necessary to fully disclose the complete financial status of the Agreement. These records shall be made available for review by the Grantor, or its agents upon request at any time during normal business hours. Further, it is agreed that if the Grantee has expended federal funds (when considering all sources) during the Grantee's fiscal year at the amount specified in OMB Circular A-133, *Audits of State, Local Governments and Non-profit Organizations*, then such Circular shall be followed pursuant to the Single Audit Act of 1984, Public Law 98-502 and the Single Audit Act Amendments of 1996, Public Law 104-156. The Circular can be obtained from the Audit Resolution Unit of the Department of Human Services upon request and, by reference, is made a part of this agreement. The Grantee agrees to file a copy of the "Reporting Package" as described by the referenced Circular with the Grantor's Audit Resolution Unit within the time frame identified in OMB Circular A-133. Further, the Grantee agrees to submit a contract closure report to the Grantor's Audit Resolution Unit within ninety (90) days after the end date of each amendment.

Additionally, the Grantee agrees to spend all federal assistance received from the Grantor in accordance with applicable laws and regulations such as, but not limited to, OMB Circular A-110, *Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals and Other Nonprofit Organizations*; OMB Circular A-122, *Cost Principles for Nonprofit Organizations*; or OMB Circular A-21, *Cost Principles for Educational Institutions*, whichever is applicable.

VIII. RETENTION OF RECORDS

The Grantee agrees to retain financial records for each amendment for a period of three years from the date of submission of the final expenditure report or if subject to audit, until such audit is completed and closed, whichever occurs later. The Grantor, the federal government, and their duly authorized representatives shall have access to the books, documents, papers and records of the Grantee which are pertinent to the services provided under this agreement. Program records for each amendment shall be maintained for a period of six years or until an audit is completed and closed, whichever occurs later.

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Deanna Hall
Operator's signature

10/17/03
Date

IX. TERMINATION OF AGREEMENT FOR CAUSE

If through any cause Grantee shall fail to fulfill in a timely and proper manner its obligations under this agreement or any amendment(s) hereto, or shall violate any of the terms of this agreement or any amendment(s), the Grantor shall thereupon have the right to terminate this agreement or any amendment(s) thereto immediately by giving written notice to Grantee of such termination and specifying the effective date thereof. Notwithstanding a termination pursuant to this paragraph, Grantee shall not be relieved of liability to the Grantor for damages sustained by the Grantor by virtue of any breach of the agreement and amendments by Grantee, and the Grantor may withhold any payment, otherwise due to Grantee, for the purposes of set off until such time as the exact amount of damages due is determined.

X. TERMINATION OF AGREEMENT FOR INADEQUACY OF FUNDS

It is agreed that in the event appropriations to the Department of Human Services are not obtained and continued at a level sufficient to allow for payments to the Grantee, for the services identified in the scope of service section of this agreement including any amendments, the obligations of each party under each amendment may be terminated, at the option of the Grantor, provided that any such termination shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

XI. CONTINGENT LIABILITY

During the term of each amendment, and for three years thereafter, the Grantee agrees to reimburse the Grantor for any claims, submitted by the Grantor for federal financial participation in the cost of the amendment, which are disallowed by any federal agency for a failure, on the part of the Grantee, to comply with the terms and conditions of this agreement, the applicable provisions of any federal or state statutory or regulatory provision which govern the source of funding. The Grantor agrees to give the Grantee prompt written notice of any disallowance of claims subject to reimbursement by the Grantee. Any amount disallowed in the manner and for the reasons described shall be considered a debt owing to the Grantor and action may be brought by the Grantor thereon in any manner prescribed by law.

XII. INDEMNITY

Grantee agrees to indemnify, save and hold harmless the state of North Dakota, its agencies, officers and employees (State), from any and all claims of any nature, including all costs, expenses, and attorneys' fees, which may in any manner arise out of or result from this agreement, except claims resulting from or arising out of the State's sole negligence. Grantee also agrees to indemnify, save and hold the State harmless for all costs, expenses, and attorneys' fees incurred in establishing and litigating the indemnification coverage provided herein.

XIII. INSURANCE

Grantee shall secure and keep in force during the term of this agreement, from insurance companies authorized to do business in North Dakota: 1) commercial general liability; 2) automobile liability; and 3) workers' compensation insurance all covering the Grantee for any and all claims of any nature which may in any manner arise out of or result from this agreement. If professional services are or become required under this agreement, including subsequent amendments, Grantee shall also secure and maintain during the term of this agreement and for at least three years thereafter, professional liability insurance covering its liability for acts, errors or omissions in providing or failing to provide the required professional services. The minimum limits of liability required are \$250,000 per person and \$1,000,000 per occurrence for commercial general liability and automobile liability coverages, and statutory limits for workers' compensation. The minimum limits of liability required are \$1,000,000 per claim and \$2,000,000 aggregate for professional liability coverage.

The state of North Dakota and its agencies, officers, and employees (State) shall be endorsed on the commercial general liability policy as additional insureds. Grantee shall furnish a certificate of insurance and a copy of the additional insured endorsement to the undersigned State representative prior to commencement of this agreement. The additional-insured endorsement shall contain provisions that the policy and/or endorsement may not be canceled without thirty (30) days prior written notice to the undersigned State representative, and that any attorney who represents the State under this policy must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required by N.D.C.C. § 54-12-08.

Grantee's insurance coverage shall be primary as respects any insurance, self-insurance or self-retention maintained by the State. Any insurance, self-insurance or self-retention maintained by the State shall be excess of the Grantee's insurance and shall not contribute with it.

Any deductible amount or other obligations under the policy(ies) shall be the sole responsibility of the Grantee.

This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and must be placed with insurers rated "A" or better by A.M. Best Company, Inc.

The State will be indemnified, saved and held harmless to the full extent of any coverage actually secured by the Grantee in excess of the minimum requirements set forth above.

XIV. NOTICE

Any notice or notices required or permitted to be given pursuant to this agreement may be personally served on either party by the

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Deanna Hall
Operator's Signature

01/17/03
Date

party giving such notice, or may be served by certified mail, return receipt requested, addressed to the executive office of the party upon whom service is made.

XV. INTEGRATION AND MODIFICATION

This contract constitutes the entire agreement between the Grantee and the Grantor. No alteration, amendment or modification in the provisions of this agreement shall be effective unless it is reduced to writing, signed by the parties and attached hereto.

XVI. COLLATERAL CONTRACTS

Where there exists any inconsistency between this agreement and other provisions of collateral contractual agreements which are made a part of this agreement by reference or otherwise, the provisions of this agreement shall control.

XVII. APPLICABLE LAW

This agreement shall be governed by and construed in accordance with the laws of the State of North Dakota.

XVIII. OWNERSHIP OF WORK PRODUCT

All work products of the Grantee which result from this agreement are the exclusive property of the Grantor.

VILLAGE FAMILY SERVICE CENTER

By [Signature] 2/10/98
DATE

Its [Signature]
(TITLE)

45-0226423
Grantee's Federal Identification Number

STATE OF NORTH DAKOTA

NORTH DAKOTA DEPARTMENT OF HUMAN SERVICES

By [Signature] 2/10/98
EXECUTIVE DIRECTOR DATE

By [Signature] 2/10/98
DENA E KAUTZMANN DATE
CONTRACT OFFICER

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[Signature] 01/17/03
Operator's Signature Date

ATTACHMENT 'A'

GRANTEE ASSURANCES

- A. This agreement shall be construed according to the laws of the State of North Dakota. In connection with the furnishing of supplies or performance of work under this agreement, persons who contract with or receive funds to provide services to the North Dakota Department of Human Services are obligated and agree to comply with all local, state and federal laws, regulations and executive orders related to the performance of this agreement including but not limited to the following: Fair Labor Standards Act, Equal Pay Act of 1963, Titles VI and VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, the Age Discrimination in Employment Act of 1967, the Americans with Disabilities Act of 1990, and the North Dakota Human Rights Act as amended, codified in Chapter 14-02.4 of the North Dakota Century Code, the Drug Abuse Office and Treatment Act of 1972 as amended, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, Sections 523, 527 and 1946 of the Public Health Service Act of 1912, as amended, Public Law 103-227 Part C of the Environmental Tobacco Smoke, also known as the Pro-children Act of 1994, and the Drug-free Workplace Act of 1988. Questions regarding the provision of services according to these Acts may be directed to DeNae Kautzmann, Contract Officer, North Dakota Department of Human Services, Judicial Wing, State Capitol, 600 E. Boulevard, Bismarck, ND 58505 (701-328-2341 or 701-328-3975 TDD).
- B. The Grantee will not, except upon the written consent of the affected individual or their responsible parent, guardian or custodian, use or cause to be used any information concerning such individual for any purpose not directly connected with the Grantor's or the Grantee's responsibilities with respect to services purchased hereunder.
- C. Unless otherwise authorized by federal law, the charges to be made by the Grantee do not include costs financed by federal monies other than those generated by this agreement.
- D. The Grantee shall not assign this agreement.
- E. The Grantee certifies by signing this agreement that neither the Grantee, Subgrantee, nor their principals, are presently debarred, declared ineligible or voluntarily excluded from participation in transactions with the State or Federal Government by any Department or Agency of the Federal Government. This part of the Grantee assurances is in accordance with Executive Order 12549 and Part 76 of 45 CFR.
- F. The Grantee assures that:
- 1) No Federal funds from this grant will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
 - 2) If any grant funds other than Federal funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - 3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

All contracts had this page checked

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Deanna Hall
Operator's Signature

10/17/03
Date

ADDENDUM TO MASTER GRANT AGREEMENT

WHEREAS, on or about July 1, 1997, LUTHERAN SOCIAL SERVICES OF NORTH DAKOTA, herein referred to as "Grantee" and the State of North Dakota, acting through its North Dakota Department of Human Services, herein referred to as "Grantor" entered into a Master Grant Agreement, and

WHEREAS, now the State of North Dakota, acting through its North Dakota Department of Human Services, Children and Family Services Division, wishes to enter into an addendum to the agreement with Lutheran Social Services, and

WHEREAS, this addendum shall be subject to the terms of the Master Grant Agreement,

NOW, THEREFORE, the parties enter into the following:

ADDENDUM

1) TERM OF THE GRANT

The term of this addendum shall be from the 1st day of July 2001 through the 30th day of June 2002. However, this addendum may be terminated with or without cause upon thirty (30) days written notice by either party.

2) SCOPE OF SERVICE

The Grantee agrees to utilize grant funds to operate the Adults Adopting Special Kids (AASK) program. The Grantee will provide adoption services for children being adopted from foster care and the families who are adopting them with specialists located in Fargo and Grand Forks. The services will include recruitment, assessment, training, placement and post placement services, and post adoption services.

Additionally, the Grantee will serve as the coordinating agency for the AASK therefore this agreement provides for common expenses across the state collaborating agencies which are not included in the individual agency budgets. These services provide for coordination activities of the program across the state.

3) COMPENSATION

The Grantor, upon written request from the Grantee, agrees to reimburse the allowable expenses incurred, as defined by the OMB Circular cited under Section VII of the Master Grant Agreement, while performing the scope of service. The total amount of this grant addendum shall not exceed \$422,285. No funds will be advanced prior to services actually being provided. Request for reimbursement by the Grantee should be sent monthly to the Grantor. **Final reimbursement requests shall be submitted to the Grantor no later than fifteen (15) days after the expiration of this addendum.**

Payment for services under this addendum may include federal monies. The funding sources at the time of the addendum execution are listed below. The funding source of actual payments and the federal program can be verified by contacting the Grantor's Fiscal Administration Division.

Anticipated Funding:

Federal	\$	219,921	Other	\$	_____
State	\$	202,364	Unknown	\$	_____

Catalog of Federal Domestic Assistance Number, Department of Health and Human Services, 93.603 Adoption Incentive Payments and 93.659 Adoption Assistance.

