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ROLL NUMBER

DESCRIPTION

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10/15/03
Date

2003 SENATE POLITICAL SUBDIVISIONS

SB 2052

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10/15/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2052

Senate Political Subdivisions Committee

Conference Committee

Hearing Date: **January 17, 2003**

| Tape Number | Side A | Side B | Meter # |
|---|--------|--------|-------------|
| 1 | X | | 0-2225 |
| | | X | 2790 - 4850 |
| Committee Clerk Signature <i>Shirley Long</i> | | | |

Minutes:

CHAIRMAN COOK called the Senate Political Subdivisions committee to order.

Roll call was taken with all six (6) members present.

SENATOR COOK opened the hearing on SB 2052 relating to city flood control special assessments on privately owned structures, fixtures, and improvements, used for private commercial purposes, which are located on state-owned land.

John Walstad, Legislative Council, appeared neither for nor against the bill. Mr. Walstad served as council on the Interim Taxation Committee and provided background on SB 2052. Grand Forks city officials approached the committee with a concern that relates only to City of Grand Forks because of city flood control special assessments that were allowed by law after the disaster of 1997. Grand Forks because of some substantial flood control and remediation expenditures levied fairly substantial special assessments against all the property in the city. Normally special assessments do apply against state owned land but the legislature in the case

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Senate Political Subdivisions Committee

Bill/Resolution Number SB 2052

Hearing Date: January 17, 2003

of authorizing city flood control special assessments exempted state owned land from those flood control special assessments for the reason that the legislature had provided fifty two million dollars of direct funding and for that reason had an exemption put in so that those assessments would not go against state property because the legislature felt the state had done its part already. The section of law in this bill is related to that exemption. The Grand Forks city officials came to the committee with a concern about that provision and its effect on a couple of proposed project which at that time were not a reality but one of them now is in place and operating. Grand Forks was concerned not that the city should be getting more money because adding more property would not allow the city to collect more money. They take their annual requirement for bond payments and spread it against the property that is subject to these assessments, so adding or subtracting property does not effect what the city gets. It only affects what the tax payers are subject to on each property. The cities concern was that there was an element of unfairness competitively on commercial property that can go on to university properties and avoid these assessments that other commercial properties are subject to in the City of Grand Forks. The committee was addressing how to sort out the properties on state land that should be subject to special assessments and because there are a variety of things going on particularly on UND property that have some elements of commercial activity, such as food service, barber shop and the Barnes and Noble book store. The committee contacted the University Administration to consider all the operations on university property to make sure that we would not be impacting anything that we did not anticipate. (See the language in the bill)

There are two factors; ownership and use.

Testimony in support of SB 2052:

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Senate Political Subdivisions Committee

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Jerry Hjelmstad, ND League of Cities, passed out Testimony from Mayor Michael Brown, Mayor of Grand Forks. (See attached testimony) The reason for SB 2052 is to trying to level the playing field between the different commercial enterprises within the city of Grand Forks. There were difficulties trying to catch every possible enterprise because of the lease arrangement. The bill was narrowed down to when the entity actually owned the property, it was determined that they would be able to be assessed.

No testimony opposed to SB 2052.

SENATOR COOK asked John Walstad if he could write up some amendments if needed.

John Walstad answered he would as soon as the committee decided what needs to be done.

He said the committee has some unanswered questions that should be addressed by officials from

UND and from the city, such as why should lease property be treated differently than owned property?

SENATOR COOK closed the hearing. on SB 2052

Committee Discussion:

SENATOR COOK called the committee back to order.

SENATOR COOK asked if everyone understood the intent of the bill was for Grand Forks only.

The taxpayers of ND bonded for a fifty two million dollar to pay for the dyke. The city of Grand Forks was to special assess fifty two million plus other revenue strings to pay for their share.

The intent of the first exemption was to make sure the taxpayers of North Dakota did not pay part of the cities share of the special assessments on the university property. The intent of the exemption is to make sure that commercial property on that campus does pay their share.

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Senate Political Subdivisions Committee

Bill/Resolution Number SB 2052

Hearing Date: January 17, 2003

SENATOR JUDY LEE asked whether it was worth being really complicated in the way we put the language in the bill. She has some concerns about including lease space, because what happens then when the person leasing the property vacates. How do we make sure their assessment is paid if the business folds? She is not sure where the point of diminishing returns is.

SENATOR COOK shares those concerns but said, we set precedence here and if we believe all commercial properties should pay the same special assessment for the benefits receive then what we do in this bill might set that message through our future developments.

SENATOR SYVERSON was concerned if the bill was not written tightly, other state institutions become involved in business for the benefit of profit. He feels the state institution should be held responsible for their share of special assessments. He questioned if the renter should be obligated for that or should that assessment be included in the rents that they pay through the institution that owns the facility.

SENATOR JUDY LEE asked if this section of statute some how only relating to Grand Forks

TeLisa, Intern answered that the bill reads that it relates only to Grand Forks.

SENATOR COOK asked Senator Lee to pursue questions on the bill to Senator Fischer and Senator Cook will meet with John Walstad to discuss how the bill might be reworded to accomplish what it is we want to accomplish. If need be another hearing on this bill could be held where it is insisted that someone from UND or City of Grand Forks attend.

CHAIRMAN COOK closed the hearing on SB 2052

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10/15/03

Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2052

Senate Political Subdivisions Committee

Conference Committee

Hearing Date February 13, 2003 (Discussion & Action)

| Tape Number | Side A | Side B | Meter # |
|---|--------|--------|------------|
| 1 | X | | 3677 - End |
| | | X | 0 - 1800 |
| Committee Clerk Signature <i>Shirley Borg</i> | | | |

Minutes:

CHAIRMAN COOK called the committee to order. All senators (6) in attendance.

CHAIRMAN COOK gave a little background to refresh the committee. When the state of ND bonded for the dyke in Grand Forks they were exempt from special assessments levied for flood control purposes. The issue in Grand Forks is that there are four profit businesses on the campus that are getting out of paying their fair share of special assessments. This bill came with an exemption to the exemption and the question is what is this exemption to the exemption actually going to exempt. Senator Cook passed out letter of correspondence from City of Grand Forks (see attached) and also a letter from the Arnot Law Offices on the issue of the Hilton Inn (see attached) He also passed out a copy of the lease. (see attached lease) The exemption that was put on when we passed the flood control was to assure that the tax payers of North Dakota, who came up with the fifty some million dollars for the state share of the dyke ,did not also have tax dollars going into the City of Grand Forks to pay special assessments. The intent of the

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Senate Political Subdivisions Committee

Bill/Resolution Number SB 2052

Hearing Date February 13, 2003

exemption to that exemption was to allow the City of Grand Forks to assess special assessments on four profit businesses on the University of ND but also protect the right that these special assessments don't come out of the pocket of the taxpayers of North Dakota.

