

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2024

2005 SENATE POLITICAL SUBDIVISIONS

SB 2024


2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **SB 2024**

Senate Political Subdivisions Committee

☐ Conference Committee

Hearing Date **January 6, 2005**

| Tape Number | Side A | Side B | Meter # |
|--|--------|--------|---------|
| SB2024 | X | | 0-End |
| SB 2024 | | X | 0-163 |
| | | | |
| Committee Clerk Signature  | | | |

Minute:

Vice Chairman Hacker called the Senate Political Subdivision Committee to order.

Roll call was taken 5 members present and 1 member absent.

Vice Chairman Hacker ask for testimony in support of SB 2024.

Jennifer Clark, ND Legislative Council, Economic Development, appeared neither for nor against SB 2024. Essentially what this bill is doing is removing the expiration date of June 30, 2005 of the document preservation fund and the funding sources. (See attachment #1 which is the 2001 legislation that created the document preservation fund)

Ann M. Johnsrud, McKenzie County Recorder appeared in support of SB 2024 and recommended a Do Pass. (See Attachment #2)

Vice Chairman Hacker ask for questions.

Senator Dever - What is the state preservation now? Is there an on going need for the fund.

Ann Johnsrud - Yes there is a need for the fund. Without those additional funds many counties will not be able to continue their microfilm.

Sheila Dalen, Ward County Recorder, Minot, ND testified in support of SB 2024 (See attachment # 3)

Senator Fairfield - Is each county allowed to preserve the records any way they see fit?

Sheila Dalen - North Dakota State law mandates the records to be microfilmed and only recognizes this as a backup of records.

Senator G Lee - Is preservation defined somewhere or is there some other preservation methods? Will you continue to need the \$3.00 once the backlog of microfilming is caught up?

Sheila Dalen - ND State law requires records to be microfilmed. Yes, we will still need the money to continue the projects otherwise the money would have to come out of the general fund.

Senator Dever - Do the dollars generated in the county stay in that county? Does each county have a different need for the dollar?

Sheila Dalen - Yes, the dollars stay in each county. Some larger counties have advanced quicker than the smaller counties. Each county is different.

Terry Trynor, Assistant Director of ND Association of Counties, testified in support of SB 2024 (See Attachment #4)

Ron Ness, ND Petroleum Council, appeared in support of SB 2024. The ND Land Man Association find this to be a very valuable service.

Gerald Newborg, State Archivist, State Historical Society of ND, appeared in support of SB 2024 (See attachment #5)

Claus Lemke, Executive Vice President ND Association of Realtors appeared neutral on SB 2024 but have some suggestions. (See attachment # 6)

Jack Kavaney, Logan Hill Real Estate of ND (See attachment #7)

Senator G Lee: Asked if on line access was a state service or a server someone was managing?

Mike Steiner, ND Recorders, The county participation in the North Dakota Recorder Information Network project is 100 percent voluntary. There are 53 counties in ND. Thirty eight have joined this project. They give two dollars of each recorded document fee to the NDRIN project. Ten counties give a dollar of that three dollar fee to the counties and there are seven counties that keep the entire three dollars and choose not to participate in the project.

Wade Bachmeier, Real Estate Broker and Appraiser. He is a user of the NDRIN system. He had a few points to share; Number 1: He thanked the people who were foresighted enough to establish this web base access to these public records. We do need this system.

Number 2: As a daily user of the system, he finds there are some unreliability in the system in getting on the system. Number 3: User fee's. There are 3 fees; an initial set up fee, a monthly fee and a per document fee to print. He does not understand the print fee as he gets charged a fee each time he hits the print button even if he is using his printer and ink. He said that he believed some counties are using the system to store the records but are not allowing those records to be available on line. He believes they should be accessible on line.

Senator Dever - Do other real estate agencies utilize this service and to what extent.

Wade Bachmeier - There is more use of the system from the appraisal field than from the real estate industry as larger counties have multiple listings. It is a very valuable system in smaller counties where there is not multiple listings.

Senator Dever - What would the cost of the information on line be if you went to the county recorders office.

Wade Bachmeier - That depends on the county. There are fees from fifty cents to five dollars per copy.

No further testimony for or against SB 2024.

Vice Chairman Hacker closed the hearing.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2024

Senate Political Subdivisions Committee

☐ Conference Committee

Hearing Date January 27, 2005

| Tape Number | Side A | Side B | Meter # |
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| 1 | | X | 1777 - 3172 |
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| Committee Clerk Signature <i>Shirley Borg</i> | | | |

Minutes:

Chairman Cook called the committee to order for a discussion on SB 2024. This bill deals with preservation funds. If you recall it simply removes the sunset that was put on four years ago.