4) CONFIDENTIAL INFORMATION

Grantee shall maintain all data furnished by Grantor as confidential information and shall not, unless otherwise required by law, disclose the source of such data to any person except with written consent of the Grantor. All data furnished by the Grantor shall remain in the custody of the Grantee or the Grantor during the term of this addendum. Grantee shall promptly notify the Grantor of any data which is required by law to be disclosed to any person.

5) DIRECT AND INDIRECT COSTS

The terms of this addendum provide for an indirect rate. This rate is limited to the rate approved for the time frame the direct expenditures were incurred. The Grantee may claim such direct and indirect costs provided they are consistent with Federal OMB Circular A-122 which is attached by reference and made a part of this agreement.

Dated this 1st day of July, 2001.

LUTHERAN SOCIAL SERVICES OF NORTH DAKOTA

By Janelle Regusael
Its Interim CEO/President
(TITLE)

STATE OF NORTH DAKOTA

NORTH DAKOTA DEPARTMENT OF HUMAN SERVICES

By Carol K. Olson
CAROL K. OLSON
EXECUTIVE DIRECTOR

By Brenda M. Weisz
BRENDA M. WEISZ
CONTRACT OFFICER

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Deanne Hall 01/17/03
Operator's Signature Date

CONTRACT #005-01718

MASTER GRANT AGREEMENT

WHEREAS, the State of North Dakota acting through the North Dakota Department of Human Services herein referred to as "Grantor" and Lutheran Social Services of North Dakota, PO Box 389, Fargo, ND 58107-0389, herein referred to as "Grantee" agree that the following terms of this agreement govern any applicable scopes of service subsequently defined by amendment and signed by both parties;

NOW, THEREFORE, the Grantor and Grantee enter into the following:

A G R E E M E N T

I. EFFECTIVE DATE

The effective date of this agreement shall be July 1, 1997. Either party may terminate this agreement or any amendment hereto, with or without cause upon thirty (30) days notice by either party.

II. SCOPE OF SERVICE

Scope of service will be defined by a series of amendments with any other applicable terms including compensation and become a part of this agreement when signed by the parties and attached hereto.

III. GRANTEE'S UNDERSTANDING OF TERM OF FUNDING

The Grantee understands that this agreement is a one-time grant, and acknowledges that it has been furnished no assurances that this agreement may be extended for periods beyond the termination date of this agreement or applicable amendment.

IV. GRANTEE ASSURANCES

The Grantee agrees to comply with the applicable assurances set forth on Attachment "A" attached hereto.

V. AUTHORITY TO CONTRACT

The Grantee shall not have the authority to contract for or on behalf of or incur obligations on behalf of the Grantor. However, the Grantee may subcontract with qualified providers of services, provided that any such subcontract shall acknowledge the binding nature of this agreement, and incorporate this agreement, together with its attachments as appropriate. The Grantee agrees to be solely responsible for the performance of any subcontractor.

VI. INDEPENDENT ENTITY

The Grantee shall perform as an independent entity under this agreement. The Grantee, its employees, agents or representatives are not employees of the Grantor for all purposes, including but not limited to, the application of the Social Security Act, the Fair Labor Standards Act, the Federal Insurance Contribution Act,

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Deanna Hall
Operator's Signature

10/17/03
Date

the Federal Unemployment Act, the North Dakota Unemployment Compensation Law and the North Dakota Workers' Compensation Act. No part of this agreement shall be construed to represent the creation of an employer/employee relationship. The Grantee will retain sole and absolute discretion in the judgment of the manner and means of carrying out the Grantee's activities and responsibilities under this agreement.

VII. AUDIT RESPONSIBILITY AND EXPENSE ALLOWABILITY

The Grantee agrees to keep such financial records as are necessary to fully disclose the complete financial status of the Agreement. These records shall be made available for review by the Grantor, or its agents upon request at any time during normal business hours. Further, it is agreed that if the Grantee has expended federal funds (when considering all sources) during the Grantee's fiscal year at the amount specified in OMB Circular A-133, *Audits of State, Local Governments and Non-profit Organizations*, then such Circular shall be followed pursuant to the Single Audit Act of 1984, Public Law 98-502 and the Single Audit Act Amendments of 1996, Public Law 104-156. The Circular can be obtained from the Audit Resolution Unit of the Department of Human Services upon request and, by reference, is made a part of this agreement. The Grantee agrees to file a copy of the "Reporting Package" as described by the referenced Circular with the Grantor's Audit Resolution Unit within the time frame identified in OMB Circular A-133. Further, the Grantee agrees to submit a contract closure report to the Grantor's Audit Resolution Unit within ninety (90) days after the end date of each amendment.

Additionally, the Grantee agrees to spend all federal assistance received from the Grantor in accordance with applicable laws and regulations such as, but not limited to, OMB Circular A-110, *Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals and Other Nonprofit Organizations*; OMB Circular A-122, *Cost Principles for Nonprofit Organizations*; or OMB Circular A-21, *Cost Principles for Educational Institutions*, whichever is applicable.

VIII. RETENTION OF RECORDS

The Grantee agrees to retain financial records for each amendment for a period of three years from the date of submission of the final expenditure report or if subject to audit, until such audit is completed and closed, whichever occurs later. The Grantor, the federal government, and their duly authorized representatives shall have access to the books, documents, papers and records of the Grantee which are pertinent to the services provided under this agreement. Program records for each amendment shall be maintained for a period of six years or until an audit is completed and closed, whichever occurs later.

Deanna Hall
Operator's Signature

10/17/03
Date

IX. TERMINATION OF AGREEMENT FOR CAUSE

If through any cause Grantee shall fail to fulfill in a timely and proper manner its obligations under this agreement or any amendment(s) hereto, or shall violate any of the terms of this agreement or any amendment(s), the Grantor shall thereupon have the right to terminate this agreement or any amendment(s) thereto immediately by giving written notice to Grantee of such termination and specifying the effective date thereof. Notwithstanding a termination pursuant to this paragraph, Grantee shall not be relieved of liability to the Grantor for damages sustained by the Grantor by virtue of any breach of the agreement and amendments by Grantee, and the Grantor may withhold any payment, otherwise due to Grantee, for the purposes of set off until such time as the exact amount of damages due is determined.

X. TERMINATION OF AGREEMENT FOR INADEQUACY OF FUNDS

It is agreed that in the event appropriations to the Department of Human Services are not obtained and continued at a level sufficient to allow for payments to the Grantee, for the services identified in the scope of service section of this agreement including any amendments, the obligations of each party under each amendment may be terminated, at the option of the Grantor, provided that any such termination shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

XI. CONTINGENT LIABILITY

During the term of each amendment, and for three years thereafter, the Grantee agrees to reimburse the Grantor for any claims, submitted by the Grantor for federal financial participation in the cost of the amendment, which are disallowed by any federal agency for a failure, on the part of the Grantee, to comply with the terms and conditions of this agreement, the applicable provisions of any federal or state statutory or regulatory provision which govern the source of funding. The Grantor agrees to give the Grantee prompt written notice of any disallowance of claims subject to reimbursement by the Grantee. Any amount disallowed in the manner and for the reasons described shall be considered a debt owing to the Grantor and action may be brought by the Grantor thereon in any manner prescribed by law.

XII. INDEMNITY

Grantee agrees to indemnify, save and hold harmless the state of North Dakota, its agencies, officers and employees (State), from any and all claims of any nature, including all costs, expenses, and attorneys' fees, which may in any manner arise out of or result from this agreement, except claims resulting from or arising out of the State's sole negligence. Grantee also agrees to indemnify, save and hold the State harmless for all costs, expenses, and attorneys' fees incurred in establishing and litigating the indemnification coverage provided herein.

XIII. INSURANCE

Grantee shall secure and keep in force during the term of this agreement, from insurance companies authorized to do business in North Dakota: 1) commercial general liability; 2) automobile liability; and 3) workers' compensation insurance all covering the Grantee for any and all claims of any nature which may in any manner arise out of or result from this agreement. If professional services are or become required under this agreement, including subsequent amendments, Grantee shall also secure and maintain during the term of this agreement and for at least three years thereafter, professional liability insurance covering its liability for acts, errors or omissions in providing or failing to provide the required professional services. The minimum limits of liability required are \$250,000 per person and \$1,000,000 per occurrence for commercial general liability and automobile liability coverages, and statutory limits for workers' compensation. The minimum limits of liability required are \$1,000,000 per claim and \$2,000,000 aggregate for professional liability coverage.

The state of North Dakota and its agencies, officers, and employees (State) shall be endorsed on the commercial general liability policy as additional insureds. Grantee shall furnish a certificate of insurance and a copy of the additional insured endorsement to the undersigned State representative prior to commencement of this agreement. The additional-insured endorsement shall contain provisions that the policy and/or endorsement may not be canceled or modified without thirty (30) days prior written notice to the undersigned State representative, and that any attorney who represents the State under this policy must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required by N.D.C.C. § 54-12-08.

Grantee's insurance coverage shall be primary as respects any insurance, self-insurance or self-retention maintained by the State. Any insurance, self-insurance or self-retention maintained by the State shall be excess of the Grantee's insurance and shall not contribute with it.

Any deductible amount or other obligations under the policy(ies) shall be the sole responsibility of the Grantee.

This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and must be placed with insurers rated "A" or better by A.M. Best Company, Inc.

The State will be indemnified, saved and held harmless to the full extent of any coverage actually secured by the Grantee in excess of the minimum requirements set forth above.

XIV. NOTICE

Any notice or notices required or permitted to be given pursuant to this agreement may be personally served on either party by the party giving such notice, or may be served by certified mail, return receipt requested, addressed to the executive office of

the party upon whom service is made.

XV. INTEGRATION AND MODIFICATION

This contract constitutes the entire agreement between the Grantee and the Grantor. No alteration, amendment or modification in the provisions of this agreement shall be effective unless it is reduced to writing, signed by the parties and attached hereto.

XVI. COLLATERAL CONTRACTS

Where there exists any inconsistency between this agreement and other provisions of collateral contractual agreements which are made a part of this agreement by reference or otherwise, the provisions of this agreement shall control.

XVII. APPLICABLE LAW

This agreement shall be governed by and construed in accordance with the laws of the State of North Dakota.

XVIII. OWNERSHIP OF WORK PRODUCT

All work products of the Grantee which result from this agreement are the exclusive property of the Grantor.

LUTHERAN SOCIAL SERVICES OF ND

By Keith D. Ingh 7/1/97
DATE
Its President
(TITLE)

45-0226421
Grantee's Federal Identification Number

STATE OF NORTH DAKOTA

NORTH DAKOTA DEPARTMENT OF HUMAN SERVICES

By Carol K. Olson 1/12/98
EXECUTIVE DIRECTOR DATE

By Denae Kautzmann 1/8/98
DENAE KAUTZMANN DATE
CONTRACT OFFICER

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Deanna Helms 10/17/03
Operator's Signature Date

GRANT AGREEMENT

WHEREAS, the State of North Dakota, acting through its North Dakota Department of Human Services, Children and Family Services Division, herein referred to as "Grantor" has determined the services referred to in the paragraph below entitled "Scope of Service" form an appropriate basis for the expenditure of funds allocated to the Grantor; and

WHEREAS, the TURTLE MOUNTAIN BAND OF CHIPPEWA, P.O. BOX 900, Belcourt, ND 58316 -0900, herein referred to as "Grantee" proposes to provide those services;

NOW, THEREFORE, the Grantor and Grantee enter into the following:

AGREEMENT

I. TERM OF THE GRANT

The term of this agreement shall be from the 1st day of July 2001 through the 30th day of June 2003. However, this agreement may be terminated with or without cause upon thirty (30) days written notice by either party.