SENATOR CHRISTENSON passed out an amendment. (See attached)

Further discussion Tape 1, Side B, Meter # 0 - 1780.

Bill was held until next day.

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2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **SB 2052**

Senate Political Subdivisions Committee

Conference Committee

Hearing Date **February 14, 2003 (Action)**

| Tape Number | Side A | Side B | Meter # |
|---|--------|--------|---------|
| 1 | X | | 0 - 243 |
| | | | |
| | | | |
| Committee Clerk Signature <i>Shirley Borg</i> | | | |

Minutes:

CHAIRMAN COOK called the committee to order. All senators (6) present.

CHAIRMAN COOK asked the committee to go to SB 2052. This is the city flood control exemption bill. Amendments are before the committee.

SENATOR POLOVITZ moved to adopt the amendments on SB 2052

SENATOR JUDY LEE seconded the motion

Roll call Vote Yes 5 No 1 Absent 0

SENATOR POLOVITZ moved a **DO PASS AS AMENDED** on SB 2052

SENATOR CHRISTENSON seconded the motion

Roll call vote: Yes 5 No 1 Absent 0

Carrier: **SENATOR JUDY LEE**

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Operator's Signature 10/15/03
Date

30035.0301
Title.0400

Adopted by the Political Subdivisions
Committee
February 13, 2003

JJ3
2-14-03

PROPOSED AMENDMENTS TO SENATE BILL NO. 2052

Page 1, line 18, after "any" insert "privately owned"

Page 1, line 20, remove "owned by a private entity and", remove "by it", and replace "net" with "structure, fixture, or improvement is primarily used for athletic or educational purposes at a state institution of higher education"

Page 1, remove line 21

Page 1, line 22, remove "the land"

Renumber accordingly

Date: 3-14-03
Roll Call Vote #: 2

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2052 DO Pass as Amended

Senate Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number 30035.0301

Action Taken DO Pass as Amended

Motion Made By Senator Palovitz 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 | | | | |
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Total (Yes) 5 No 1

Absent 0

Floor Assignment Senator Judy Lee

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

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Operator's Signature Date

REPORT OF STANDING COMMITTEE (410)
February 17, 2003 11:08 a.m.

Module No: SR-30-2893
Carrier: J. Lee
Insert LC: 30035.0301 Title: .0400

REPORT OF STANDING COMMITTEE

SB 2052: Political Subdivisions Committee (Sen. Cook, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (5 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2052 was placed on the Sixth order on the calendar.

Page 1, line 18, after "any" insert "privately owned"

Page 1, line 20, remove "owned by a private entity and", remove "by it", and replace "net" with "structure, fixture, or improvement is primarily used for athletic or educational purposes at a state institution of higher education"

Page 1, remove line 21

Page 1, line 22, remove "the land"

Renumber accordingly

2003 HOUSE POLITICAL SUBDIVISIONS

SB 2052

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10/15/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2052

House Political Subdivisions Committee

Conference Committee

Hearing Date: March 20, 2003

| Tape Number | Side A | Side B | Meter # |
|--|--------|--------|----------------|
| 1 | X | | 0.0-43.2 |
| | | | |
| | | | |
| Committee Clerk Signature <i>Micki Schmidt</i> | | | <i>4-14-03</i> |

Minutes:

TAPE 1; SIDE B:

(0.0) CHAIRMAN GLEN FROSETH: Call the committee to order. (1.4) We'll open the hearing on SB 2052. Roll call: quorum.

(2.0) JOHN WALSTEAD; LEGISLATIVE COUNCIL: (Testimony in support) I was Council for the Taxation Committee where the bill originated. It is somewhat different than it was when it came from the Interim committee. Special assessments levied by a city generally do require to state property. The State is responsible for paying the special assessments. State property is not subject to property tax, but specials, yes. This bill was a special situation after the flood disaster in Grand Forks. The Legislature provided a substantial amount of money to the city and the county for recovery costs and allowed the city of Grand Forks authority to levy city flood control special assessments. This is a special kind of special assessments is different from normal curb, gutter, street type assessments. These relate to flood control project funds. When the Leg.

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House Political Subdivisions Committee
Bill/Resolution Number SB 2052
Hearing Date: March 20, 2003

gave the city of Grand Forks that special assessment authority, the Legislature made a special provision that state property in the city of Grand Forks is not subject to those flood control special assessments in view of the fact that the Legislature provided about \$55 million dollars of direct funding. Now because state property in Grand Forks is exempt from flood control special assessments, and because of some developments that have occurred since 1999. It was suggested by Representative's of the city of Grand Forks that there's a potential for unfairness in some commercial enterprises. Those enterprises involved a hotel located on property of the University of North Dakota. A possible location of a grocery store also on UND land. Grand Fork City Officials suggested that not subjecting those business ventures to flood control special assessments that apply to competing business ventures creates an unfairness between those business's. So, the Interim committee prepared a bill that would create an exception to the exception that in the case of flood control special assessments on state property if there's a privately owned commercial structure, those assessments would apply to that structure. There's a provision in here that, an assessment that is allowed would have to be based on square footage of the land on which the property is located the same way other assessments apply. A couple of exceptions to the exception. We're also to be incorporated. The primary consideration was the Ralph Ingested Arena. Because that is at this time not owned by UND but is privately owned, the Interim committee and the Senate Political Sub. committee were concerned that the arena not be subjected to these flood control special assessments. That is why the language down on line 21 and 22: (read it) But beginning on line 18, (read it).

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House Political Subdivisions Committee
Bill/Resolution Number SB 2052
Hearing Date: March 20, 2003

(6.0) REP. MARY EKSTROM: This has an effective date on page 2, line 4, July 31, 2003.

Does that mean that the hotel and the other commercial entity on UND property, will be subject to that?

(6.2) JOHN WALSTEAD: That is my understanding. Flood control special assessments have been levied already in the city of Grand Forks. But as was explained by the Interim committee by Grand Forks City Officials, those assessments are levied annually. It is not a one time assessment like you would get for a street improvement. The levy is spread in several segments and so when the next round of assessment installments are confirmed, they would apply to these structures on UND land that fit this description.

(6.8) REP. NANCY JOHNSON: In the contract, do they allow these facilities to be built on land. Is that part of the deal that the University ????? would be?

(7.2) JOHN WALSTEAD: That question was raised and part of the consideration for this is that the deal that UND has made with these operators of facilities on UND property, supposedly the least rental payments are based on a benefit to the school of some sort and a measurement of the value of the property underlying the structure, whether it in fact is reflected there or not, I don't know. Whether, as you suggested it's written right into the agreement that you're not going to pay these flood control assessments, I don't think that's there. Another structure that is subject of discussion is the Barnes and Noble Book Store. My understanding is that the Barnes and Noble book store, the structure is leased by Barnes and Noble. It is not owned by Barnes and Noble. And as such, that structure would not be subject to the assessments because as we saw, this is owned.