The only testimony was to put the sunset back on two more years out.

Senator Triplett : I think it would be most appropriate to pass the bill and not extend the sunset.

My concern is that by just forwarding the sunset a couple more years, sends the wrong message to counties and makes them think that possibly it won't be extended beyond that and keeps them from planning effectively. The amount of money small counties are gathering is not very much, so they are kind of holding and waiting to see what they can afford to buy and if they think it might be cut off in two years, they might make different decisions in how they should spend the money as opposed to if they knew that there was an expectation that it was going to continue. I feel in long range planning it hampers the county.

Senator Cook: Even if we took the sunset off, when you are doing your planning in two years, the legislature could come back and change it some more.

Senator Dever: My impression was that there is a pretty broad range of the need for this fund. The expectation is that they are going to preserve those documents whether it is funded this way or some other way. I like the idea of extending the sunset.

Senator Gary Lee: I too agree. I think the sunset addition is a reasonable expectation.

Chairman Cook: I am thinking the same way.

Senator Hacker: My concern is that if it was a real issue I would have heard more about continuing the sunset clause or taking the sunset clause off. So personally I have no problem with continuing the sunset clause on the bill.

Senator Hacker motioned to amend SB 2024 by extending the sunset clause by two years.

Senator Dever seconded the motion.

Discussion

Senator Triplett: I think removing the sunset clause gives counties the opportunity to plan for the future and gives them the assurance that it is likely that a fee of this sort will continue. I understand that the legislative process can come back and take it down but I think in looking at some of these bills changes sometimes stay in for 25 to 30 years. The chances are if we took the sunset off it would stay in place a long time and would allow people the opportunity to plan and use the money appropriately. I don't have any concerns from my experience as a county commissioner that there is too much money in the system. The intention on the part of the state is to get counties into the technology age by doing this and the counties have been receptive in using the money appropriately. County land records are not static as land changes every single

day and these records need to be updated and created. Technology is a marvelous tool in the sense of making information easy and readily available but keeping up with the soft ware is a never ending expense.

Senator Dever: I understand the three dollars was to cover the initial cost to do it. Is there an on going three dollar cost to preserve the forms after that initial expense is made.

Senator Triplett: I would say yes. In Grand Forks county they are spending so much more than the three dollars. If part of the three dollars is used to put that information out on the web, which is what most of the counties are doing. This is an expensive process and will always be there if we are making that information available to the public.

Senator Cook: This is an on going process.

Roll call on Amendment 4 Yes 2 No 0 Absent

Amendment passed.

Senator Dever made a motion for a Do Pass on SB 2024 as Amended.

Senator Hacker seconded the motion.

Roll call vote: 6 Yes 0 No 0 Absent

Carrier: **Senator Dever**

FISCAL NOTE STATEMENT

Senate Bill or Resolution No. 2024

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

Date: 1-27-05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO SB2024

Senate Political Subdivisions Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 50069.0101 Title .0200

Action Taken Amended SB2024

Motion Made By Senator Hacker Seconded By Senator Dever

| Senators | Yes | No | Senators | Yes | No |
|--------------------------------|--------------|----|----------|-----|----|
| Senator Dwight Cook, Chairman | X | | | | |
| | | | | | |
| Senator Nicholas P. Hacker, VC | X | | | | |
| | | | | | |
| Senator Dick Dever | X | | | | |
| | | | | | |
| Senator Gary A. Lee | X | | | | |
| | | | | | |
| Senator April Fairfield | 7 | X | | | |
| | | | | | |
| Senator Constance Triplett | | X | | | |
| | | | | | |
| | | | | | |
| | | | | | |

Total (Yes) 4 No 2

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent: Amendment is to
Extend the Sunset Clause For two years.

Date: 1-27-05
Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2024

Senate Political Subdivisions Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 50069.0101 Title .0200

Action Taken Do Pass as Amended

Motion Made By Senator Dever Seconded By Senator Hacker

| Senators | Yes | No | Senators | Yes | No |
|--------------------------------|-----|----|----------|-----|----|
| Senator Dwight Cook, Chairman | X | | | | |
| | | | | | |
| Senator Nicholas P. Hacker, VC | X | | | | |
| | | | | | |
| Senator Dick Dever | X | | | | |
| | | | | | |
| Senator Gary A. Lee | X | | | | |
| | | | | | |
| Senator April Fairfield | X | | | | |
| | | | | | |
| Senator Constance Triplett | X | | | | |
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Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Dever

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

standing
com. rept
1-28-05

REPORT OF STANDING COMMITTEE

SB 2024: Political Subdivisions Committee (Sen. Cook, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2024 was placed on the Sixth order on the calendar.