II. SCOPE OF SERVICE

The Grantee agrees to utilize grant funds to operate the Adults Adopting Special Kids (AASK) program on the Turtle Mountain Indian Reservation. The Grantee will provide adoption services for children being adopted from foster care and the families who will adopt them. The services will include recruitment, assessment training, placement and post placement. The Grantee will collaborate with the tribal foster care workers, county staff and regional human service center staff to provide the adoption services.

III. COMPENSATION

The Grantor, upon written request from the Grantee, shall reimburse the Grantee for allowable expenses incurred, as defined by the OMB Circular cited under Section VIII of this agreement, while performing the scope of service. The total amount of this grant shall not exceed \$140,000. No funds will be advanced prior to services actually being provided. Request for reimbursement by the Grantee should be sent monthly to the Grantor. Final reimbursement requests shall be submitted to the Grantor no later than fifteen (15) days after the expiration of this agreement.

Payment for services under this agreement may include federal monies. The funding sources at the time of the agreement execution are listed below. The funding source of actual payments and the federal program can be verified by contacting the Grantor's Fiscal Administration Division.

Anticipated Funding:

Federal	\$	<u>52,093</u>	Other	\$	<u> </u>
State	\$	<u>87,907</u>	Unknown	\$	<u> </u>

Catalog of Federal Domestic Assistance Number 93.659, Department of Health and Human Services, Adoption Assistance.

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Deanna H. Hall
Operator's Signature

10/17/03
Date

IV. GRANTEE'S UNDERSTANDING OF TERM OF FUNDING

The Grantee understands that this grant is a one-time grant, and acknowledges that it has been furnished no assurances that this grant may be extended for periods beyond the termination date of this agreement.

V. GRANTEE ASSURANCES

The Grantee agrees to comply with the applicable assurances set forth in the Grantee Assurances attached as Attachment "A" and made a part of this agreement.

VI. AUTHORITY TO CONTRACT

The Grantee shall not have the authority to contract for or on behalf of or incur obligations on behalf of the Grantor. However, the Grantee may subcontract with qualified providers of services, provided that any such subcontract shall acknowledge the binding nature of this agreement, and incorporate this agreement, together with its attachments as appropriate. The Grantee agrees to be solely responsible for the performance of any subcontractor.

VII. INDEPENDENT ENTITY

The Grantee shall perform as an independent entity under this agreement. The Grantee, its employees, agents, or representatives are not employees of the Grantor for all purposes, including but not limited to: the application of the Social Security Act, the Fair Labor Standards Act, the Federal Insurance Contribution Act, the Federal Unemployment Act, the North Dakota Unemployment Compensation Law, and the North Dakota Workers' Compensation Act. No part of this agreement shall be construed to represent the creation of an employer/employee relationship. The Grantee will retain sole and absolute discretion in the judgment of the manner and means of carrying out the Grantee's activities and responsibilities under this agreement.

VIII. AUDIT RESPONSIBILITY AND EXPENSE ALLOWABILITY

The Grantee agrees to keep such financial records as are necessary to fully disclose the complete financial status of the agreement. These records shall be made available for review by the Grantor, or its agents upon request at any time during normal business hours. Further, it is agreed that if the Grantee has expended federal funds (when considering all sources) during the Grantee's fiscal year at the amount specified in OMB Circular A-133, *Audits of State, Local Governments, and Non-Profit Organizations*; which is attached by reference and made a part of this agreement, then such Circular shall be followed pursuant to the Single Audit Act of 1984, Public Law 98-502; and the Single Audit Act Amendments of 1996, Public Law 104-156. The Circular can be obtained from the Grantor's Fiscal Administration Division upon request. The Grantee agrees to file a copy of the "Reporting Package" as described by the referenced Circular with the Grantor's Fiscal Administration Division within the time frame identified in OMB Circular A-133. Further, the Grantee agrees to submit a contract closure report to the Grantor's Fiscal Administration Division within ninety (90) days after the contract end date.

Additionally, the Grantee agrees to spend all federal assistance received from the Grantor in accordance with applicable laws and regulations such as, but not limited to: the Common Rule for Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Government; and OMB Circular A-87, *Cost Principles for State, Local and Indian Tribal Governments*; which are attached by reference and made a part of this agreement. These Circulars can be obtained from the Grantor's Fiscal Administration Division upon request.

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Deanna Hall
Operator's Signature

10/17/03
Date

IX. RETENTION OF RECORDS

The Grantee agrees to retain financial records for a period of three years from the date of submission of the final expenditure report or if subject to audit, until such audit is completed and closed, whichever occurs later. The Grantor, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of the Grantee which are pertinent to the services provided under this agreement. Program records shall be maintained for a period of six years or until an audit is completed and closed, whichever occurs later.

X. TERMINATION OF AGREEMENT FOR CAUSE

If through any cause Grantee shall fail to fulfill in a timely and proper manner its obligations under this agreement, or shall violate any of the terms of this agreement, the Grantor shall thereupon have the right to terminate this agreement forthwith by giving written notice to Grantee of such termination and specifying the effective date thereof. Notwithstanding a termination pursuant to this paragraph, Grantee shall not be relieved of liability to the Grantor for damages sustained by the Grantor by virtue of any breach of the agreement by Grantee, and the Grantor may withhold any payment, otherwise due to Grantee, for the purposes of set off until such time as the exact amount of damages due is determined.

XI. TERMINATION OF AGREEMENT FOR INADEQUACY OF FUNDS

It is agreed that in the event appropriations to the Department of Human Services are not obtained and continued at a level sufficient to allow for payments to the Grantee, for the services identified in Paragraph II, the obligations of each party hereunder may be terminated, at the option of the Grantor, provided that any such termination shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

XII. CONTINGENT LIABILITY

During the term of this agreement, and for three years thereafter, the Grantee agrees to reimburse the Grantor for any claims, submitted by the Grantor for federal financial participation in the cost of this agreement, which are disallowed by any federal agency for a failure, on the part of the Grantee, to comply with the terms and conditions of this agreement, the applicable provisions of any federal or state statutory or regulatory provision which govern the source of funding. The Grantor agrees to give the Grantee prompt written notice of any disallowance of claims subject to reimbursement by the Grantee. Any amount disallowed in the manner and for the reasons described shall be considered a debt owing to the Grantor and action may be brought by the Grantor thereon in any manner prescribed by law.

XIII. INDEMNITY

Grantee agrees to defend, indemnify, and hold harmless the State of North Dakota, its agencies, officers and employees (North Dakota), from any and all claims of any nature, including all costs, expenses, and attorneys' fees, which may in any manner result from or arise out of this agreement, except for claims resulting from or arising out of North Dakota's sole negligence. The legal defense provided by Grantee to North Dakota under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for North Dakota is necessary. Grantee also agrees to defend, indemnify, and hold North Dakota harmless for all costs, expenses, and attorneys' fees incurred in establishing and

Deanne Nellis
Operator's Signature

10/17/03
Date

litigating the indemnification coverage provided herein. This obligation shall continue after termination of this agreement.

XIV. INSURANCE

A. Required Coverages. Grantee shall secure and keep in force during the term of this agreement, from insurance companies authorized to do business in North Dakota, the following insurance coverages covering the Grantee for any and all claims of any nature which may in any manner arise out of or result from this agreement:

- 1) Commercial general liability, including contractual coverage, with minimum liability limits of \$250,000 per person and \$1,000,000 per occurrence.
- 2) Professional errors and omissions including a three (3) year "tail coverage endorsement," with minimum liability limits of \$1,000,000 per occurrence and in the aggregate. In the alternative to obtaining the tail coverage endorsement, Grantee agrees to continue the insurance in place a minimum of three (3) years following completion of the work specified in this agreement.
- 3) Automobile liability, with minimum liability limits of \$250,000 per person and \$1,000,000 per occurrence.
- 4) Workers' compensation coverage meeting all North Dakota statutory requirements.

B. General Insurance Requirements. The insurance coverages listed above must meet the following additional requirements:

- 1) Any deductible or self-insured retention amount or other similar obligation under the policies shall be the sole responsibility of the Grantee. The amount of any deductible or self-retention is subject to approval by the Grantor.
- 2) This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form, and must be placed with insurers rated "A" or better by A.M. Best Company, Inc., provided any excess policy follows form for coverage. The policies shall be in form and terms approved by the Grantor. "Follows form" means the excess policy must be written with the same terms and conditions as the policy to which it is excess.
- 3) North Dakota will be defended, indemnified, and held harmless to the full extent of any coverage actually secured by the Grantee in excess of the minimum requirements set forth above. The duty to indemnify North Dakota under this agreement shall be not be limited by the insurance required in this agreement.
- 4) North Dakota shall be endorsed on the commercial general liability policy, including any excess policies (to the extent applicable), as additional insureds. North Dakota shall have all the rights and coverages as Grantee under said policies. The additional insured endorsement for the commercial general liability policy shall be written on a form equivalent to the ISO 1985 CG 20 10 form, or such other form as approved by North Dakota, and shall not limit or delete North Dakota's coverage in any way based upon North Dakota's acts or omissions.

- 5) The insurance required in this agreement, through a policy to endorsement, shall include:
 - a) a "Waiver of Subrogation" waiving any right of recovery the insurance company may have against North Dakota;
 - b) a provision that the policy and endorsements may not be canceled or modified without thirty (30) days' prior written notice to the undersigned Grantor representative;
 - c) a provision that any attorney who represents North Dakota under this policy must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistance Attorney General as required by N.D.C.C. § 54-12-08;
 - d) a provision that Grantee's insurance coverage shall be primary (i.e., pay first) as respects any insurance, self-insurance or self-retention maintained by North Dakota and that any insurance, self-insurance or self-retention maintained by North Dakota shall be excess of the Grantee's insurance and shall not contribute with it;
 - e) cross liability/severability of interest coverage for all policies and endorsements.
- 6) The legal defense provided to North Dakota under the policy and any endorsements must be free of any conflicts of interest, even if retention of separate legal counsel for North Dakota is necessary.
- 7) Grantee shall furnish a certificate of insurance and, if requested, a copy of the insurance policy and all its endorsements, including the additional insured endorsement, to the undersigned Grantor representative prior to commencement of this agreement.
- 8) Failure to provide insurance as required in this section is a material breach of contract entitling Grantor to terminate this contract at any time effective upon delivery of notice to the Grantee.

XV. NOTICE

Any notice or notices required or permitted to be given pursuant to this agreement may be personally served on either party by the party giving such notice, or may be served by certified mail, return receipt requested, addressed to the executive office of the party upon whom service is made.

XVI. INTEGRATION AND MODIFICATION

This contract constitutes the entire agreement between the Grantee and the Grantor. No alteration, amendment, or modification in the provisions of this agreement shall be effective unless it is reduced to writing, signed by the parties and attached hereto.

XVII. COLLATERAL CONTRACTS

Where there exists any inconsistency between this agreement and other provisions of collateral contractual agreements which are made a part of this agreement by reference or otherwise, the provisions of this agreement shall control.

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Deanne Hall
Operator's Signature

01/17/03
Date

XVIII. APPLICABLE LAW

This agreement shall be governed by and construed in accordance with the laws of the State of North Dakota. Grantee shall be required to bring any legal proceeding against the State arising from this agreement in Burleigh County, North Dakota court.

XIX. CONFIDENTIAL INFORMATION

Grantee shall maintain all data furnished by Grantor as confidential information and shall not, unless otherwise required by law, disclose the source of such data to any person except with written consent of the Grantor. All data furnished by the Grantor shall remain in the custody of the Grantee or the Grantor during the term of this agreement. Grantee shall promptly notify the Grantor of any data which is required by law to be disclosed to any person.

Dated this 1st day of July, 2001.