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House Political Subdivisions Committee

Bill/Resolution Number SB 2052

Hearing Date: March 20, 2003

(8.4) REP. BRUCE ECKRE: What other privately owned structures are there on state owned land around the state besides the ones you mentioned?

(8.6) JOHN WALSTEAD: Right now there is no other city levying flood control special assessments. The law is not written to apply specifically to Grand Forks, so if there's a flood situation in Whapeton, then this could come into play in Whapeton. We did contact UND officials and ask them if there are some structures on UND property that might be affected by this. We wanted to make sure that there was no unintended impact.

(10.0) REP. MARY EKSTROM: There is an unusual situation with the Fargo Dome. It does sit on property that NDSU owns. It may be exempted because of the Ingested Arena.

(10.2) JOHN WALSTEAD: As I understand the city of Fargo does not levy flood control special assessments. But, that situation is fluid. I don't know the ownership of the Dome and the language here talks about privately owned structure on state owned land. If the Dome is owned by some combination of public entities, then the question rises, is that privately owned or not.

(11.0) CHAIRMAN GLEN FROSETH: If this bill passes, section 2, will that in any way affect the integrity of section 1?

(11.1) JOHN WALSTEAD: No, except it creates an exception to allow these flood control assessments on state property if it's privately owned. Subsection 2 is just an exception to subsection 1.

(12.0) SEN. MIKE POLOVITZ: (Testimony in support) This went through our Political Sub's committee and with tremendous discussion. If this bill is not passed, it will allow a private business to go on any part of the Bronson property, and that private business can go on that piece of land and not have to pay any assessments for the flood. This is wrong for any business to have

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House Political Subdivisions Committee

Bill/Resolution Number SB 2052

Hearing Date: March 20, 2003

the positiveness of not having to pay for those special assessments. There is an amendment coming up to allow hotel not to have to pay special assessments. The hotel is a private business, no money coming back to the University in any way or form.

(14.1) CHAIRMAN GLEN FROSETH: How is it that this property apparently was donated to the University system with the stipulation that it never be sold? How is it that the city can lease property?

(14.5) SEN. MIKE POLOVITZ: I wasn't in on that. That was strictly the University. I don't think any of this property is sold. I think it's all under lease so that the land still belongs to the state, but it's leased.

(14.8) REP. GIL HERBEL: What was different about the original bill?

(14.9) SEN. MIKE POLOVITZ: I don't know.

(15.4) JOHN SCHMISEK; CITY AUDITOR GRAND FORKS: (Testimony in support on behalf of Mayor Brown) (See attachment #1)

(18.4) CHAIRMAN GLEN FROSETH: This takes effect after July 31. Any new projects, by their own private sectors will be subject to all assessments?

(18.5) JOHN SCHMISEK: The way this is written, any projects and cost of projects that are certified after July 31, 2003 would be levied even against current structures that are there. Two years ago we assessed approximately 40% of flood control costs that have been built from that point. We could not assess them again for property that the Hilton is on. So they have in reality, missed 40% of the assessments. So as we do the future phases and we believe at the end of this year, we will probably do the second phase of assessments and with the funding from the federal

government's funding, it may well be 2005 until we can do our final phase of assessments. They would end up with about 60% of the cost of what a normal business pays.

(22.2) REP. ANDREW MARAGOS: Can they grandfather that hotel so it doesn't have to pay for the share of special assessments?

(22.3) JOHN SCHMISEK: That would be what would happen if the amendment passes.

(23.3) REP. ANDREW MARAGOS: Are they currently paying their ???????? funds?

(23.4) JOHN SCHMISEK: No, because of the way the original statute was written the assessments cannot be levied against state owned lands. Special assessments are levied against the land.

(26.3) SEN. DUAINÉ ESPEGARD: (Testimony in support) (See attachment #2 & #3; a copy of the lease agreement) There is unusual ownership to the Hilton and that is the second most major benefactor. It is ownership that he is gifting the Hotel to the University. The intention of that entire project is that it is eventually gifted after seven years to the University. It is not owned by the Hilton or folks like that. It's owned primarily by an investor called James Ray, who is the second largest cash contributor to UND. So that's another reason that I would like you not to be upset.

(32.9) REP. ANDREW MARAGOS: Even if it's gifted to UND, it's still competes with the private sector as a competitor's advantage. How do we reconcile that as policy?

(33.2) SEN. DUAINÉ ESPEGARD: I don't know that you do.

(33.3) CHAIRMAN GLEN FROSETH: Eventually after the seven years, this hotel will be owned by the University and it won't pay property taxes then either.

(33.5) SEN. DUAINÉ ESPEGARD: It would be owned by the foundation.

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House Political Subdivisions Committee

Bill/Resolution Number SB 2052

Hearing Date: March 20, 2003

(34.0) REP. DALE SEVERSON: Phase two of the special assessments coming in, could you give me an idea of the dollar amount on the Hilton?

(34.3) SEN. DUAIN ESEPGARD: The building has a value of about \$5 1/2 million dollars.

(34.5) SEN. MIKE POLOVITZ: I'm not even sure, you would have to determine the square footage cause it's not based on special assessments. It's based on square footage. Right now the assessed, over a twenty year period, it is about .17 cents a square foot. So they already missed out on the 40%, they're getting down to .10 cents a square foot.

(35.1) CHAIRMAN GLEN FROSETH: According to lines 20 to 23 it says based on square footage or front footage?

(35.3) SEN. MIKE POLOVITZ: The way the special assessment commission took this project, they took the payor square footage of the city of Grand Forks and then put forth what's commercial property and what was residential property, they originally took the whole clause and separated it out that way and then put in commercial area, spread that in square foot.??????????

(38.8) REP. ALON WIELAND: I heard that they are paying real estate taxes on that hotel at the present time, does that include the land or just the building only?

(39.3) JOHN SCHMISEK: Just the building.

(39.4) REP. ALON WIELAND: This is the second largest contributor to the University, is he not going to receive a substantial tax benefit, so why does it matter if they ??? special assessments on the Interim?

(39.9) JOHN SCHMISEK: Certainly when a benefactor gives money to a university, the tax breaks, he'd be entitled to the same ones anybody else would have. I'm not in this favor, having the assessment against the property, I just want to make sure there's no law suit going forward. I

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House Political Subdivisions Committee
Bill/Resolution Number SB 2052
Hearing Date: March 20, 2003

don know that the lease calls for taxes and specials. I do know from the last committee that they was this agreement attached to that.

(40.7) REP. ALON WIELAND: But even if the assessments aren't, there still might be a law suit.

(40.7) JOHN SCHMISEK: I don't know about that. As I recall there was three acre's of land here. The specials are \$25,000 total.

