

# MICROFILM DIVIDER

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



ROLL NUMBER

DESCRIPTION

2179

2001 SENATE JUDICIARY

SB 2179

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2179

Senate Judiciary Committee

☐ Conference Committee

Hearing Date January 17th, 2001

Tape Number	Side A	Side B	Meter #
I	X		0.0-23.4
Committee Clerk Signature			

Minutes: SENATOR WATNE opened the hearing on SB 2179: A BILL FOR AN ACT TO CREATE AND ENACT A NEW SECTION TO CHAPTER 47-19 OF THE NORTH DAKOTA CENTURY CODE, RELATING TO THE AUTHORITY OF NORTH DAKOTA NOTARIES TO ACT IN OTHER STATES; TO AMEND AND REENACT SECTION 44-06-01 OF THE NORTH DAKOTA CENTURY CODE, RELATING TO THE PERFORMANCE OF NOTARIAL ACTS; AND TO DECLARE AN EMERGENCY.

SENATOR TRAYNOR received a letter from the secretary of state. Notary has no authority outside the state. Talked to other members of his law firm, to change this. Bill refined and is here today. Gives our notaries authority outside of state.

SENATOR NELSON give us example

SENATOR TRAYNOR (meter # 3.3) gives example of his brother.

SENATOR BERCIER would amendment be appropriate to states we have included?

SENATOR TRAYNOR yes.

Page 2  
Senate Judiciary Committee  
Bill/Resolution Number SB 2179  
Hearing Date January 17th, 2001

SENATOR JUDY LEE, Senator from Fargo, supports SB 2179.

MARY FIEST, representing the secretary of state, encourages a do pass. (testimony attached)

RON NESS, Executive Director of the North Dakota Petroleum Council, testified in favor of SB 2179. (testimony attached)

JACK PARIS, professional land man from Mandan, testified in favor of SB 2179. (testimony attached)

**MOTION MADE BY SENATOR LYSON TO DO PASS. SECONDED BY SENATOR  
BERCIER. VOTE INDICATED 7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING.  
SENATOR TRAYNOR VOLUNTEERED TO CARRY THE BILL.**

Date: 1/17/01  
Roll Call Vote #: 1

**2001 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 513 2/79**

Senate	Judiciary	Committee
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☐ Subcommittee on \_\_\_\_\_  
or  
☐ Conference Committee

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

Action Taken Do Pass w/emergency clause

Motion Made By Lyson Seconded By Boerier

[illegible]

Total (Yes) 7 No 0

Absent ☒

Floor Assignment S. Traynor

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

**REPORT OF STANDING COMMITTEE (410)**  
January 17, 2001 1:08 p.m.

**Module No: SR-07-1124**  
**Carrier: Traynor**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2179: Judiciary Committee (Sen. Traynor, Chairman) recommends DO PASS**  
**(7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2179 was placed on the**  
**Eleventh order on the calendar.**

2001 HOUSE JUDICIARY

SB 2179

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2179

House Judiciary Committee

☐ Conference Committee

Hearing Date 03-05-01

Tape Number	Side A	Side B	Meter #
TAPE II	x		5801 to 6242
TAPE II		x	1,013
Committee Clerk Signature <i>Jan Davis</i>			

Minutes: Chairman DeKrey opened the hearing on SB 2179. Relating to the performance of notarial acts and to declare an emergency.

Rep Delmore: District 43, Introduced the bill, the premise behind this bill is not very difficult.

All that we are asking is that our notaries would be able to notarize out of state the same way other notaries are able to do.

Ron Ness: Petroleum Council (see attached testimony). Also attached is a letter from BJ Kadrman, a firm that does land service doing title research, oil and gas leasing in North Dakota, Montana, South Dakota and Wyoming.

TAPE II SIDE B

Ron Ness testimony continues.

Chairman DeKrey: In how many states can the notaries act outside of the state now.

Ron Ness: I believe there will be a lot, right now Minnesota and Montana.

Chairman DeKrey: If there are no other questions, thank you for appearing before the committee.



Al Jaeger: Secretary of State (see attached testimony).

Rep Klemin: I know that there are validating statutes in North Dakota Century Code that validate prior acts because of a law that was passed in order to take care of something that was done that might have been invalid. With respect to notaries that would have inadvertently violated the law according to the Attorney General decision, whether it would be reasonable to have validation provisions so it would validate those prior acts prior to the time when this would become effective.

Al Jaeger: You have raised a legal question that I am not prepared to answer.