TURTLE MOUNTAIN BAND OF CHIPPEWA

By *[Signature]*

Its *Tribal Chairman*
(TITLE)

45-0223071

Grantee's Federal Identification Number

STATE OF NORTH DAKOTA

NORTH DAKOTA DEPARTMENT OF HUMAN SERVICES

By *[Signature]*
CAROL K. OLSON
EXECUTIVE DIRECTOR

By *[Signature]*
BRENDA M. WEISZ
CONTRACT OFFICER

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[Signature]
Operator's Signature

01/17/03
Date

ADDENDUM TO MASTER GRANT AGREEMENT

WHEREAS, on or about July 1, 1997, CATHOLIC FAMILY SERVICE, herein referred to as "Grantee" and the State of North Dakota, acting through its North Dakota Department of Human Services, herein referred to as "Grantor" entered into a Master Grant Agreement, and

WHEREAS, now the State of North Dakota, acting through its North Dakota Department of Human Services, Children and Family Services Division, wishes to enter into an addendum to the agreement with the Catholic Family Service, and

WHEREAS, this addendum shall be subject to the terms of the Master Grant Agreement,

NOW, THEREFORE, the parties enter into the following:

ADDENDUM

1) TERM OF THE GRANT

The term of this addendum shall be from the 1st day of February 2002 through the 30th day of June 2003. However, this addendum may be terminated with or without cause upon thirty (30) days written notice by either party.

2) SCOPE OF SERVICE

The Grantee agrees to utilize grant funds to operate the Adults Adopting Special Kids (AASK) program. The Grantee will provide adoption services for children being adopted from foster care and the families who are adopting them. The services will include recruitment, assessment, training, placement and post placement services, and post adoption services.

3) COMPENSATION

The Grantor, upon written request from the Grantee, agrees to reimburse the allowable expenses incurred, as defined by the OMB Circular cited under Section VII of the Master Grant Agreement, while performing the scope of service. The total amount of this grant addendum shall not exceed \$171,227. No funds will be advanced prior to services actually being provided. Request for reimbursement by the Grantee should be sent monthly to the Grantor. Final reimbursement requests shall be submitted to the Grantor no later than fifteen (15) days after the expiration of this addendum.

Payment for services under this addendum may include federal monies. The funding sources at the time of the addendum execution are listed below. The funding source of actual payments and the federal program can be verified by contacting the Grantor's Fiscal Administration Division.

Anticipated Funding:

Federal	\$	<u>63,846</u>	Other	\$	<u> </u>
State	\$	<u>107,381</u>	Unknown	\$	<u> </u>

Catalog of Federal Domestic Assistance Number 93.659, Department of Health Human Services, Adoption Assistance.

4) CONFIDENTIAL INFORMATION

The Grantee agrees not to use or disclose any information it receives from the Grantor under this addendum which the Grantor has previously identified as confidential or exempt from mandatory public disclosure except as necessary to carry out the purposes of this addendum or as authorized in advance by the Grantor. The Grantor agrees not to disclose any information it receives from the Grantee which the Grantee has previously identified as confidential and which the Grantor determines in its sole discretion is protected from mandatory public disclosure under a specific exception to the North Dakota open records law, North Dakota Century Code § 44-04-18. The duty of the Grantor and the Grantee to maintain confidentiality of information under this section continues beyond the term of this addendum, including any extensions or renewals.

5) DIRECT AND INDIRECT COSTS

Indirect costs charged to this contract must be based on an approved cost allocation plan. The Grantee may claim such direct and indirect costs provided they are consistent with Federal OMB Circular A-122 which is attached by reference and made a part of this addendum.

Dated the 1st day of February, 2002.

CATHOLIC FAMILY SERVICE

By *P. Griffin*

Its EXECUTIVE DIRECTOR
(TITLE)

STATE OF NORTH DAKOTA

NORTH DAKOTA DEPARTMENT OF HUMAN SERVICES

By *Carol K. Olson*
CAROL K. OLSON
EXECUTIVE DIRECTOR

By *Brenda M. Weisz*
BRENDA M. WEISZ
CONTRACT OFFICER

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Deanna Bell 02/17/02
Operator's Signature Date

CONTRACT #005-01690

MASTER GRANT AGREEMENT

WHEREAS, the State of North Dakota acting through the North Dakota Department of Human Services herein referred to as "Grantor" and the Catholic Family Service, 2537 South University Drive, Fargo, ND 58103-5736, herein referred to as "Grantee" agree that the following terms of this agreement govern any applicable scopes of service subsequently defined by amendment and signed by both parties;

NOW, THEREFORE, the Grantor and Grantee enter into the following:

A G R E E M E N T

I. EFFECTIVE DATE

The effective date of this agreement shall be July 1, 1997. Either party may terminate this agreement or any amendment hereto, with or without cause upon thirty (30) days notice by either party.

II. SCOPE OF SERVICE

Scope of service will be defined by a series of amendments with any other applicable terms including compensation and become a part of this agreement when signed by the parties and attached hereto.

III. GRANTEE'S UNDERSTANDING OF TERM OF FUNDING

The Grantee understands that this agreement is a one-time grant, and acknowledges that it has been furnished no assurances that this agreement may be extended for periods beyond the termination date of this agreement or applicable amendment.

IV. GRANTEE ASSURANCES

The Grantee agrees to comply with the applicable assurances set forth on Attachment "A" attached hereto.

V. AUTHORITY TO CONTRACT

The Grantee shall not have the authority to contract for or on behalf of or incur obligations on behalf of the Grantor. However, the Grantee may subcontract with qualified providers of services, provided that any such subcontract shall acknowledge the binding nature of this agreement, and incorporate this agreement, together with its attachments as appropriate. The Grantee agrees to be solely responsible for the performance of any subcontractor.

VI. INDEPENDENT ENTITY

The Grantee shall perform as an independent entity under this agreement. The Grantee, its employees, agents or representatives are not employees of the Grantor for all purposes, including but not limited to, the application of the Social Security Act, the Fair Labor Standards Act, the Federal Insurance Contribution Act,

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Deanne Hall
Operator's Signature

10/17/03
Date

the Federal Unemployment Act, the North Dakota Unemployment Compensation Law and the North Dakota Workers' Compensation Act. No part of this agreement shall be construed to represent the creation of an employer/employee relationship. The Grantee will retain sole and absolute discretion in the judgment of the manner and means of carrying out the Grantee's activities and responsibilities under this agreement.

VII. AUDIT RESPONSIBILITY AND EXPENSE ALLOWABILITY

The Grantee agrees to keep such financial records as are necessary to fully disclose the complete financial status of the Agreement. These records shall be made available for review by the Grantor, or its agents upon request at any time during normal business hours. Further, it is agreed that if the Grantee has expended federal funds (when considering all sources) during the Grantee's fiscal year at the amount specified in OMB Circular A-133, *Audits of State, Local Governments and Non-profit Organizations*, then such Circular shall be followed pursuant to the Single Audit Act of 1984, Public Law 98-502 and the Single Audit Act Amendments of 1996, Public Law 104-156. The Circular can be obtained from the Audit Resolution Unit of the Department of Human Services upon request and, by reference, is made a part of this agreement. The Grantee agrees to file a copy of the "Reporting Package" as described by the referenced Circular with the Grantor's Audit Resolution Unit within the time frame identified in OMB Circular A-133. Further, the Grantee agrees to submit a contract closure report to the Grantor's Audit Resolution Unit within ninety (90) days after the end date of each amendment.

Additionally, the Grantee agrees to spend all federal assistance received from the Grantor in accordance with applicable laws and regulations such as, but not limited to, OMB Circular A-110, *Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals and Other Nonprofit Organizations*; OMB Circular A-122, *Cost Principles for Nonprofit Organizations*; or OMB Circular A-21, *Cost Principles for Educational Institutions*, whichever is applicable.

VIII. RETENTION OF RECORDS

The Grantee agrees to retain financial records for each amendment for a period of three years from the date of submission of the final expenditure report or if subject to audit, until such audit is completed and closed, whichever occurs later. The Grantor, the federal government, and their duly authorized representatives shall have access to the books, documents, papers and records of the Grantee which are pertinent to the services provided under this agreement. Program records for each amendment shall be maintained for a period of six years or until an audit is completed and closed, whichever occurs later.

IX. TERMINATION OF AGREEMENT FOR CAUSE

If through any cause Grantee shall fail to fulfill in a timely and proper manner its obligations under this agreement or any amendment(s) hereto, or shall violate any of the terms of this agreement or any amendment(s), the Grantor shall thereupon have the right to terminate this agreement or any amendment(s) thereto immediately by giving written notice to Grantee of such termination and specifying the effective date thereof. Notwithstanding a termination pursuant to this paragraph, Grantee shall not be relieved of liability to the Grantor for damages sustained by the Grantor by virtue of any breach of the agreement and amendments by Grantee, and the Grantor may withhold any payment, otherwise due to Grantee, for the purposes of set off until such time as the exact amount of damages due is determined.

X. TERMINATION OF AGREEMENT FOR INADEQUACY OF FUNDS

It is agreed that in the event appropriations to the Department of Human Services are not obtained and continued at a level sufficient to allow for payments to the Grantee, for the services identified in the scope of service section of this agreement including any amendments, the obligations of each party under each amendment may be terminated, at the option of the Grantor, provided that any such termination shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

XI. CONTINGENT LIABILITY

During the term of each amendment, and for three years thereafter, the Grantee agrees to reimburse the Grantor for any claims, submitted by the Grantor for federal financial participation in the cost of the amendment, which are disallowed by any federal agency for a failure, on the part of the Grantee, to comply with the terms and conditions of this agreement, the applicable provisions of any federal or state statutory or regulatory provision which govern the source of funding. The Grantor agrees to give the Grantee prompt written notice of any disallowance of claims subject to reimbursement by the Grantee. Any amount disallowed in the manner and for the reasons described shall be considered a debt owing to the Grantor and action may be brought by the Grantor thereon in any manner prescribed by law.

XII. INDEMNITY

Grantee agrees to indemnify, save and hold harmless the state of North Dakota, its agencies, officers and employees (State), from any and all claims of any nature, including all costs, expenses, and attorneys' fees, which may in any manner arise out of or result from this agreement, except claims resulting from or arising out of the State's sole negligence. Grantee also agrees to indemnify, save and hold the State harmless for all costs, expenses, and attorneys' fees incurred in establishing and litigating the indemnification coverage provided herein.

XIII. INSURANCE

Grantee shall secure and keep in force during the term of this agreement, from insurance companies authorized to do business in North Dakota: 1) commercial general liability; 2) automobile liability; and 3) workers' compensation insurance all covering the Grantee for any and all claims of any nature which may in any manner arise out of or result from this agreement. If professional services are or become required under this agreement, including subsequent amendments, Grantee shall also secure and maintain during the term of this agreement and for at least three years thereafter, professional liability insurance covering its liability for acts, errors or omissions in providing or failing to provide the required professional services. The minimum limits of liability required are \$250,000 per person and \$1,000,000 per occurrence for commercial general liability and automobile liability coverages, and statutory limits for workers' compensation. The minimum limits of liability required are \$1,000,000 per claim and \$2,000,000 aggregate for professional liability coverage.

The state of North Dakota and its agencies, officers, and employees (State) shall be endorsed on the commercial general liability policy as additional insureds. Grantee shall furnish a certificate of insurance and a copy of the additional insured endorsement to the undersigned State representative prior to commencement of this agreement. The additional-insured endorsement shall contain a "Waiver of Subrogation" waiving any right of recovery the insurance company may have against the State as well as provisions that the policy and/or endorsement may not be canceled or modified without thirty (30) days prior written notice to the undersigned State representative, and that any attorney who represents the State under this policy must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required by N.D.C.C. § 54-12-08.

Grantee's insurance coverage shall be primary as respects any insurance, self-insurance or self-retention maintained by the State. Any insurance, self-insurance or self-retention maintained by the State shall be excess of the Grantee's insurance and shall not contribute with it.

Any deductible amount or other obligations under the policy(ies) shall be the sole responsibility of the Grantee.

This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and must be placed with insurers rated "A" or better by A.M. Best Company, Inc.