(41.2) CHAIRMAN GLEN FROSETH: Any further questions? (John handed out a copy of the lease and read it, which is attachment #3) Any other testimony? Seeing none, we will close the hearing on SB 2052. (43.2)

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2052a

House Political Subdivisions Committee

Conference Committee

Hearing Date: March 20, 2003

| Tape Number | Side A | Side B | Meter # |
|--|--------|--------|-----------|
| 1 | | X | 46.3-53.1 |
| | | | |
| | | | |
| Committee Clerk Signature <i>Micki Schindt</i> | | | 4-14-03 |

Minutes:

TAPE 1; SIDE B:

(46.3) CHAIRMAN GLEN FROSETH: OK, let's look at SB 2052 again.

(46.6) REP. ANDREW MARAGOS: I WOULD MOVE THE AMENDMENT, #0401.

(46.6) REP. MARY EKSTROM: I SECOND IT.

(46.8) CHAIRMAN GLEN FROSETH: Committee discussion?

(47.0) REP. ANDREW MARAGOS: Basically all this bill does is grandfather all the private ownership in so they're not affected by the special assessments.

(47.4) CHAIRMAN GLEN FROSETH: The way I understood this amendment is basically it will only affect the new construction projects that's being taken place right now. I will reject the amendment. The 5.5 million dollar building project where the total assessment is \$25,000 which 40% will not be charged.

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House Political Subdivisions Committee

Bill/Resolution Number SB 2052

Hearing Date: March 20, 2003

(48.6) REP. ALON WIELAND: I'm going to oppose this amendment strictly on a fairness issue. This makes for some unfair competition because other hotels and motels in the city that have to pay on special assessments, past, present and future.

(49.6) REP. MARY EKSTROM: On page 2 of the of the development plan, under item D, the second paragraph. There's a way for them to contest taxes.

(50.2) CHAIRMAN GLEN FROSETH: Further discussion on the amendments? Seeing none, I will ask the clerk to take a **Roll Call Vote on the amendment: 2-y; 10-n; 2-absent; Amendment Falls.**

(51.6) REP. ANDREW MARAGOS: I WOULD MOVE A DO PASS.

(51.7) REP. ALON WIELAND: I SECOND IT.

(51.9) CHAIRMAN GLEN FROSETH: Committee discussion? Seeing none, I will have the clerk take the **Roll Call Vote: 11-y; 1-n; 2-absent; Carrier: Rep. Grosz. (53.1)**

30035.0401
Title.

#2 -

3-20-03

Prepared by the Legislative Council staff for
Senator Espgaard
March 19, 2003

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2052

Page 1, line 19, after "improvement" insert "on which construction is completed after July 31, 2003, and which is"

Renumber accordingly

Page No. 1

30035.0401

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Operator's Signature

La Costa Rickford

Date

10/15/03

Date: 3-20-03

Roll Call Vote #: 3

Amendment Failed

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2052

House "POLITICAL SUBDIVISION" Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken _____

Motion Made By _____ Seconded By _____

| Representatives | Yes | No | Representatives | Yes | No |
|-----------------------------|-----|----|-----------------|-----|----|
| Chairman Glen Froseth | | ✓ | | | |
| Vice-Chairman Nancy Johnson | | ✓ | | | |
| Mike Grosz | | ✓ | | | |
| Gil Herbel | | ✓ | | | |
| Ron Iverson | | ✓ | | | |
| William E. Kretschmar | ✓ | | | | |
| Andrew Maragos | ✓ | | | | |
| Dale Severson | 0 | | | | |
| Alon Wieland | | ✓ | | | |
| Bruce Eckre | 0 | | | | |
| Mary Ekstrom | | ✓ | | | |
| Carol A. Niemeier | | ✓ | | | |
| Sally M. Sandvig | | ✓ | | | |
| Vonnie Pietsch | | ✓ | | | |

Total (Yes) 2 No 10

Absent _____

Floor Assignment _____

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

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Lacosta Rickford
Operator's Signature

10/15/03
Date

Date: 3-20-03

Roll Call Vote #: 4

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2052

House "POLITICAL SUBDIVISION" Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS

Motion Made By Rep. Maragos Seconded By Rep. Wieland

| Representatives | Yes | No | Representatives | Yes | No |
|-----------------------------|-----|----|-----------------|-----|----|
| Chairman Glen Froseth | ✓ | | | | |
| Vice-Chairman Nancy Johnson | ✓ | | | | |
| Mike Grosz | ✓ | | | | |
| Gil Herbel | ✓ | | | | |
| Ron Iverson | ✓ | | | | |
| William E. Kretschmar | ✓ | | | | |
| Andrew Maragos | | ✓ | | | |
| Dale Severson | 0 | | | | |
| Alon Wieland | ✓ | | | | |
| Bruce Eckre | 0 | | | | |
| Mary Ekstrom | ✓ | | | | |
| Carol A. Niemeler | ✓ | | | | |
| Sally M. Sandvig | ✓ | | | | |
| Vonnie Pietsch | ✓ | | | | |

Total (Yes) 11 No 1

Absent 2

Floor Assignment Rep. Grosz

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

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Lacosta Rickford 10/15/03
Operator's Signature Date

REPORT OF STANDING COMMITTEE (410)
March 21, 2003 9:15 a.m.

Module No: HR-51-5395
Carrier: Grosz
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
SB 2052, as engrossed: Political Subdivisions Committee (Rep. Froseth, Chairman)
recommends DO PASS (11 YEAS, 1 NAY, 2 ABSENT AND NOT VOTING).
Engrossed SB 2052 was placed on the Fourteenth order on the calendar.

(2) DESK, (3) COMM

Page No. 1

HR-51-5395

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La Costa Rickford
Operator's signature

10/15/03
Date

2003 TESTIMONY

SB 2052

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La Costa Rickford
Operator's Signature

10/15/03
Date



Office Of Mayor
Michael R. Brown

City of Grand Forks

255 North Fourth Street • P.O. Box 5200 • Grand Forks, ND 58206-5200

(701) 746-2607
FAX# (701) 787-3773

TESTIMONY ON SENATE BILL 2052

Senate Political Subdivisions Committee

Michael R. Brown, Mayor
City of Grand Forks, ND

January 17, 2003

Mr. Chairman and members of the Senate Political Subdivisions Committee, my name is Michael R. Brown and I am the Mayor of Grand Forks. Thank you for the opportunity to submit this testimony in support of Senate Bill 2052.

Senate Bill 2052 relates to city flood control special assessments in regard to privately owned property used for private commercial purposes, which are located on state-owned land. This bill clarifies the existing North Dakota Century Code pertaining to a municipality's ability to assess flood control costs to properties that are private commercial ventures located on state-owned land that do not dedicate the net profit from their operation to the state agency that owns the land.

In Grand Forks, we have a flood control project that is critical to the health and stability of the entire community. Inasmuch that this is a level of protection provided to all residents and businesses, it is imperative that all are assessed fairly in the allocation of the total project cost. Future floods and the threat thereof pose a very real danger to the community's economic stability. The protection that will be provided by the successful completion of the current flood control project benefits every resident and business, including the state-owned property such as that comprised as the University of North Dakota. I understand and fully support the fact that the Ralph Engelstad Arena will not be subject to these assessments, as clearly defined in the bill's language.