Rep Klemin: If we are saying that the Attorney General's opinion is that the notary are not authorized, then what is the remedy.

Al Jaeger: It isn't our intent to go back from an administration stand point and go after a notary or anything like that.

Rep Klemin: I understand, there might be a title question.

Al Jaeger: I have the opinion her, I can make copies for you, but keep in mind the issue is whether the notary can notarize in Montana. Can we pass a North Dakota law for something in Montana.

Rep Klemin: Apparently we are doing it now.

Al Jaeger: I understand that.

Rep Klemin: We may need a provision that says further more it was ok when it was done.

Al Jaeger: I would be happy to work through this with our attorneys if need be, to see what can be done.

Ron Ness: Mr Chairman, I think that is an interesting concept and I would ask our legal council to comment on it.

Craig Smith: attorney in Bismarck, a board member of the Petroleum Council, I don't think the notary itself doesn't effect the legality, on the other had if the committee wants to add some sort of validating language.

Rep Klemm: It would still be valid between the parties?

Craig Smith: Yes, once it is recorded, even in North Dakota, if you have an invalid notary, once it is recorded, you are ok. It is more of a recording requirement than a validity thing of the document.

Rep Klemm: Might there not be documents that have been recorded that are effected.

Craig Smith: Probably not.

Al Jaeger: As soon as we got the opinion back, we notified all 11,000 notary and once that came to their attention, I would think that since the opinion came back in July, nothing has really happened since then. That is way they are interested in getting the emergency clause passed. No doubt there was a misunderstanding for long time. We need to straighten this out. There are some legal questions here that I cannot answer now.

Chairman DeKrey: Any further questions, thank you for appearing. Any further testimony on SB 2179?

Jack Paris: Professional Landman, Vice President of the Landmans Association of North Dakota.  
(see attached testimony)

Chairman DeKrey: Are there any questions, seeing none, thank you for appearing. Anyone else in support of SB 2179, any one in opposition. We will close the hearing on SB 2179.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2179b

House Judiciary Committee

☐ Conference Committee

Hearing Date 03-12-01

Tape Number	Side A	Side B	Meter #
TAPE I		x	5389 to 5781
Committee Clerk Signature <i>Joan Diers</i>			

Minutes: Chairman DeKrey called the committee to order on SB 2179.

COMMITTEE ACTION

Chairman DeKrey: what are the wishes of the committee. Rep Delmore moved a DO PASS, seconded by Rep Klemin.

DISCUSSION

Chairman DeKrey: the clerk will call the roll on a DO PASS motion on SB 2179. The motion passes with a vote of 13 YES 0 NO and 2 ABSENT. Carrier Rep Maragos.

Date: 03-12-01  
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB-2179

House JUDICIARY

Committee

☐ Subcommittee on \_\_\_\_\_

or

☐ Conference Committee

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

Action Taken Do Pass

Motion Made By Rep Delmore Seconded By Rep Klemin

Representatives	Yes	No	Representatives	Yes	No
CHR - Duane DeKrey	✓				
VICE CHR --Wm E Kretschmar	✓				
Rep Curtis E Brekke					
Rep Lois Delmore	✓				
Rep Rachael Disrud	✓				
Rep Bruce Eckre	✓				
Rep April Fairfield					
Rep Bette Grande	✓				
Rep G. Jane Gunter	✓				
Rep Joyce Kingsbury	✓				
Rep Lawrence R. Klemin	✓				
Rep John Mahoney	✓				
Rep Andrew G Maragos	✓				
Rep Kenton Onstad	✓				
Rep Dwight Wrangham	✓				

Total (Yes) 13 No 0

Absent 2

Floor Assignment Rep Maragos

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

**REPORT OF STANDING COMMITTEE (410)**  
March 13, 2001 3:56 p.m.

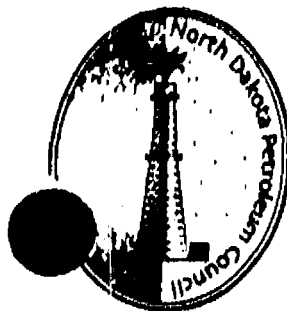
**Module No: HR-43-5512**  
**Carrier: Maragos**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2179: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO PASS**  
**(13 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2179 was placed on the**  
**Fourteenth order on the calendar.**

2001 TESTIMONY

SB 2179



## *North Dakota Petroleum Council*

**Ron Ness**  
Executive Director

**Marsha Reimnitz**  
Office Manager

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### **Senate Judiciary Committee**

**January 17, 2001**

#### **Testimony by Ron Ness, North Dakota Petroleum Council**

Mr. Chairman and members of the Committee, my name is Ron Ness and I am the Executive Director of the North Dakota Petroleum Council. The North Dakota Petroleum Council represents both large and small oil and gas companies, oil field service companies, and the BP Refinery in Mandan. I appear before you today in support of SB-2179.