The State will be indemnified, saved and held harmless to the full extent of any coverage actually secured by the Grantee in excess of the minimum requirements set forth above.

XIV. NOTICE

Any notice or notices required or permitted to be given pursuant to this agreement may be personally served on either party by the

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Deanne Hall
Operator's Signature

10/17/03
Date

party giving such notice, or may be served by certified mail, return receipt requested, addressed to the executive office of the party upon whom service is made.

XV. INTEGRATION AND MODIFICATION

This contract constitutes the entire agreement between the Grantee and the Grantor. No alteration, amendment or modification in the provisions of this agreement shall be effective unless it is reduced to writing, signed by the parties and attached hereto.

XVI. COLLATERAL CONTRACTS

Where there exists any inconsistency between this agreement and other provisions of collateral contractual agreements which are made a part of this agreement by reference or otherwise, the provisions of this agreement shall control.

XVII. APPLICABLE LAW

This agreement shall be governed by and construed in accordance with the laws of the State of North Dakota.

XVIII. OWNERSHIP OF WORK PRODUCT

All work products of the Grantee which result from this agreement are the exclusive property of the Grantor.

CATHOLIC FAMILY SERVICE

By Roger E. Johnson 6/30/97
DATE
Its [Signature]
(TITLE)

45-0226416
Grantee's Federal Identification Number

STATE OF NORTH DAKOTA

NORTH DAKOTA DEPARTMENT OF HUMAN SERVICES

By Carol K Olson 12/16/97
EXECUTIVE DIRECTOR DATE

By Denae Kautzmann 12/14/97
DENAE KAUTZMANN DATE
CONTRACT OFFICER

North Dakota Human Rights Coalition

P.O. Box 1961, Fargo, ND 58107-1961 (701) 239-9323 Fax (701) 478-4452 www.ndhrc.org



Testimony

SB 2188 Child placement agencies

Some testimony given to House

Madame Chairman Lee and members of the Senate Human Services Committee, I am Cheryl Bergian, Director of the North Dakota Human Rights Coalition. The Coalition includes a broad-based, statewide membership of individuals and organizations interested in the furtherance of human rights in North Dakota; the Coalition's mission is to effect change so that all people in North Dakota enjoy full human rights. I speak in opposition to SB 2188. The human rights of the children who are awaiting placement for adoption or foster care are not served by the proposed amendments to state law in this bill.

SB 2188 already requires that child placement agencies place children in homes in which the health, morality and general well-being of the children are properly safeguarded. The proposed amendments to N.D.C.C. Section 50-12-03 would require the Department of Human Services to ascertain the child placement agency's "religious or moral convictions or policies" as part of the licensing process. The duties of the Department of Human Services should continue to be related to ensuring the placement of children is properly done for the well-being of the children, not determining the religious or moral convictions of the child placement agencies as part of licensing those agencies. The proposed amendments do not relate to the appropriate placement of children to safeguard their well-being and the focus of the Department of Human Services should not change. The effect of this amendment could be to impermissibly involve the state in the constitutional requirement of freedom of religion and that relationship should be carefully assessed and entanglement avoided, for the benefit of the children awaiting placement. The policies used by the Department of Human Services and the child placement agencies should be focused on determining the best family for a child, not whether the religious or moral convictions of the child placement agency, if they exist, are met.

I appreciate this opportunity to testify on behalf of the ND Human Rights Coalition.

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Operator's Signature

10/17/03
Date

Mr./Ms. Chairperson, Human Services Committee Members:

Hello, my name is Todd Berg. My partner and I adopted our son on December 14, 2001. I'm asking you today to oppose Senate Bill 2188, as I feel it is unneeded. Individual adoption agency policies currently state whom that agency will assist through the adoption process, whether it be a birthmother placing her child for adoption or persons wanting to adopt.

Prior to our adoption being finalized we faced many challenges with finding an agency that would work with a gay couple. One agency stated that we needed to be a member of their church, while the other agencies said it was against their agency policy to work with gay or lesbian families, illustrating that individual agencies already have control regarding whom they deem as acceptable applicants.

After nearly two years of waiting, one agency revised its policy, allowing us to start the adoption process. During the home study we were told about a birthmother who had just given birth to a baby boy and was specifically seeking a gay couple to be the parents of her child.

After completing the home study the birthmother did choose us as the family in which to place her son. After many joyous weeks of preparing our home, we received a phone call from our agency social worker less than one week before we were to meet and bring home our son. She informed us that the agency would no longer be able to support the adoption, stating that their agency was getting pressure from certain members of the ND Department of Human Services, and from the foster family, who wanted to go public with this adoption story. Despite this setback, we were able to quickly find another agency to honor the birthmother's choice and complete the adoption. We brought our son, Jensen, into our home three weeks later. Attached to this testimony is a comprehensive chronicle of our adoption story, as it appeared in the *Rainbow Families* newsletter, Summer 2002.

As stated earlier, current individual adoption agency policies direct the clientele in which the agency is willing to support through the adoption process, making this bill unnecessary. The personal story I have shared today clearly defines that fact. Passage of this bill would give agencies support as they discriminate, discriminate against families who do not fit their image of the ideal: perhaps single parent families, gay families, older than average families, lesbian families, Jewish families, etc. This bill also potentially denies the rights of birthmothers and birthparents in choosing families in which to place their child or children.

In closing, I again ask that you deny passage of Senate Bill 2188. Thank you for your time and consideration on this matter. I am open to answering any questions that you may have of me.

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Date

NORTH DAKOTA DADS Persistence pays off

Todd Berg and Chad Long

When the two of us met in September 1996, we knew it was meant to be: we both had four letters in our first names and last names, both our first names ended with *d* and our last names with *g*. We were wearing the same belts. And we both wanted to be parents. God stepped in, creating a committed relationship, and five years later we were ready for parenthood (or at least as ready as one can be). But was North Dakota ready for us to be out...and be parents together?

After two years and many, many hours of researching agencies across the country and struggling to find a North Dakota agency that would do our home study (state law dictates that a state-based agency must conduct the home study regardless from where someone is adopting), we found a local agency willing to do the home study and support the Chicago-based agency we chose to use for our adoption. The local agency's recent change in policy as to who could apply made it possible for us to do just that. The change did not specifically include applicants who were gay or lesbian, but left an open statement that "anyone" could apply.

Our paperwork was sent to the two agencies in late January 2001. The home study process quickly began, with our local agency willing to facilitate an out-of-state adoption. We all assumed this would be our means of adopting, because the North Dakota Department of Human Services had some personnel who would make adoption of anyone in state custody impossible for a same-sex couple, and our social worker thought the wait for a North Dakota birth family to choose a same-sex couple could be lengthy. So we proceeded with the home study that would be sent to the agency in Chicago.

Of course, the standard questionnaires, physicals, parenting surveys, and behavior inventories had to be done. At the conclusion of our home study visit on March 15, 2001, our social worker shared some incredible news with us. She wanted to show our portfolio to a North Dakota birth mother who was interested in choosing a same-sex family to adopt her two-week-old son, who was in temporary foster care (born March 1). The same-sex couple she had chosen originally from a state on the East Coast had

backed out at the last minute, and she was quite determined that her son be placed with a gay family! A North Dakota birth mother interested in us? A North Dakota adoption rather than an out-of-state adoption? Could we become parents this quickly? Was it really possible?

The local agency's policy dictates that a birth family be presented at least three portfolios for placement of their child in an adoptive home. On April 6, 2001, we received a phone call from our local agency that the birth mother had made a decision. She wanted us to adopt her son! This wouldn't be an out-of-state adoption as both we and our local agency had expected. We were about to adopt a North Dakota infant!

We soon learned that our son would be coming home on April 20, so we had plenty to do to get ready. After buying all the baby necessities and getting the nursery prepared, we were told by our local agency just a couple of days before his expected arrival that they would no longer be supporting the adoption and that they would have to back out. Apparently, the foster parents had learned of the birth mother's wishes to place her child in a two-dad family and threatened the local agency with media attention. That, linked with pressures from someone in a position of authority with the North Dakota Department of Human Services, caused the agency to reconsider placing this child in our home. They deemed our home no longer in the best interests of the child. Our hopes were quickly dashed and our spirits crushed.

We were ready for parenthood. Was North Dakota ready for us?



Chad, Todd, and Jensen

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But we made a decision that evening; we were going to fight for our son. Several phone calls later we located a different agency (locally) that was willing to take over,

We were told by our agency that they would no longer be supporting the adoption.

although a few changes were necessary. The new agency had to do an update of our just-completed original home study, and the adoption had to take place as an identified adoption (the North Dakota Department of Human Services has no authority in identified adoptions), meaning full disclosure (names, addresses, etc.) for the birth mother and ourselves. The child needed to be removed from the foster family as soon as possible, without any information as to where he was going or what avenues the birth mother had chosen, and be placed with us pending termination of parental rights.

Amid rumors of state legislation banning same-sex adoptions (nothing has come of the rumors yet) and a revisiting of policy by our initial agency, a court order was signed on May 2 providing temporary custody to us, pending relinquishment of parental rights. A wonderful visit with the birth mother and birth grandmother

followed on May 3, the day we met our son and brought him home. The relinquishment hearing took place on June 7, where we met additional members of the birth family, followed by our six-month placement period in which the new agency continued home visits.

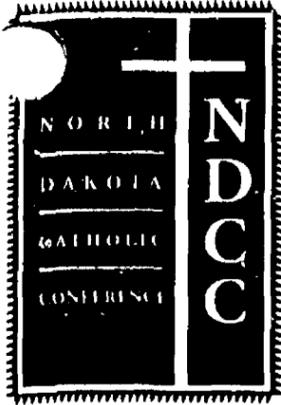
Our persistence and determination paid off! The finalization hearing on December 14, 2001, less than one full year after sending in our paperwork, made Jensen a legal member of our two-dad family. We still enjoy letters, share photos, and have occasional visits with Jensen's birth family. With one of us able to work from home two to three days each week (Todd) and the other with summers off (Chad), we are able to experience the joys that come with a child firsthand — morning baths, walks with the wagon, swinging in the park, trips to the zoo, and reading stories aloud, to name a few. Just as in the two of us meeting, God once again stepped in, changing our committed relationship of two into a family of three. ▼

Chad Long, Todd Berg, and Jensen Long Berg live in Bismarck. Chad is an elementary teacher and recently finished his master's degree in education. Todd advocates for and oversees staff who work with people with developmental disabilities. Chad and Todd help keep Rainbow Families apprised of legal and legislative happenings in North Dakota and serve as our Bismarck area contact family. They are believed to be the first men to adopt in North Dakota as a couple.

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Representing the Diocese of Fargo
and the Diocese of Bismarck

Christopher T. Dodson
Executive Director and
General Counsel

To: Senate Human Services Committee
From: Christopher Dodson, Executive Director
Subject: SB 2188 -- Moral and Religious Objections by Child-Placing Agency
Date: January 21, 2003

I am Christopher Dodson, the executive director of the North Dakota Catholic Conference. The conference urges a **Do Pass** recommendation for Senate Bill 2188.

Senate Bill 2188 protects a child-placing agency's freedom to provide adoption services. State policy allows private individuals and entities to facilitate adoptions as "child-placing agencies." These agencies are licensed and subject to requirements set out in Chapter 50-12 of the North Dakota Century Code.

There are currently six agencies licensed to provide adoption services in North Dakota. Four of these agencies are, or are affiliated with, religious entities. As religious entities, they incorporate and reflect their church's teachings and values. By doing so, the services become an integral part of their church's ministry.

This partnership between the state and religiously affiliated agencies, and the accompanying respect for religious liberty, has served the people of North Dakota well. Rather than restricting the number of child-placing agencies and, in turn, access to adoption services, it has fostered pluralism and allowed for participation by a greater number of providers.