Senate Bill 2052 is important because it levels the playing field in relation to existing private commercial businesses in the community. It perpetuates the fairness between businesses by including all private commercial businesses in the category that can be assessed with flood control project costs. For equal protection to similar businesses, it is fair that equal costs be assessed.

Of course, we fully support the existing exemption of state-owned property on state-owned land as identified in section 40-23-22.1 of the North Dakota Century Code. The State of North Dakota has committed a generous contribution to providing for the flood protection of our community in the recognition that the protection of the third largest city and its resources is beneficial to all North Dakota residents.

For these reasons, I ask your favorable consideration of Senate Bill 2052 and request a DO PASS recommendation from the committee.

LaCosta Rickford
Operator's Signature

10/15/03
Date



PHaga@grandforksgov.
com

To: dcook@state.nd.us
cc:

01/27/2003 08:44 PM

Subject: Grand Forks' Testimony on SB2052

Senator and Political Subdivisions Committee Chairman Cook,

My name is Pete Haga and I work for Mayor Michael R. Brown and the City of Grand Forks.

The Mayor's Office has just received a copy of your request for our testimony on SB2052 and I wish to work with you to ensure that you have all the information you need.

I sincerely apologize for what happened at the committee hearing on January 17 and I hope to rectify any problems that have resulted due to our lack of information at this hearing. It was our mistake in not thinking there would be a large number of questions and concerns raised at that time.

I did want to note, however, that although your letter indicated no communication or testimony was provided to the committee, it was our understanding that a letter of testimony from Mayor Brown was indeed submitted and received. It was reported as such in the local paper and I was assured by members of a local organization that the testimony would be carried to and submitted to you. If it did not reach the committee, then I do apologize once again.

In any case, I'd like to move forward at this time and address your request to the best of my ability. Your request asks for the position of the City of Grand Forks on SB2052 as well as a list of each building upon which the City of Grand Forks would levy a flood control special assessment under the bill.

I will make sure the City of Grand Forks responds appropriately. In addition, if you have any further questions or concerns, please let me know so that I can provide to you sufficient information on those issues as well.

Please feel free to contact me either through replying to this e-mail or by phoning 701-746-2608.

Thank you.

Pete Haga
Community/Government Relations Officer
Mayor's Office
City of Grand Forks, ND
701.746.2608 (Phone)
701.787.3773 (Fax)

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Lacosta Rickford
Operator's Signature

10/15/03
Date

Arnot Law Offices

Thomas D. Arnot

February 11, 2003

TESTIMONY ON SENATE BILL 2052

Senate Political Subdivisions Committee
Thomas D. Arnot, Managing Member
University Hotel Development, LLC
dba Hilton Garden Inn
City of Grand Forks, ND

Mr. Chairman and members of the Senate Political Subdivisions Committee, my name is Thomas D. Arnot, and I am the managing member of University Hotel Development, LLC, the company that owns the Hilton Garden Inn, Grand Forks, ND, which is the target of this legislation. Thank you for the opportunity to submit this testimony in opposition to Senate Bill 2052.

Last year, on behalf of our ownership group, I negotiated a ground lease with the University of North Dakota, to rent state land for the purpose of constructing a hotel connected via skywalk to the University of North Dakota. At the time of the negotiations and the determination of the value and price of the land, the negotiating teams for both sides of the lease fully understood and were cognizant of the fact that the law excluded our site from what is now the target of this legislation. It is of particular concern to me that an attorney with the law firm that represented us in the negotiations, is a member of the City Council of Grand Forks and as I understand, one of the staunch advocates of this legislation. I strongly object to this underhanded tactic and urge your denial of their request. We have achieved parity and equal treatment through the negotiated lease, and to otherwise now after the fact would act as a penalty to our group, and expose the state negotiators of the lease to claims of bad faith.

Equally concerning, is the disparate treatment other for profit property upon state land would receive under the proposed revision, making our hotel, the only property to fall within the scope of this new tax. At worst, it should only be applied prospectively to new construction, and at best, it should be left unchanged. With the University of North Dakota Aerospace Foundation currently holding 19% of the equitable interests in the property, at what point does the ownership interests educational benefit and vesting in UNDAF remove the property from taxation completely? Certainly it is already at a point where UNDAF may receive equal or more benefit than the University from other exempted properties. I encourage you to seek more information and reject this legislation targeted against our new business.

504 Riverview Court • DeForest, WI 53532
Ph: 608/846-8558 • Fax: 608/846-8557
tom@arnotlaw.com

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Operator's Signature

LaCosta Rickford

10/15/03

Date



City of Grand Forks

255 North Fourth Street • P.O. Box 5200 • Grand Forks, ND 58208-5200

OFFICE OF MAYOR
MICHAEL R. BROWN

(701) 740-2007
FAX # (701) 772-0206

2-12-03

Senator Dwight Cook, Chairman
Senate Political Subdivisions
North Dakota State Legislature
600 East Boulevard
Bismarck, ND 58505

Chairman Cook:

I received your letter of request for information regarding Senate Bill 2052. Thank you for the opportunity to provide you the City's position on this legislation and illustrate some of our specific expectations.

My understanding is that this bill is about leveling the playing field for businesses in North Dakota communities, specifically Grand Forks. I am fully in favor of this intent and will support appropriate legislation to make sure that we continue to be a community that promotes a healthy business climate.

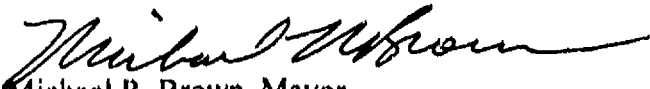
Regarding specific properties, my understanding and expectations of the bill are that the Ralph Engelstad Arena would be exempt from flood control special assessments due to its unique relation to the State. Grand Forks remains greatly appreciative of the State for providing generous assistance for our community's flood control project and the arena was a gift not just to our community, but the people of the State of North Dakota.

I further understand that the properties of the Hilton Garden Inn and Barnes & Noble have not had the first installment of the flood control special assessment levied upon them but that, with passage of this legislation, the city would levy future installments of the flood control special assessment on those properties. Finally, and I believe most importantly, the City of Grand Forks would retain the ability to levy a flood control special assessment on future commercial developments on State-owned land, including the Bronson property.

The city originally had concerns regarding the bill's language. However, I understand that an amendment has been drafted that all are parties are comfortable and, therefore, we will continue to support this bill.

Once again, thank you for the opportunity to provide this information and please feel free to contact me with any further questions or concerns. My staff will also be at your service prior to the next hearing and I will ensure that the City of Grand Forks is properly represented at this hearing to respond to any questions you or the committee may have.