Landmen are a vital part of the oil industry in North Dakota and this bill will allow them to conduct their business in the Williston Basin on a level playing field with their peers who live in Montana. If this legislation does not pass, landmen may choose to have a Montana residence in order to perform leasing acts in both states. Last summer, the North Dakota Secretary of State informed notaries that their authority to notarize documents ends at the North Dakota border. The decision was based upon an Attorney General's opinion stating that North Dakota law does not allow North Dakota notaries jurisdiction in other states even though the North Dakota law allows Montana notaries to notarize in North Dakota.

The North Dakota Petroleum Council does not necessarily agree with the opinion; however, we believe the bill before you will clarify the issue and level the playing field with notaries from other states. The emergency provision of this bill is important. Landmen need authority to notarize on both sides of the border as soon as possible and waiting until August 1, 2001 would be burdensome. In addition, leasing activity in the Williston Basin has been on the increase with the higher prices for crude oil and natural gas.

I urge a "Do Pass" on SB-2179. Thank you. I would be happy to answer any questions. I believe we have a number of landmen present today and a few may want to testify.

"Mr. Chairman and members of the Committee, my name is Jack Paris from Mandan, North Dakota, and my occupation is a Professional Landman. I am also Vice President of and representing the Landmans Association of North Dakota. I have been a landman for the past 20 years. I also appear today in support of Senate Bill 2179.

First, I wish to concur in the comments made earlier by Ron Ness. In addition, I would like to take a brief moment and explain as a practical matter why this bill is so very important to myself and other North Dakota landmen.

As a landman, we are called upon to perform various services in the oil industry, including the acquisition of oil and gas leases, negotiating surface damage agreements, access agreements, and road easements. Consequently, we are often the person requested by a company to deliver documents to mineral owners or surface owners for signature. Obviously, then, our ability to notarize documents such as oil and gas leases without delay is a great convenience for ourselves, our client, and also for the individuals we are conducting business with. For example, it is much more convenient for a mineral owner living 25 miles out in the country to have me notarize the oil and gas lease than it is for him to have to drive to town and find a notary public.

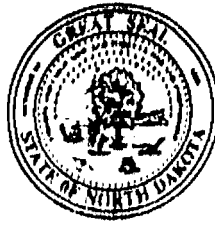
For a North Dakota landman, the ability to also notarize documents in Montana is very important. The Williston Oil Basin does not stop at the Montana-North Dakota border. Many of the companies that conduct activities in North Dakota also conduct activities in Montana. Thus, it is not unusual for one of our clients to request our services in obtaining oil and gas leases in either state, or, in some cases, in both states. For example, a company could request my services in obtaining oil and gas leases for a play that lies in both McKenzie County, North Dakota, and Richland County, Montana. As Ron testified, Montana landmen do have the ability to notarize in North Dakota under North Dakota and Montana law. As such, unless we are afforded the same rights, a North Dakota landman is at a great disadvantage in serving our clients who have interests in both states. Time is often crucial in putting together lease plays for our clients. If we are hindered by not having the ability to simply notarize documents in Montana, our ability to timely serve our clients suffers which could in turn jeopardize me in doing future work for that client.

Finally, as Mr. Ness testified, we would also urge that the emergency provision of this bill be adopted, as with the increased oil prices, we are seeing a gradual increase in lease plays in the North Dakota and Montana area. Thank you. I would be happy to answer any questions you may have."



ALVIN A. JAEGER  
SECRETARY OF STATE

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## SECRETARY OF STATE

STATE OF NORTH DAKOTA  
600 EAST BOULEVARD AVENUE DEPT 108  
BISMARCK ND 58505-0800

January 17, 2001

TO: Senator Traynor and Members – Senate Judiciary Committee

FR: Al Jaeger, Secretary of State (presented by Mary Felst, Director of Licensing Division)

RE: SB 2179 – Performance by notary public of notarial acts in other jurisdictions

The Secretary of State's office encourages a Do Pass on this bill.