In recent years, however, adoption agencies have experienced pressure to facilitate adoptions that would violate their religious or moral policies. Sometimes this pressure is subtle. Sometimes it is direct. Sometimes it is based on social trends. Sometimes it is based on legal interpretations. For these reasons, Senate Bill 2188 is needed to protect an agency's freedom to serve.

Senate Bill 2188 is designed to only preserve religious liberty. It does not affect who can adopt or restrict access to adoption services. Following existing conscience protection statutes in North Dakota and the law of other states, it addresses protection of conscience with respect to: (1) licensing [page 1, lines 15 - 18], (2) general policies [page 1, lines 22 - 24], (3) government programs [page 1, line 24 - page 2, lines 1-4] and (4) civil and criminal actions [page 2, lines 4 - 6].

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Senate Human Services Committee
Page 2
January 21, 2003

In each of these cases, the protection extends to an agency's objection to "performing, assisting, counseling, recommending, facilitating, referring, or participating" in an adoption that violates their religious policies. This phrase was used because it closely parallels other anti-discrimination language in the Century Code. In each case, the objection must be based on the agency's "religious or moral convictions or policies." This phrase also parallels existing code language, with a revision to reflect that individual persons, in addition to entities, can act as child-placing agencies in the state.

As mentioned, the only purpose of this bill is to protect an agency's freedom to serve. It is not intended to impact adoption law or access to adoption services. To make this clear, the last lines of the bill (page 2, lines 6 - 9) provide that if a child-placing agency opts not to participate in an adoption that violates its religious convictions the action of the agency is not a finding concerning the best interests of the child. In short, opting not to participate is merely that -- opting not to participate. The decision does not follow the prospective parent and he or she is free to use the services of another agency.

North Dakota has chosen to foster a plurality of adoption service providers rather than insisting a uniform "one size fits all" approach. This approach has provided choices to North Dakotans and a means for agencies to exercise their public ministries. If this policy is to continue, we must protect the religious liberties of child-placing agencies. No person or agency should ever be asked to forfeit their religious or moral beliefs as the price to pay for providing a community service.

We urge a **Do Pass** recommendation on Senate Bill 2188. I would be happy to answer any questions the committee may have.

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SENATE BILL 2188 TESTIMONY
January 21, 2003

My name is Lola Huwe. I am a resident of Bismarck and am speaking today in opposition to Senate Bill 2188.

I'd like to tell you about Cody. Cody came into our family through the foster care program. When the married couple who were his foster parents could not deal with his physical and emotional problems, they simply took Cody to school one day and, later that day, dropped off his belongings at social services. A social worker picked him up after school and brought him to our daughter Ella, who was already caring for his 14 year-old sister. He was a little guy, six years-old. The severe abuse Cody had endured while he lived with his biological parents left devastating marks and were not easy to deal with, but with love, patience and lots of determination on Ella's part, he blossomed under her care. My husband and I and the other members of our family also welcomed him into our lives. Ella decided to adopt Cody and, a little over two years after he came to her, Cody officially became a Huwe. His adoption day was great, we and a multitude of family and friends attended the hearing, his new family took part in a moving ceremony with the social worker where we pledged to care for Cody as our own, and then there was the adoption party with about 60 in attendance and lots of grand presents for Cody. When his new mom asked him what was the best part of his adoption day, he said "Being adopted." Cody is a delightful part of our family and we all love him dearly.

Now Ella is going to be bringing another foster child into her home to join the 6 and 12 year-old girls she has now and would like to work toward adopting the 14 year-old girl who is living in a safe house because there is not a foster home available for her.

If what Senate Bill 2188 proposes had been in place in 2001, this story would most likely have been different because Ella would probably have not meet the agencies approval and would not have been allowed to adopt Cody. Ella is a Unitarian Universalist and, because her religion is not Christian, would not be considered an acceptable parent to the adoption agencies who believe that children should be placed in Christian homes. She is a single mother who has a full-time job, a no-no with those who think children should only be raised by a father and mother and that the mother should not work outside the home. My daughter is a lesbian and, according to some agencies, would definitely not be a fit parent for a child. An agency could look past the fact that Ella is a foster parent, caring for adolescent children no one else want, works in a group home for children, teaches foster parenting classes, and is a 4-H leader. They could claim that she would not be a fit parent because she does not meet their religious and moral criteria.

Prospective parents should be judged based on their ability to care for children, not on their religion, or sexuality or anything else. The children will be the losers if this bill is passed. All kids deserve a shot at a family. Even if that family isn't the typical 2-parent Christian family. We need to find ways to create more families for children, not less. There are too many children now that are living in limbo in foster homes and facilities because there are not enough people willing and able to make them permanent members of their families.

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Children need permanency. The ASFA law states that parental rights should be terminated if a child is in foster care for 12 months. That means that more children will be available for adoption, and who will adopt them? Will there be enough families?

If Senate Bill 2188 passes, the number of so-called eligible parents will be further reduced, sentencing these children, whose lives have already been filled with much pain and hurting, to a life without a family.

Thank you for allowing me to share my thoughts with you.



CODY WITH HIS GRANDPA CLAIR HUWE
August, 2002

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Vickie Nixon
END representative

Equality North Dakota is a statewide gay, lesbian, bisexual and transgender rights organization. We are here to voice our opposition to Senate Bill 2188. This bill gives state licensed agencies free reign to discriminate against adoption applicants, with full protection of the law.

If this bill is passed, it could mean that single persons would be taken out of the adoption pool of prospective parents. A Christian based agency could refuse to place children with Muslim families. Another agency might insist that only families with a stay at home mom would be considered. Some might object to placing a child with parents of a different race. The examples are endless.

North Dakota has close to 400 children waiting for an adoptive family. The majority of these children are without a permanent, stable home one to two years before adoption. Allowing agencies to disqualify applicants based on unlimited religious or moral views is not in the best interest of those children waiting for a home. This bill also raises questions regarding conflicts with federal and state constitutional protections against the government endorsement of religion.

We at Equality North Dakota are convinced that this bill is also aimed at legislating the exclusion of gay and lesbian individuals and couples from the adoption pool. A male gay couple from Bismarck adopted a baby boy almost two years ago. Certain individuals and agencies tried diligently to stop the adoption process. They were not successful.

There is no scientific basis to believe that lesbians and gay men cannot be good parents. Research shows that lesbian and gay parents are as fit, effective, and successful as heterosexual parents. Children of gay parents are as emotionally healthy, socially adjusted, and educationally successful as children raised by heterosexual parents.

Many professional psychological and child welfare groups agree that sexual orientation is not a valid reason for excluding individuals from the adoption pool. You were given a fact sheet with statements from six well known mainstream organizations. You also have another fact sheet with some statistics concerning lesbian and gay couples and children in lesbian and gay families.

At a time when many North Dakotans are looking for ways to make our state a more welcoming and inviting place, this bill sends the message that individuals who are perceived as "different" are not truly welcome and entitled to the same rights and protections as others.

Equality North Dakota urges the committee to recommend "Do Not Pass" on Senate Bill 2188. Thank you.

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**Senate Bill 2188 would allow child-placing agencies to discriminate with impunity.
North Dakota needs less discrimination, not more.**

- Senate Bill 2188 gives every state-licensed agency a blank check to discriminate against adoption applicants of certain religious faiths or anyone else the agency disapproves of because of its moral or religious beliefs. Thus, any qualified parents could face exclusion. For example, some agencies might believe that children should only be placed with Christians. Some might believe that the Bible mandates that only families with stay-at-home mothers are suitable for raising children. Some agencies might object to placing children with parents of a different race than the child. Yet Senate Bill 2188 would permit these and an extremely broad range of other exclusions.
- North Dakota cannot afford to have qualified, good parents turned away from adopting because they do not share an agency's religious or moral beliefs. Almost **four hundred** parentless children are waiting to be adopted in the state. Over 80% for more than a year, and more than half wait more than two years waiting for stable, permanent homes. Allowing agencies to disqualify an applicant because of religious or moral views will have the most immoral of effects – it will leave children waiting even longer for parents to adopt them. For some it may mean never being adopted.
- Senate Bill 2188 runs afoul of the federal and state constitutional protections against government endorsement of religion. Allowing state-licensed agencies to use religious criteria in making adoptive placements for children in state custody amounts to government endorsement of religion in violation of the federal and state constitutional protection against government establishment of religion.
- Senate Bill 2188 essentially provides for state-sanctioned discrimination. At a time when many both in and out of the North Dakota legislature are looking for ways to make our state a more welcoming and inviting place, this bill sends the message that individuals who are perceived as "different" are not truly welcome in our state and entitled to the same rights and protections as those who are perceived to be in the "mainstream."
- Senate Bill 2188 is not just morally irresponsible, it is financially dangerous as well. For every child whose adoption was delayed because of the bill's exclusion of qualified parents, North Dakota could lose federal funds provided for by the federal Adoption and Safe Families Act.

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Adoption and Sexual Orientation

In the last few decades adoption has focused on meeting the needs of children. Since then policies and laws have changed to make adoption and foster parenting available to minority families, single people, and people with disabilities.

"At one time or another, the inclusion of each of these groups has caused controversy. Many well-intended individuals vigorously opposed including each group as potential adopters and voiced concern that standards were being lowered in a way that could forever damage the field of adoption." – Child Welfare League of America (CWLA)

Health and child welfare groups are increasingly opposed to limiting the pool of qualified adoptive parents based on sexual orientation and other factors that do not impact parenting abilities.

- 1988 - The Child Welfare League of America adopted the Standards Regarding Sexual Orientation of Applicants. In these standards the CWLA proclaim that gay and lesbian adoptive applicants should be assessed the same as any other applicant.
- 1998 - the North American Council on Adoptable Children stated that everyone with parent potential is entitled to fair and equal consideration regardless of sexual orientation.
- 2002 - the American Academy of Pediatrics passed a policy supporting second-parent adoption by lesbian and gay parents' same sex partners.

These organizations, along with the American Psychiatric Association, American Psychological Association, and National Association of Social Workers, agree that sexual orientation is not a valid reason for excluding individuals from the pool of adoptive parents. In addition, they find that children with parents who are homosexual can have the same advantages and the same expectations for health, adjustment, and development as can children whose parents are heterosexual.

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Statements From Mainstream Groups

Child Welfare League of America

Standards Regarding Sexual Orientation of Applicants, 1988

"All applicants [for adoption] should have an equal opportunity to apply for the adoption of children, and receive fair and equal treatment and consideration of their qualifications as adoptive parents, under applicable law.

"Applicants should be fairly assessed on their abilities to successfully parent a child needing family membership and not on their appearance, differing lifestyle, or sexual preference.

"Agencies should assess each applicant from the perspective of what would be in the best interests of the child. Those interests are paramount.

"Sexual preference should not be the sole criteria on which the suitability of adoptive applicants is based. Consideration should be given to other personality and maturity factors and on the ability of the applicant to meet the specific needs of the individual child. The needs of the child are the priority consideration in adoption.

"Gay/lesbian adoptive applicants should be assessed the same as any other adoptive applicant. It should be recognized that sexual orientation and the capacity to nurture a child are separate issues. Staff and board training on cultural diversity should include factual information about gays and lesbians as potential adoptive resources for children needing families in order to dispel common myths about gays and lesbians.

"Gay and lesbian applicants should be informed that biological parents are told about potential adoptive families for their child, including the sexual orientation of the prospective adoptive parent(s). Some biological parents may choose not to consider gay or lesbian families, and agencies usually follow the expressed wishes of the parent."

North American Council on Adoptable Children

1998 Policy Statement

"Everyone with the potential to successfully parent a child in foster care or adoption is entitled to fair and equal consideration regardless of sexual orientation or differing life style or physical appearance."