Page 1, line 6, remove the overstrike over "~~Effective through June 30,~~", after "**2005**" insert "2007", and remove the overstrike over the overstruck closing parenthesis

Page 3, line 10, remove the overstrike over "~~Effective after June 30,~~", after "**2005**" insert "2007", and remove the overstrike over "~~) Fees of recorder. The recorder shall charge and~~"

Page 3, remove the overstrike over lines 11 through 30

Page 4, remove the overstrike over lines 1 through 31

Page 5, remove the overstrike over lines 1 and 2

Page 5, line 5, remove the overstrike over "~~Effective through June 30,~~", after "**2005**" insert "2007", and remove the overstrike over the overstruck closing parenthesis

Renumber accordingly

2005 HOUSE GOVERNMENT AND VETERANS AFFAIRS

SB 2024

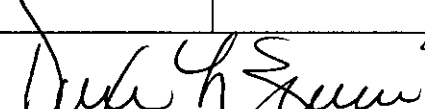
2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2024

House Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 2/25/05

| Tape Number | Side A | Side B | Meter # |
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| 1 | x | | 3.8-end |
| 1 | | x | 0-28.4 |
| Committee Clerk Signature  | | | |

Minutes: SB 2024 Relating to the expiration of the document preservation fund.

14 members present, 0 absent.

Chairman Haas: At this time we will open the hearing on SB 2024 and ask the clerk to read the title, please. Thank you, good morning Jennifer.

Jennifer Clark-North Dakota Legislative Council-Neutral-I help provide legal issues. It is not 2024 I am going to be talking about, it is SB 2173, 2001 senate bill. What SB 2173 did was created a document preservation fund, page 5, section 2, what SB 2024 is doing is removing that sunset. A funding source was designed to fund the preservation document fund and those changes were made in subsection 1, it required a three dollar fee to record documents. Essentially the bill you have today is remove that sunset clause and keeps the three dollars and keeps the fund it goes into.

Chairman Haas: Thank you Jennifer, are there any questions for Jennifer.

Rep. Galvin: Why was the sunset clause put on there in the first place?

Jennifer: I can't speak to that.

Chairman Haas: Any further questions? If not, thank you Jennifer. Is there additional testimony in favor of SB 2024?

**Ann Johnsrud-McKenzie County Recorder-Watford City-President of the North Dakota
Recorders Association-Testimony Attached-For**

Rep. Boehning: What is the shelf life of microfilm? Why aren't we using digital storage?

Ann: Microfilms life span is about 100 years. North Dakota only recognizes microfilm, it says that in the law that we have to microfilm.

Rep. Klemin: Where is the repository.

Ann: The repository is housed in Fargo, North Dakota. It is a huge server where all of our information is stored.

Rep. Kasper: Can you go through, like when you get that five hundred page document, what do you do to preserve it and what stuff do you take and how long does it take you to do that?

Ann: When the document comes in we put a date on it, give it a time, sign our names to it, it then goes through a process of scanning, we record it, each evening our documents are sent down to the repository and they are sent there for safe keeping and through the repository our microfilm is produced from there and they also save that digital image.

Rep. Kasper: Do you have to pay a fee?

Ann: Yes, we pay a fee, I am a full member of NDRIN, I pay two dollars to be able to do that. Two dollars per document.

Rep. Kasper: The bill calls for a charge of three dollars for each page.

Ann: No, it is three dollars per document, not per page. The three dollars is a recording fee attached to every document. It does not matter if it is a one page document or a five hundred page document, it is three dollars.

Rep. Froseth: Maybe we should change the statute that we have to microfilm everything and allow them to digital. I am sure High Plains Technology puts everything on a CD, they don't microfilm everything there do they?

Ann: That would be great to change the law, but it has been tried before and didn't work. I believe they do at High Plains, put them on CDs and then they are converted to microfilm, because that is the law in North Dakota.

Rep. Amerman: Is the three dollars sufficient?

Ann: Is three dollars sufficient, probably not.

Rep. Klemin: You have two different categories of counties, some who are full members, some who are associates, some who are not members. The fee that you pay then is for full members is two dollars per document, what is the difference between that and a associate member other then the difference in the charge.

Ann: The difference is that, if I pay the two dollars, I am actually transporting my records there and I get my microfilm made for that. The ones that are giving the one dollar, they are doing there microfilm a different way, they are contracting it out, they are not ready to have there documents sent, maybe they are not scanning yet, but they want to support the depository, never the less.

Rep. Klemin: So those associate counties then do not have the document at the repository, but are paying a dollar per document anyway?

Ann: Yes, that is correct.

Rep. Klemin: We have sixteen counties that keep the whole three dollars and don't do anything, as a repository, is that right?