Sincerely,


Michael R. Brown, Mayor
City of Grand Forks, ND

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Operator's Signature

10/15/03
Date



City of Grand Forks

(701) 746-2607
FAX# (701) 787-3773

Office Of Mayor
Michael R. Brown

255 North Fourth Street · P.O. Box 5200 · Grand Forks, ND 58206-5200

2-12-03

Senator Dwight Cook, Chairman
Senate Political Subdivisions
North Dakota State Legislature
600 East Boulevard
Bismarck, ND 58505

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LaCosta Rickford
Operator's Signature

10/15/03
Date

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Sincerely,

Michael R. Brown, Mayor
City of Grand Forks, ND

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Operator's Signature

10/15/03
Date

39587



SENATE

**NORTH DAKOTA
LEGISLATIVE ASSEMBLY**

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505

January 24, 2003

2052

Honorable Michael R. Brown
Mayor
City of Grand Forks
P.O. Box 5200
Grand Forks, ND 58206-5200

Dear Mayor Brown:

Enclosed is a copy of Senate Bill No. 2052, which would allow imposition of city flood control special assessments against certain properties on state-owned lands. This bill was recommended to the Interim Taxation Committee by Grand Forks city officials. The Senate Political Subdivisions Committee held a public hearing on this bill on January 17, 2003. Unfortunately, no testimony or communication was received from the University of North Dakota or the City of Grand Forks regarding this bill.

Please send me a written communication expressing the position of the City of Grand Forks on Senate Bill No. 2052 for entry in the committee record on this bill. Please identify each building upon which the City of Grand Forks would levy a flood control special assessment under this bill, which is not currently subject to such assessments.

Thank you for your assistance.

Sincerely,

Senator Dwight Cook
Chairman
Senate Political Subdivisions Committee

DC/DS
Enc.

Jacosta Rickford
Operator's Signature

10/15/03
Date

39591

SENATE

2052



NORTH DAKOTA LEGISLATIVE ASSEMBLY

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505

January 24, 2003

Dr. Charles E. Kupchella
President
University of North Dakota
P.O. Box 8193
Grand Forks, ND 58202-8193

Dear Dr. Kupchella:

Enclosed is a copy of Senate Bill No. 2052, which would allow imposition of city flood control special assessments against certain properties on land owned by the University of North Dakota. The Senate Political Subdivisions Committee held a public hearing on this bill on January 17, 2003. Unfortunately, no testimony or communication was received from the University of North Dakota or the City of Grand Forks regarding this bill.

Please send me a written communication expressing the position of the University of North Dakota on Senate Bill No. 2052 for entry in the committee record on this bill. Of particular interest to the committee are your expectations of what buildings on University of North Dakota property would be affected by this bill and whether there are any nonprofit private entities that own buildings on University of North Dakota property which might be affected.

Thank you for your assistance.

Sincerely,

Senator Dwight Cook
Chairman
Senate Political Subdivisions Committee

DC/DS
Enc.

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Operator's Signature

10/15/03
Date

UNIVERSITY OF UND NORTH DAKOTA

OFFICE OF THE PRESIDENT
P.O. BOX 8193
GRAND FORKS, NORTH DAKOTA 58202-8193
(701) 777-2121
FAX (701) 777-3866

February 3, 2003

Senator Dwight Cook, Chairman
Senate Political Subdivisions Committee
State Capitol
600 East Boulevard
Bismarck, ND 58505

VIA FAX: 701-328-1997

Dear Mr. Chairman:

As you may know, UND testified at two separate interim committee meetings chaired by Senator Wardner concerning SB 2052. UND's interest in the bill is to protect the interests of North Dakota taxpayers and citizens in light of the original bill passed in the 2001 session. That bill clearly stated the intent of the legislature as being, state-owned property should not be subject to another round of taxation (via special flood assessments) due to the \$52 million appropriation of state funds to Grand Forks for flood mitigation projects.

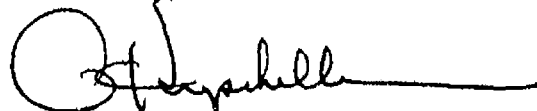
As we understand it, SB 2052 provides an exemption that would allow the city to specially assess private enterprise conducting business on state-owned property. We have no quarrel with private entities that operate on state-owned property for their own profit from paying their fair share for flood mitigation. However, if the financial benefit from those enterprises ultimately inures to the benefit of the state (i.e., in our case, the University of North Dakota), the clear intent of the legislature in 2001 was to not allow special assessments for flood mitigation to go forward.

We continue to work with the city of Grand Forks to cooperate in a fashion that protects the interest of the taxpayers of North Dakota but does not allow a for-profit enterprise to use the state-owned status of the real property to evade their responsibility as a "citizen" of the local community.

We would appreciate you notifying us with any changes made to the current bill so we could determine what impact, if any, might occur.

Should you have questions, comments, or concerns please feel free to contact me at your convenience.

Sincerely,



Charles E. Kupchella
President

CEK:ser

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Operator's Signature

LaCosta Rickford

10/15/03

Date

594781

GROUND LEASE AND DEVELOPMENT AGREEMENT
between
THE STATE BOARD OF HIGHER EDUCATION AND
THE UNIVERSITY OF NORTH DAKOTA
and
UNIVERSITY HOTEL DEVELOPMENT, LLC.

1. Parties. This Ground Lease and Development Agreement ("Agreement") is executed this ~~5th~~ day of APRIL, 2002, by and between THE STATE BOARD OF HIGHER EDUCATION AND THE UNIVERSITY OF NORTH DAKOTA, agencies of the State of North Dakota ("University"), hereinafter also referred to as LESSOR, and UNIVERSITY HOTEL DEVELOPMENT, LLC, a North Dakota limited liability company ("UHD"), hereinafter also referred to as LESSEE.

2. Lease Agreement. LESSOR hereby agrees to and does lease to LESSEE and LESSEE agrees to and hereby does lease from LESSOR the premises hereafter described for the term and at the rental and upon the conditions and for the purposes hereinafter set forth.

3. Description of the Leased Premises. The leased premises consisting of approximately 150,000 square feet more or less are as set forth in Exhibit "A" attached hereto and incorporated by reference here ("Premises") being the site plan prepared by LESSOR.

4. Length of Lease.

a. Term. This Agreement shall commence upon execution of this Agreement ("Commencement Date") and shall continue for a period of forty (40) years after the date Rent commences which shall be the earlier to occur of either the first day of the month following the issuance of a certificate of occupancy for the HOTEL or September 1, 2003 ("Rent Commencement Date"), and ending on the last day of the month preceding the fortieth (40th) anniversary of the Rent Commencement Date. If construction is not completed and a certificate of occupancy is not issued by May 1, 2004, this Agreement will terminate at the option of LESSOR. Upon termination, pursuant to this section, the Premises shall return to the exclusive control of LESSOR. Premises at LESSOR's option and at LESSEE's expense shall be returned in the same condition as existed prior to Agreement.

b. Option to Renew. LESSEE in its sole discretion shall have the option to renew this Agreement for two (2) additional periods of ten (10) years each ("Extended Terms"), provided that LESSEE is not in default, has not substantially violated any provision of this Agreement and has provided written notice of intent to exercise the option to renew to LESSOR no later than ninety (90) days prior to the termination of the prior lease term. Terms and conditions of this Agreement during any Extended Term shall be the same as substantially contained herein.

c. Right Upon Termination. At the end of the forty (40) year term of this Agreement, or at the end of any subsequent Extended Term elected by LESSEE, paragraph 20 herein entitled "LESSEE's Rights Upon Termination" shall apply.