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American Academy of Pediatrics

2002 Policy Statement

"Children deserve to know that their relationships with both of their parents are stable and legally recognized. This applies to all children, whether their parents are of the same or opposite sex. The American Academy of Pediatrics recognizes that a considerable body of professional literature provides evidence that children with parents who are homosexual can have the same advantages and the same expectations for health, adjustment, and development as can children whose parents are heterosexual. When two adults participate in parenting a child, they and the child deserve the serenity that comes with legal recognition."

American Psychiatric Association

Fact Sheet on Gay, Lesbian, and Bisexual Issues

"Many gay men and women are parents. For example, estimates of the numbers of lesbian mothers range from 1 to 5 million with the number of children ranging from 6 to 14 million. Most gay parents conceived their children in prior heterosexual marriages. Recently an increasing number of gay parents have conceived children and raised them from birth either as single parents or in committed relationships. Often this is done through alternative insemination, adoption, or through foster parenting. Numerous studies have shown that the children of gay parents are as likely to be healthy and well adjusted as children raised in heterosexual households. Children raised in gay or lesbian households do not show any greater incidence of homosexuality or gender identity issues than other children. Children raised in nontraditional homes with gay/lesbian parents can encounter some special challenges related to the ongoing stigma against homosexuality, but most children surmount these problems."

American Psychological Association

Lesbian and Gay Parenting: A Resource for Psychologists, 1995

"The results of existing research comparing gay and lesbian parents to heterosexual parents are quite uniform: common stereotypes are not supported by the data...In summary, there is no evidence to suggest that lesbians and gay men are unfit to be parents or that psychosocial development among children of gay men and lesbians is compromised in any respect relevant to that among offspring of heterosexual parents. Not a single study has found children of gay or lesbian parents to be disadvantaged in any significant respect relative to children of heterosexual parents. Indeed, the

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evidence to date suggests that home environments provided by gay and lesbian parents are as likely as those provided by heterosexual parents to support and enable children's psychosocial growth."

Adopted by the American Psychological Association Council of Representatives, 1976

"The sex, gender identity, or sexual orientation of natural or prospective adoptive or foster parents should not be the sole or primary variable considered in custody or placement cases."

American Psychological Association and National Association of Social Workers

Amicus brief, 1998

"There is no empirical support for any presumption that a gay or lesbian parent's sexual orientation, or contact with that parent's same-sex partner, is or will be harmful to the children. Thus, any assumption that restrictions on visitation are in the best interest of children is contrary to the relevant scientific research. Visitation decision should be made on the basis of individualized, fact-based assessments without regard to sexual orientation.

"Scientific research has consistently found that the sexual orientation of parents is not a predictive factor as to the parenting ability of those parents or the psychological and social development of their children. There is no empirical basis, therefore, to presume that restricting visitation by a gay or lesbian parent is necessary to promote the best interests of a child. Two decades of scientific investigation have, in fact, provided considerable evidence for the opposite conclusion: that children who retain regular and unrestricted contact with a gay or lesbian parent are as healthy psychologically and socially as children raised by heterosexual parents, and that the parenting skills of gay fathers and lesbian mothers are comparable to their heterosexual counterparts. Further, there is evidence that including the gay or lesbian parent's partner in the child's life may generally have a positive effect."

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LGBT Families

There are an estimated 3.3 to 3.5 million LGBT families, making up approximately five percent of all families

Approximately 30 percent or 3.1 million of gay or lesbian couples are in committed relationships

Census 2000 counted 601,209 same-sex unmarried couples in the United States

Census 2000 counted 703 same sex couples in North Dakota

Census 2000 reported same sex couples in 51 of 53 North Dakota counties

Both lesbian and gay couples share household tasks more equally & with less conflict than heterosexual couples

Lesbian Couples

64-75% of lesbians are in an "on-going, intimate" relationship

1-5 million lesbian mothers reside with their children

17-21% of lesbians have at least one biological child from a heterosexual marriage (1983, 1989)

5,000-10,000 lesbians have given birth to at least one child while in a lesbian relationship (1990)

Lesbian couples are the only families in which power is not primarily determined by who earns the most money

Gay Male Couples

31-60% of gay men are in an "on-going intimate" relationship

1-3 million gay fathers

9-10% of gay men have at least one biological child from a heterosexual marriage (1983, 1989)

Children in LGBT Families

8-10 million children live in LGBT families

6-14 million children live with a LGBT parent

Present research shows no significant differences for children raised in lesbian families in terms of relations with peers, sex roles, or gender identity

SOURCES:

Richard D. Mohr, *A More Perfect Union: Why Straight America Must Stand Up for Gay Rights*. Boston: Beacon Press, 1994; David M. Smith and Gary J. Gates, "Gay And Lesbian Families In The United States: Same-Sex Unmarried Partner Households: A Preliminary Analysis of 2000 United States Census Data, A Human Rights Campaign Report"; *Evidence Journal*, 10/13/2002; *The Advocate*, 7/23/98; Judith Stacey, *In the Name of the Family: Rethinking Family Values in a Postmodern Age*. Boston: Beacon Press, 1996; William N. Eskridge, Jr., *The Case for Same-Sex Marriage: From Sexual Liberty to Civilized Commitment*. New York: Free Press, 1996; Charlotte Patterson, "Children of Lesbian and Gay Parents," *Child Development* 63 (1992): 1026-1042; Joan Laird, "Lesbian and Gay Families," in Froma Walsh, ed., *Normal Family Processes*, 2nd ed. New York: Guilford Press, 1993; Katherine R. Allen and David H. Demo, "The Families of Lesbian and Gay Men: A New Frontier in Family Research," *Journal of Marriage and the Family* 57 (February 1995): 111-127; Stephanie Coontz, *The Way We Really Are: Coming to Terms with America's Changing Families*. New York: Basic Books, 1997; Partners Task Force for Gay & Lesbian Couples, 1995; (11/02/02).

Revised 11/02/02

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Sherri Parsons
END Co-chair

Equality North Dakota is a statewide gay, lesbian, bisexual and transgender rights organization. We are here to voice our opposition to Senate Bill 2188. This bill gives state licensed agencies permission to discriminate against adoption applicants, with full protection of the law.

This is unfair to the nearly 400 North Dakota children waiting for an adoptive family. Allowing agencies to disqualify applicants based on unlimited religious or moral views and thereby reduce the pool of qualified prospective parents is a great disservice to those children. Right now the law says agencies must consider the best interests of the child – and this is the only guideline needed.

Think about it - if this bill is passed, single persons could be taken out of the adoption pool of prospective parents – and the agency would face no reprisals. Is this in the best interest of every child? A Catholic agency could refuse to place children with Lutheran families – and it would be perfectly legal. Does the North Dakota legislature want to be party to this type of religious discrimination? Another agency might reject a previously divorced parent – again, with full support of North Dakota law. Some might object to placing a child with parents who drink alcohol – and it would be legal, sanctioned by the state of North Dakota. The examples are endless.

Equality North Dakota believes that this bill is also aimed at legislating the exclusion of gay and lesbian individuals and couples from the adoption pool. A male gay couple from Bismarck adopted a baby boy almost two years ago. Certain individuals and agencies tried diligently to stop the adoption process. Thankfully, they were not successful.

There is no scientific basis to believe that lesbians and gay men cannot be good parents. Research shows that lesbian and gay parents are as fit, effective, and successful as heterosexual parents. Children of gay parents are as emotionally healthy, socially adjusted, and educationally successful as children raised by heterosexual parents.

Many professional psychological and child welfare groups agree that sexual orientation is not a valid reason for excluding individuals from the adoption pool. You were given a fact sheet with statements from six well-known mainstream organizations. You also have another fact sheet with some statistics concerning lesbian and gay couples and children in lesbian and gay families.

The opposition's website nicknames this bill, "Adoption Agency Freedom to Serve". This name seems to be a bit of a misnomer – because as they admit in an article posted on the site, they currently have the ability to refuse prospective parents. And as you will soon hear in later testimony, agencies can and already do choose to

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Sherri Parsons
END Co-chair

refuse to participate in an adoption proceeding. Instead, this bill should be nicknamed, "Adoption Agency Freedom to Discriminate".

The opposition also claims that this bill does not restrict access to adoption services. In North Dakota, only two agencies have no ties to a religious organization. One of these performs adoptions cooperatively with a religion-based agency and the other no longer accepts new clients. Taking these facts into consideration and add in state-sanctioned discrimination in the form of SB2188, and effectively the state of North Dakota has restricted access to adoption services. Could a new non-religion based agency begin business in North Dakota? Theoretically, yes, but practically speaking, will that happen? Probably not.

This bill also raises questions regarding conflicts with federal and state constitutional protections against the government endorsement of religion. In addition, this bill is financially dangerous – delaying adoptions by limiting the adoption pool means lost federal funds through the Adoption and Safe Families Act.

Equality North Dakota urges the committee to recommend "Do Not Pass" on Senate Bill 2188. Adoption agencies should evaluate all prospective adoptive parents on a case-by-case basis and in the best interest of the child. Thank you.

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Representing the Diocese of Fargo
and the Diocese of Bismarck

Christopher T. Dodson
Executive Director and
General Counsel

To: House Human Services Committee
From: Christopher Dodson, Executive Director
Subject: Senate Bill 2188 -- Child Placing Agencies
Date: March 3, 2003

I am Christopher Dodson, the executive director of the North Dakota Catholic Conference. The conference urges a **Do Pass** recommendation for Senate Bill 2188.

Senate Bill 2188 protects a child-placing agency's freedom to provide adoption services. State policy allows private entities to provide adoption services as "child-placing agencies." Chapter 50-12 of the North Dakota Century Code sets out the requirements for child-placing agencies and an agency cannot provide adoption services unless it meets these requirements and is licensed by the Department of Human Services.

Six agencies currently provide licensed adoption services in North Dakota. Four of these agencies are, or are affiliated with, religious entities. As religious entities, they incorporate and reflect their church's teachings and values. By doing so, the services become an integral part of their church's ministry.

This partnership between the state and religiously affiliated agencies, and the accompanying respect for religious liberty, has served the people of North Dakota well. Rather than restricting the number of child-placing agencies and, in turn, access to adoption services, it has fostered pluralism and allowed for participation by a greater number of providers.

In recent years, some adoption agencies -- locally and nationally -- have witnessed pressure to provide adoption services that would violate their religious or moral policies. Sometimes this pressure is subtle. Sometimes it is direct. Sometimes it is based on social trends. Sometimes it is based on interpretations of law or professional "best practice" standards. Senate Bill 2188 addresses these challenges by protecting an agency's freedom to serve.

Senate Bill 2188 is designed to only preserve religious liberty. It does not affect who can adopt or restrict access to adoption services. Some have claimed that this bill changes the law by giving agencies a right to not participate in an adoption. This claim assumes that agencies do not currently have such a right. Under this

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assumption, any agency licensed by the state must serve any person that knocks on its door. We do not believe this is the law, but the very assertion of such an argument demonstrates why the time has come to clarify an agency's right to serve in a manner consistent with its religious and moral positions.

Following existing conscience protection statutes in North Dakota and the law of other states, Senate Bill 2188 addresses protection of conscience with respect to: (1) licensing [page 1, lines 15 -18], (2) general policies [page 1, lines 22 - 24], (3) government programs [page 1, line 24 - page 2, lines 1-4] and (4) civil and criminal actions [page 2, lines 4 - 6].

In each of these cases, the protection extends to an agency's objection to "performing, assisting, counseling, recommending, facilitating, referring, or participating" in an adoption that violates their religious policies. This phrase was used because it closely parallels other anti-discrimination language in the Century Code. In each case, the objection must be based on the agency's "religious or moral convictions or policies." This phrase also parallels existing code language, with a revision to reflect that individual persons, in addition to entities, can act as child-placing agencies in the state.

As mentioned, the only purpose of this bill is to protect an agency's freedom to serve. It is not intended to impact adoption law or access to adoption services. To make this clear, the last lines of the bill (page 2, lines 6 - 9) provide that if a child-placing agency opts not to participate in an adoption that violates its religious convictions, the action of the agency is not a finding concerning the best interests of the child. In short, opting not to participate is merely that -- opting not to participate. The decision does not follow the prospective parent and he or she is free to use the services of another agency.