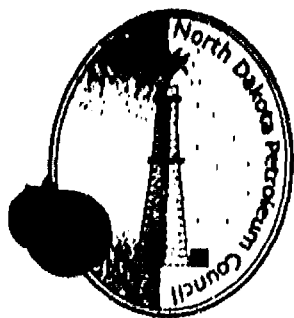
Under the provisions of N.D.C.C. § 47-19-14.1, as adopted by the 1987 Legislative Assembly (1987 Sessions Laws Chapter 556), a notary public commissioned in a jurisdiction outside of North Dakota is allowed to perform a notarial act within the state of North Dakota and have it legally recognized. The recognition of this notarial act is permissible if the laws of the commissioning jurisdiction authorize its notary publics to perform notarial acts outside of its own jurisdiction.

Last year, it was learned that notary publics commissioned by the State of North Dakota were performing notarial acts in Montana and quite possibly have been doing so since 1987. Upon learning of this practice, the Secretary of State requested an opinion from the Attorney General to determine whether a notary commissioned by the State of North Dakota was authorized by North Dakota law to perform notarial acts in a jurisdiction outside of the state.

The Attorney General's opinion (July 14, 2000) concluded, that while North Dakota law allowed a notary commissioned by another jurisdiction to perform notarial acts in North Dakota, it did not allow notaries commissioned by the North Dakota Secretary of State to perform notarial acts in jurisdictions outside of the state.

This bill would allow notary publics to perform notarial acts in jurisdictions outside the state if the laws of that jurisdiction allow it.

Without the Emergency Measure in Section 3 of this bill, this law would not become effective until August 1, 2001. Because of the long-time practice (particularly in the counties bordering Montana) of some notaries notarizing in a jurisdiction outside of the State of North Dakota, the Secretary of State's office believes it would be best interest of all concerned to have this bill become law as soon as it is passed, signed by the Governor, and filed with the Secretary of State.



# *North Dakota Petroleum Council*

A Division of the American Petroleum Institute  
and the  
North Dakota Oil and Gas Association

**Ron Ness**  
Executive Director

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## **House Judiciary Committee**

**March 5, 2001**

### **Testimony by Ron Ness, North Dakota Petroleum Council**

Mr. Chairman and members of the Committee, my name is Ron Ness and I am the Executive Director of the North Dakota Petroleum Council. The North Dakota Petroleum Council represents both large and small oil and gas companies, oil field service companies, and the BP Refinery in Mandan. I appear before today in support of SB 2179.

Landmen are a vital part of the oil industry in North Dakota and this bill will allow them to conduct their business in the Williston Basin on a level playing field with their peers who live in Montana. If this legislation does not pass, Landmen may choose to have a Montana residence in order to perform leasing acts in both states. Last summer, The North Dakota Secretary of State informed notaries that their authority to notarize documents ends at the North Dakota border. The decision was based upon an Attorney General's opinion stating that ND law does not allow ND notaries jurisdiction in other states even though the ND law allows Montana notaries to notarize in ND.

The North Dakota Petroleum Council does not necessarily agree with the opinion, however, we believe the bill before you will clarify the issue and level the playing field with notaries from other states. The emergency provision of this bill is important, Landmen need authority to notarize on both sides of the border as soon as possible and waiting until August 1, 2001 would be burdensome. In addition, leasing activity in the Williston Basin has been on the increase with the higher prices for crude oil and natural gas.

I urge a "Do Pass" on SB 2179 - Thank you, I would be happy to answer any questions. I believe we have a number of Landmen present today and a few may want to testify.



161 FIRST AVENUE SOUTHEAST • P.O. BOX 1282  
DICKINSON, NORTH DAKOTA 58602-1282


March 2, 2001

House Judicial Chairman, Dekrey and Members:

I am writing to ask for your support of bill SB2179-Notary Jurisdiction. My firm is a land service company doing title research, oil and gas leasing, etc. in North Dakota, Montana, South Dakota and Wyoming for Oil and Gas Companies.

We are currently doing some oil and gas leasing in Montana, and the landpeople in the field have been having a difficult time due to ND notaries not being able to notarize documents in Montana. Recently, we visited with a husband and wife, and negotiated the terms of an oil and gas lease; and they lived approximately 60 miles from the nearest town. If my landman could have notarized their lease, it could have been signed when he visited with them, however, since we can not notarize documents in Montana; the transaction was delayed for several days and was inconvenient for the mineral owners and our firm, as they had to come in to town and we had to track down a notary whom could notarize the necessary documents. This project has been taking more time and is more costly to our clients, and has been very inconvenient for the mineral owners in this area.

I trust that you will support this bill.