04/04/02

Page 1 of 15

p. 2

7017750524

PEARSON CHRISTENSEN

Feb 12 03 05:43p

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Lacosta Rickford
Operator's Signature

10/15/03
Date

594781

other dangerous conditions on the Premises. LESSEE accepts the Premises in the present condition and agrees to repair and maintain any improvements, fixtures, or any other object on the Premises without expense to LESSOR. LESSEE further agrees to remove, or cause to be removed at LESSEE's expense, any trash, garbage or debris generated by LESSEE's use of the Premises except temporarily in connection with collection or removal of same.

b. Outside Storage. LESSEE will not store in a location susceptible to view by the public any equipment, materials or supplies on the Premises. Any screens or other devices used to keep equipment, materials or supplies from view shall be subject to written approval by LESSOR.

c. Lighting and Signs. LESSEE shall secure in advance written approval from LESSOR before placing any exterior lighting or exterior signs on the Premises and such approval shall not be unreasonably withheld.

d. LESSEE's Taxes. LESSEE shall promptly pay any and all taxes and assessments levied on or against LESSEE's property on said Premises, and all licenses, permits, occupational and inspection fees assessed or charged against said Premises of either party to this Agreement by reason of LESSEE's use or occupancy of said Premises, and LESSEE shall hold LESSOR free and harmless from any loss, damage, or expense, including reasonable attorney's fees, arising out of or by reason of any charges specified in this subparagraph.

If LESSEE, in good faith, desires to contest the validity or amount of any tax or assessment herein agreed to be paid by it, LESSEE shall not be in default hereunder in respect to the payment of any taxes, payments in lieu of taxes, which LESSEE shall be required by any provision hereof to pay so long as LESSEE shall first notify LESSOR prior to the due date thereof of its intention to contest such payment, shall thereafter, in good faith and with all possible promptness, contest such payment, and LESSEE shall deposit with LESSOR the amount of the taxes payable and may thereupon defer the payment of any such tax during such time as the validity or amount of such tax is contested by LESSEE by appropriate legal proceedings. Should any rebate be made on account of any taxes paid by LESSEE, the amount of such rebate shall belong to and be paid to LESSEE.

e. Compliance with Laws. LESSEE agrees to comply with all laws, ordinances, rules and regulations promulgated by LESSOR and any governmental unit having jurisdiction, applicable to the use of the Premises and to use the premises in compliance therewith.

f. Liens. LESSEE agrees to promptly pay all sums legally due and payable on account of any labor performed on or materials furnished or services performed for the Premises. LESSEE shall not permit any liens to be placed against the Premises on account of labor performed or material furnished and, in the event such a lien is placed against the premises, LESSEE agrees to save LESSOR harmless from any and all such asserted claims and liens and to remove or cause to be removed any and all such asserted claims or liens as soon as reasonably possible.

04/04/02

Page 5 of 15

p. 3

7017750524

PERSSON CHRISTENSEN

Feb 12 03 05:43p

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La Costa Rickford
Operator's Signature

10/15/03
Date

594781

(f) There are no wells or underground petroleum storage tanks located on the Premises, nor have there ever been any wells or petroleum storage tanks located on the Premises.

32. Entire Agreement. This Agreement constitutes the entire agreement between the parties and each party understands that there are no other oral understandings or agreements other than those set out herein. This Agreement cannot be added to, altered, or amended in any way except by written agreement signed by all of the parties hereto.

33. Successors and Assigns. The conditions, covenants, and agreements in the foregoing Agreement contained herein are to be kept and performed by the parties hereto and shall be binding upon said respective parties, their successors and assigns.

34. Choice of Laws. This Agreement shall be governed by the laws of the State of North Dakota.

IN WITNESS THEREOF the parties have caused this Agreement to be executed by their proper officers thereunto duly authorized as of the day and year above written.

STATE OF NORTH DAKOTA)

COUNTY OF ~~GRAND FORKS~~ ^{Butte})

On this 27 day of April, 2002, before me personally appeared Larry Isaak, Chancellor, and acknowledged to me that he/she executed this instrument as his/her free act and deed.

PERRY MEYER
NOTARY PUBLIC
STATE OF NORTH DAKOTA
My Commission Expires JULY 14, 2004

STATE BOARD OF HIGHER EDUCATION

By: Larry Isaak
Larry Isaak, Chancellor

STATE OF NORTH DAKOTA)

COUNTY OF GRAND FORKS)

On this 27 day of April, 2002, before me personally appeared Charles Kupchella, President and Robert Gallager, Vice President, and acknowledged to me that he/she executed this instrument as his/her free act and deed.

PATRICIA J. BOHNET
NOTARY PUBLIC
STATE OF NORTH DAKOTA
My Commission Expires: May 9, 2006

UNIVERSITY OF NORTH DAKOTA

By: Charles Kupchella
Charles Kupchella, President

By: Robert Gallager
Robert Gallager, Vice President for Finance and Operations

STATE OF NORTH DAKOTA)

COUNTY OF GRAND FORKS)

On this 6 day of May, 2002, before me personally appeared Thomas D. Arnot, Authorized Agent, and acknowledged to me that he/she executed this instrument as his/her free act and deed.

CELIA ROSENCRANS
NOTARY PUBLIC
STATE OF NORTH DAKOTA
My Commission Expires: Mar 11, 2004