North Dakota has chosen to foster a plurality of adoption service providers rather than insisting a uniform "one size fits all" approach. This approach has provided choices to North Dakotans and a means for agencies to exercise their public ministries. If this policy is to continue, we must protect the religious liberties of child-placing agencies. No person or agency should ever be asked to forfeit their religious or moral beliefs as the price to pay for exercising a religious mission and providing a community service.

We urge a **Do Pass** recommendation on Senate Bill 2188. I would be happy to answer any questions the committee may have.

Testimony of Equality North Dakota in Opposition to Senate Bill 2188

Good morning, Madam Chairman and other members of the committee. My name is Robert Uebel, and I live in Fargo. I am speaking today as co-chair of Equality North Dakota, the statewide advocacy organization for gay, lesbian, bisexual and transgender North Dakotans. Equality North Dakota strongly opposes Senate Bill 2188 because it essentially provides for state-sanctioned discrimination in the area of child placement.

Senate Bill 2188 gives state-licensed agencies a blank check to discriminate against adoption applicants of certain religious faiths or anyone else the agency disapproves of because of its moral or religious beliefs. Thus, any qualified parents could face exclusion. For example, some agencies might believe that children should only be placed with Christians. Some might believe that the Bible mandates that only families with stay-at-home mothers are suitable for raising children. Some agencies might object to placing children with parents of a different race than the child. Yet Senate Bill 2188 would permit these and an extremely broad range of other exclusions.

North Dakota cannot afford to have qualified, good parents turned away from adopting because they do not share an agency's religious or moral beliefs. According to figures from the federal government, almost **four hundred** parentless children are waiting to be adopted in the state. Over 80% wait for more than a year, and more than half wait more than two years waiting for stable, permanent homes. Allowing agencies to disqualify an applicant because of religious or moral views will have the most immoral of effects – it will leave children waiting even longer for parents to adopt them. For some it may mean never being adopted.

Proponents of this bill have claimed that this legislation is necessary to protect the religious rights of sectarian agencies and that the bill isn't intended to discriminate against any group or individual. In fact, our testimony before the Senate Human Services Committee was used as a reason why such legislation is necessary. We were even told by one Senator that we should open our own adoption agency if we didn't like the proposed legislation.

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We take strong exception to all of the above arguments. Throughout our nation's history discrimination against numerous groups and denial of equal rights have been justified by "moral or religious beliefs." Those same "moral or religious beliefs" have been used to oppose most, if not all, major advances in the areas of civil and human rights. With specific regard to gay, lesbian, bisexual and transgender persons, we hear with increasing frequency the argument that laws which protect our rights somehow discriminate against those who have "moral or religious" objections to our sexual and affectional orientation.

Adoption by gay and lesbian couples in North Dakota is already extremely difficult and practically non-existent. Sectarian child-placement agencies do not facilitate adoptions by gay and lesbian couples. In the case of a gay male couple from Bismarck who tried to adopt a little boy through a non-sectarian agency, officials of the state Department of Human Services intervened in their adoption proceedings in an attempt to block the adoption. Fortunately, they were able to work around these officials, and the adoption eventually went through.

Senate Bill 2188 allows child-placing agencies to discriminate with impunity and with the approval of the state. North Dakota needs less discrimination, not more. At a time when many in our state are looking for ways to make our state a more welcoming and inviting place, this bill sends the message that individuals who are perceived as different are not full and equal members of the North Dakota family. Worst of all, it sends the message that the right to discriminate is more important than the right to full equality under the law. I urge members of the committee to give this bill a "do not pass" recommendation. Thank you.

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To: Clara Sue Price, Chairman, House Human Services Committee

**From: Barb Arnold-Tengesdal, Private Citizen
1123 Hillside Terrace, Bismarck ND 58501**

Date: March 3rd, 2003

Re: Testimony in opposition to SB 2188

I come to you as a private citizen who has gone through the process of adopting a child in North Dakota. My daughter is now three years old. Adoption is a very emotional and rigorous process. It requires that a home-study be done by a licensed adoption agency in our state. Whether you have an in-state, foreign, out-of-state, or identified- private adoption, you must still work with and be recommended by a licensed social worker in North Dakota. It requires background checks into your financial situation, criminal records, employment, family and home. They call your references, check your home for the appropriate number of fire alarms and other safety measures, make several visits to talk over very intimate issues like past marriages and relationships, your feelings about discipline and child rearing, and acceptance of your choice to adopt by your extended family members. You must have a good relationship with the social worker to truly open up and find the best match of child to parent. Both adoptive parents and birth parents must feel comfortable with the agency that will represent them throughout the process of adoption.

Given the small number of licensed child placing agencies in North Dakota- **parents will have not have options** to shop around and find the best agency to work with their particular family if SB 2188 is passed. With only 5 active agencies in North Dakota and all of them faith based, if each agency decided to strictly adhere to their doctrine, both birth and adoptive parents who were Jewish, Muslim, single, divorced, or of a non-traditional nature would not have an options of working with a non "Christian" based program. SB 2188 would virtually reduce the options parents have in choosing an agency to work with given the number of non-faith based program in our state.

If a faith based group would chose not to serve a certain population of families, that is their agencies choice, but I believe they should not be allowed to receive grants, contracts and other governmental programs made to support all citizens. (page 2 line 1 SB 2188)

I also take offense to line 4, page 2 of this bill that gives them an exemption from all civil and criminal liability regarding their participation; or lack of it, in adoption. I also believe the wording "refer, assist, counsel or make recommendation" gives no support to parents seeking help in adopting a child and makes no requirements of the child-placing agency to suggest other groups that could be of assistance. This is really bad bill that needs to be sent back to the drawing board!

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12/17/03
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The Honorable Jerry Klein
North Dakota Supreme Court
600 East Boulevard
Bismark, ND 58505 via fax 701 328-1997

March 25, 2003

Dear Senator Klein,

I write to express my personal opinion in support of a bill proposing protection for rights of conscience in adoption. For identifying purposes, I am a professor of law at the J. Reuben Clark Law School where I have taught Family Law (and related subjects) as well as Biomedical Ethics and Law (and related subjects) for over two decades. I have written scholarly articles and testified before committee of Congress about rights of conscience and protection of conscience. *See, e.g.,* Lynn D. Wardle, *Protecting the Rights of Conscience of Health Care Providers*, 14 J. LEGAL MEDICINE 177-230 (1993); Lynn D. Wardle, *A Matter of Conscience: Legal Protection for the Rights of Conscience of Health Care Providers*, 2 CAMBRIDGE Q OF HEALTH CARE ETHICS 529-42 (1993).

I have read Senate Bill No. 2188 and endorse the Bill. It addresses a serious and growing need to protect the rights of conscience of moral-doing agencies that increasingly stand in jeopardy of lawsuit, attack and challenge by individuals with moral lifestyles at odds with the moral principles of the adoption agency, who demand that the agency act as a "hired gun" to provide services they desire even though they fail to meet the agencies standards that are based on moral or religious principles or conscience.

The growing intolerance of diversity in social agency policies, and the astonishing lack of respect for the values of religious organizations who have provided so much social service delivery in our country for centuries is a dangerous but growing trend. The work of adoption for the sake of children in need of parents is too important to let it be hijacked by radical activists seeking affirmation of a lifestyle agenda. Yet the potential for such abuse and manipulation of laws is already present.

For example, It was reported just a few weeks ago that the Community Care Licensing Division of the California Department of Social Services has directed a private adoption agency licensed by the state that it must place children for adoption with gay and lesbian couples. The State ordered the private agency to develop a formal policy providing that it will not discriminate against same-sex couples who seek to become adoptive or foster parents of children in the care or using the services of the private agency.

A critical part of the proposed Bill reads (page 2, lines 4-6): "A child-placing agency is not civilly or criminally liable for refusing to perform, assist, counsel, recommend, facilitate, refer or participate in a placement that violates the agency's religious or moral convictions or policies." This is important to explicitly provide a defense to a variety of claims that could harass and intimidate adoption agencies.

My only suggestion would be to strengthen and broaden the protection offered by Senate Bill

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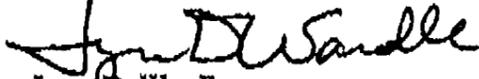
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No. 2188 by adding after "child-placing agency" the words "and its directors, officers, employees, and agents" and substitute "are" for "is."

Best wishes for success in protecting rights of conscience in adoption.


Lynn D. Wardle
Professor of Law

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Adoption licensing debated

By MEGAN BOLDT
Associated Press Writer

Religious organizations argued Tuesday that they need state legal protection to ensure their adoption agencies won't be pushed into violating their beliefs.

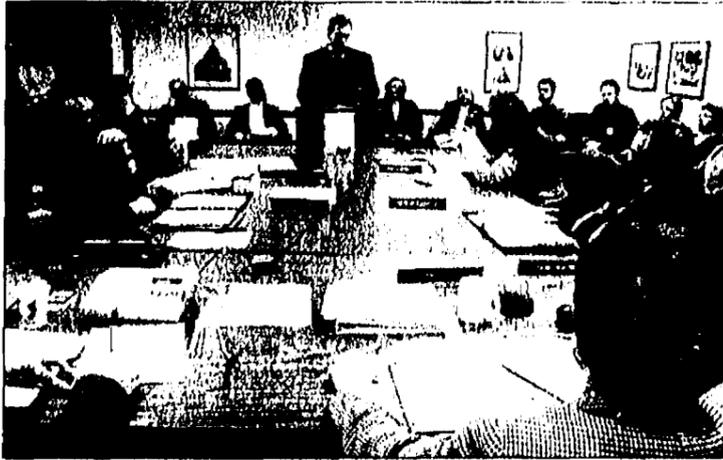
Opponents of the proposal said it would give religious groups permission to discriminate against gays and single parents.

Christopher Dodson, director of the North Dakota Catholic Conference, said adoption agencies have been pressured to arrange adoptions that would violate their religious or moral doctrines.

"We must protect the religious liberties of child-placing agencies," he said. "No person or agency should ever be asked to forfeit their religious or moral beliefs as the price to pay for providing a community service."

The Senate Human Services Committee is hearing the legislation, which is sponsored by Sen. Jerry Klein, R-Fessenden. The panel did not act on the bill Tuesday. It will eventually come to the full Senate for a vote.

It would bar the Department of Human Services from refusing to license an adoption agency because of its moral or religious policies. Four of North Dakota's



AP

Christopher Dodson, center, executive director of the N.D. Catholic Conference, testifies before members of the Senate Human Services Committee at the Capitol Tuesday.

five licensed adoption agencies are religious organizations.

Vickie Nixon, a spokeswoman for Equality North Dakota, a gay rights organization, said the measure would give state-licensed agencies free rein to discriminate against adoption applicants.

"If this bill is passed, it could mean that single persons would be taken out of the adoption pool of prospective parents," she said. "A Christian-based agency could refuse to place children with Muslim families ... The examples are endless."

The legislation also isn't needed, because agencies already choose whom they will serve in the adoption process, said Todd Berg of Bismarck.

Berg and his partner adopted their son, Jensen, a year ago. They faced many challenges finding an agency that would work with a gay couple, he said.

"One agency stated that we

needed to be a member of their church, while the other agencies said it was against their agency's policy to work with gay or lesbian families," Berg said.

Nixon said her organization believes the legislation is aimed at excluding gays and lesbians from the adoption process.

But Dodson argued the bill is not trying to dictate North Dakota adoption policy. The Roman Catholic Church wants to participate in public service, and have its religious convictions respected in the process, he said.

"Our church teaches that the best environment for a child is with a married family," he said. "Others have the same policy. And we want to make sure that belief is protected."

The bill is SB2188.



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