  
B. J. Kadrmash, President of  
B. J. Kadrmash, Inc.

ALVIN A. JAEGER  
SECRETARY OF STATE

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## SECRETARY OF STATE

STATE OF NORTH DAKOTA  
600 EAST BOULEVARD AVENUE DEPT 100  
BISMARCK ND 58505-0500

March 5, 2001

TO: Rep. DeKrey and Members – House Judiciary Committee

FR: Al Jaeger, Secretary of State

RE: SB 2179 – Performance of notarial acts in other jurisdictions by North Dakota notaries

Under the provisions of N.D.C.C. § 47-19-14.1, as adopted by the 1987 Legislative Assembly (1987 Sessions Laws Chapter 556), a notary public commissioned in a jurisdiction outside of North Dakota is allowed to perform a notarial act within the state of North Dakota and have that act legally recognized. The recognition of this notarial act is permissible if the laws of the commissioning jurisdiction authorize its notary publics to perform notarial acts outside of its own jurisdiction. Montana currently has such a provision in its law.

Apparently, some North Dakota notaries were under the impression that the 1987 change in the law was reciprocal. This perception on their part was first revealed in early 1999. It was at that time when the Secretary of State's office discovered that some notary publics commissioned by the State of North Dakota had been performing notarial acts in Montana for quite some time (possibly, since 1987).

Upon learning of this practice, the Secretary of State requested an opinion from the Attorney General to determine if North Dakota law did, in fact, allow this practice on the part of North Dakota notaries.

The Attorney General's opinion (July 14, 2000) concluded, that while North Dakota law did allow a notary commissioned by another jurisdiction to perform notarial acts in North Dakota, it did not allow notaries commissioned by the North Dakota Secretary of State to perform notarial acts in jurisdictions outside of the state.

This bill will change that. It allows North Dakota commissioned notary publics to perform notarial acts in jurisdictions outside the state if the laws of that jurisdiction allow it.

Section 3 contains an Emergency Measure. Without it, the changes in this bill would not become law until August 1, 2001. However, because of the long-time practice (particularly in the counties bordering Montana) by some notaries who have inadvertently been notarizing in a jurisdiction outside of the State of North Dakota without legal authorization, the Secretary of State's office believes it would be in the best interest of all concerned to have this bill become law as soon as it is passed, signed by the Governor, and filed with the Secretary of State.

The Secretary of State's office encourages a Do Pass recommendation.

March 5, 2001, House Judiciary Committee,  
Testimony of Jack W. Paris on 2179

"Mr. Chairman and members of the Committee, my name is Jack Paris from Mandan, North Dakota and my occupation is a Professional Landman. I am also Vice President of and representing the Landmans Association of North Dakota. I have been a landman for the past 20 years. I also appear today in support of Senate Bill 2179.

First, I wish to concur in the comments made earlier by Ron Ness. In addition, I would like to take a brief moment and explain as a practical matter why this bill is so very important to myself and other North Dakota landmen.

As a landman, we are called upon to perform various services in the oil industry, including the acquisition of oil and gas leases, negotiating surface damage agreements, access agreements, and road easements. Consequently, we are often the person requested by a company to deliver documents to mineral owners or surface owners for signature. Obviously, then, our ability to notarize documents such as oil and gas leases without delay is a great convenience for ourselves, our client, and also for the individuals we are conducting business with. For example, it is much more convenient for a mineral owner living 25 miles out in the country to have me notarize the oil and gas lease than it is for him to have to drive to town and find a notary public.

For a North Dakota landman, the ability to also notarize documents in Montana is very important. The Williston Oil Basin does not stop at the Montana-North Dakota border. Many of the companies that conduct activities in North Dakota also conduct activities in Montana. Thus, it is not unusual for one of our clients to request our services in obtaining oil and gas leases in either state, or, in some cases, in both states. For example, a company could request my services in obtaining oil and gas leases for a play that lies in both McKenzie County, North Dakota, and Richland County, Montana. As Ron testified, Montana landmen do have the ability to notarize in North Dakota under North Dakota and Montana law. As such, unless we are afforded the same rights, a North Dakota landman is at a great disadvantage in serving our clients who have interests in both states. If we are hindered by not having the ability to simply notarize documents in Montana, our ability to timely serve our clients suffers which could in turn jeopardize me in doing future work for that client.

Finally, as Mr. Ness testified, we would also urge that the emergency provision of this bill be adopted, as I really do not want to lose a client to a Montana Landman because I could not notarize an Oil & Gas Lease in Montana. Thank you. I would be happy to answer any questions you may have.