UNIVERSITY HOTEL DEVELOPMENT, LLC

By: Thomas D. Arnot
Thomas D. Arnot, Authorized Agent

04/15/02

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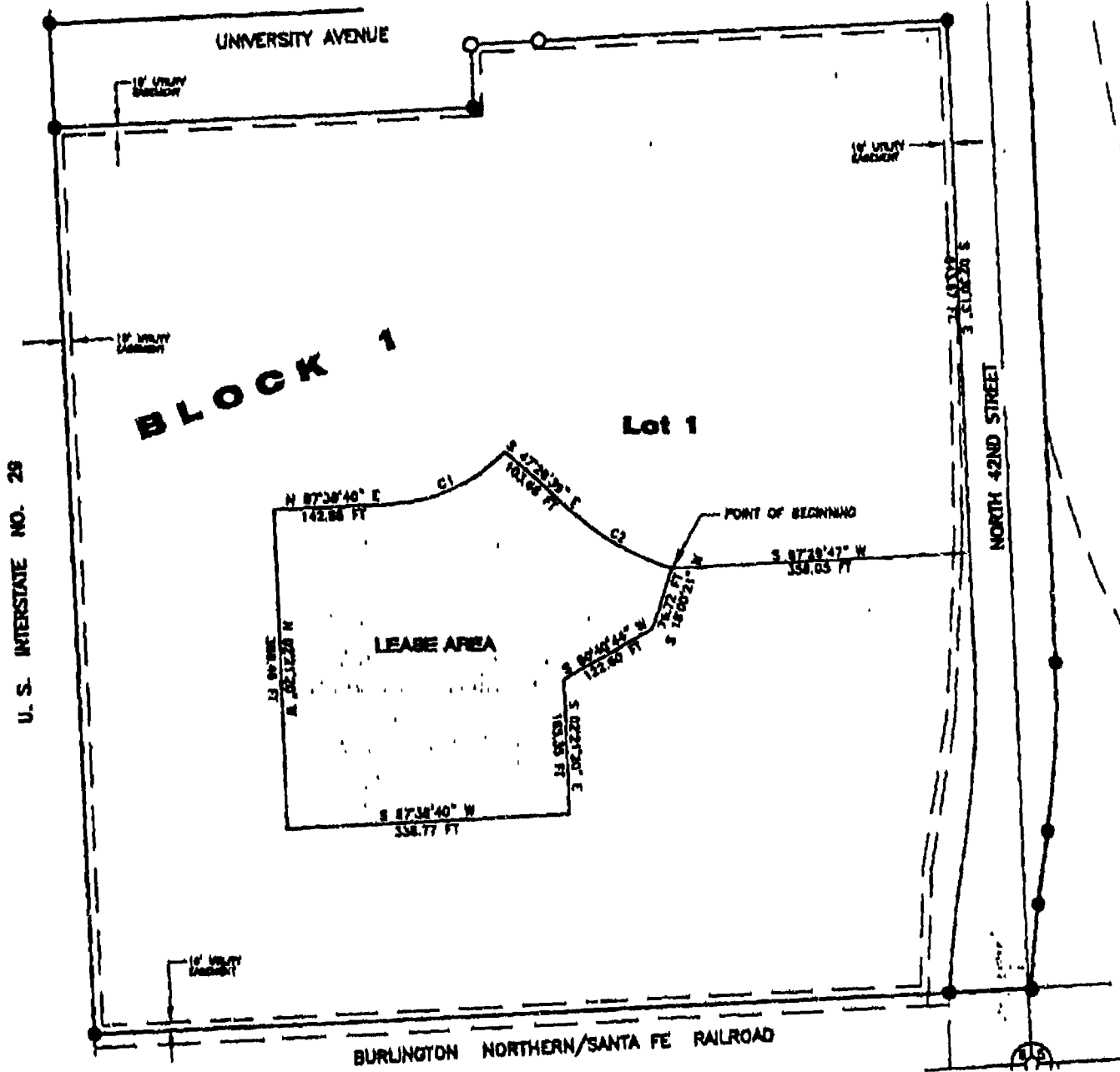
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PEARSON CHRISTENSEN

Feb 12 03 05:43p

CERTIFICATE OF SURVEY 594781

EXHIBIT 'A'
GROUND LEASE AND DEVELOPMENT AGREEMENT
 between
THE STATE BOARD OF HIGHER EDUCATION AND
THE UNIVERSITY OF NORTH DAKOTA
 and
UNIVERSITY HOTEL DEVELOPMENT, LLC.



CERTIFICATE OF SURVEYOR

I hereby certify that this survey was prepared by me or under my direct supervision and that I am a duly Registered Land Surveyor under the laws of the State of North Dakota.

Steven E. Swanson
 Steven E. Swanson, R.L.S. 4185
 Date: 4-3-2002



LEGEND

- CORNER SET THIS SURVEY
- FOUND CORNER

| NUMBER | ARC LENGTH | CHORD LENGTH | RADIUS | CENTRAL ANGLE |
|--------|------------|--------------|--------|---------------|
| G1 | 151.22 | 147.49 | 188.50 | 48°12'13" |
| G2 | 143.70 | 144.98 | 140.50 | 24°31'03" |



AE ADVANCED ENGINEERING & ENVIRONMENTAL SERVICES, INC.
 Grand Forks, ND Bismarck, ND Minot, ND

CERTIFICATE OF SURVEY
EXHIBIT 'A'
GROUND LEASE AND DEVELOPMENT AGREEMENT

LOCATION: West Campus Resubdivision to the City of Grand Forks, North Dakota

PROJECT NUMBER
 P163-06-005
SHEET
 1 of 3

P. 5

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PEARSON CHRISTENSEN

Feb 12 03 05:44p

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Lacosta Rickford
 Operator's Signature

10/15/03
 Date

#1 3-20-03

TESTIMONY ON SENATE BILL 2052

House Political Subdivisions Committee

**Michael R. Brown, Mayor
City of Grand Forks, ND**

March 20, 2003

Mr. Chairman and members of the House Political Subdivisions Committee, my name is John Schmisek and I am the Finance Director for the City of Grand Forks. Thank you for the opportunity to testify on behalf of Mayor Michael R. Brown in support of Senate Bill 2052.

Senate Bill 2052 relates to city flood control special assessments in regard to privately owned property used for private commercial purposes, which are located on state-owned land. This bill clarifies the existing North Dakota Century Code pertaining to a municipality's ability to assess flood control costs to properties that are private commercial ventures located on state-owned land that are not used primarily for educational or athletic purposes.

In Grand Forks, we have a flood control project that is critical to the health and stability of the entire community. Inasmuch that this is a level of protection provided to all residents and businesses, it is imperative that all are assessed fairly in the allocation of the total project cost. Future floods and the threat thereof pose a very real danger to the community's economic stability. The protection that will be provided by the successful completion of the current flood control project benefits every resident and business, including the state-owned property such as that comprised as the University of North Dakota. I understand and fully support the fact that the Ralph Engelstad Arena will not be subject to these assessments, as clearly defined in the bill's language.

Senate Bill 2052 is important because it levels the playing field in relation to existing private commercial businesses in the community. It perpetuates the fairness between businesses by including all private commercial businesses in the category that can be assessed with flood control project costs. For equal protection to similar businesses, it is fair that equal costs be assessed.

Of course, we fully support the existing exemption of state-owned property on state-owned land as identified in section 40-23-22.1 of the North Dakota Century Code. The State of North Dakota has committed a generous contribution to providing for the flood protection of our community in the recognition that the protection of the third largest city and its resources is beneficial to all North Dakota residents.

For these reasons, I ask your favorable consideration of Senate Bill 2052 and request a DO PASS recommendation from the committee.

Jacosta Rickford
Operator's Signature

10/15/03
Date