Ann: That is correct. They don't feel that they have enough money yet to begin the computerization or the scanning mechanism, they just don't have the dollars in there counties to purchase all of the equipment.

Rep. Klemin: So out of 53 counties, we actually only have 22 counties that are using the repository.

Ann: No, there are 28 counties now, when we did this analysis, there were 22 that were full members and since that time seven have joined, I guess that is 29 members now. The associate members would be 11, I think. Seven of the 1 dollar counties are now 2 dollar members, so 15 counties are keeping the three dollars.

Rep. Klemin: So of the eight counties of the fifteen counties, they have been collecting the three dollars for the last four years, basically keeping the moneys and they use the money for the purchase of equipment.

Ann: Some counties, there books are in terrible shape, so they feel there greatest need, at this point is to get there paper copies in good order, they are spending there money in the most important areas right now, eventually they hope to become computerized.

Rep. Klemin: Isn't the function of the county recorders office, regardless, is to keep the documents in good order for public use.

Ann: Of course, but in some counties it just hasn't been done, for whatever reason, I can't speak for the recorders in the past. Our county has been very good at keeping our records up to date. There are a lot of counties that just don't have the dollars.

Rep. Klemin: Separate recording fees, so it is ten dollars for the documents and three dollars per page, ten dollars for the first page and three dollars for each additional page. That five hundred and sixty page document that you showed us, comes with a pretty hefty recording fee on top of it.

Ann: That is true, but those dollars go to the counties general fund and the county recorder has no say what happens to those moneys. Once they go to the county general fund. Then you have to go to your commissioners and say my books are really in tough shape, do have any spare money, can you help me out? What ever happens there happens.

Rep. Klemin: The purpose of the recording fees, regardless of the three dollar fee that was added on two years ago, is to maintain your office and to keep these documents preserved anyway, it isn't just for the counties to take and use on a road someplace that they want to, isn't that the purpose of the recording fee.

Ann: You are absolutely right, but that doesn't always happen.

Rep. Klemin: So adding a three dollars and letting the counties keep building roads with there ten dollar recording fee, why don't we just say well counties, you have to use this fee for the preservation of the documents and the operation of the this office.

Ann: If you would want to introduce a bill like that, we would be there to support you 100 per cent.

Chairman Haas: Ann, that is exactly what this bill does. It requires a set a side of moneys for the preservation fund.

Rep. Klemin: That big document that you showed, from Basin Electric, which costs 1600 dollars, 1597 dollars goes to the county and 3 dollars goes to that preservation fund.

Ann: That is correct.

Chairman Haas: Ann your the president of the North Dakota Association of Recorder, right. Is your organization doing anything to standardize this procedure across counties with regard to how they do it, when they do it, etc. In regard to preservation.

Ann: It is kind of let up to each county, we are trying to move everybody towards computers, but there is always a little resistance.

Chairman Haas: If you were to describe the most efficient process for doing this preservation, how would you describe it?

Ann: I think the most efficient way is to take your document in, scan it, send your images to the respiratory, in a digital form. That is the most efficient way for people coming in to look at it.

Chairman Haas: In your county, have you actually scanned everyone of your documents, already?

Ann: In my county we have scanned all of our microfilms from 1980 to forward. Prior to that everything is on books and those are on microfilm.

Rep. Conrad: Why are we fixing the books?

Ann: We are limited by the money we have for each county, if you only take in so many documents, you only have so much money. You are limited by the dollars you have to use.

Rep. Kasper: They put the document on a CD and they convert that on microfilm, all the data is stored on servers, so in my county if my computer went out, all my data, all of my images are saved there.

Rep. Kasper: What they are is a back-up computer to store a second set of documents for the State of North Dakota.

Ann: That is correct.

Rep. Grande: Are all of the oil counties pretty much on this, so that the line men come in and get there work done. Is that what you are talking about when you say you have 25 people coming in.

Ann: Not all of the oil companies are, but most of us are. Williams, Stark, McKenzie, Billing, Dunn, the people that I am talking about are land men.

Rep. Grande: Do they pay a fee for each document that they copy.

Ann: Yes, they pay a fee when they make a copy.

Chairman Haas: Additional questions for Ann, thank you for being patient with all of our questions. You provided very good information. Thank you. Is there additional testimony on SB 2024.

Dewey Oster, Mclean County Recorder Current Recorder President of NDRIN

Board-for-Testimony Attached.

Chairman Haas: What is your web address?

Dewey: The e-mail address is www.ndrin.com.

Chairman Haas: Is there any further questions for Dewey.

Rep Klemin: The counties that are using this certainly are to be congratulated, but I am concerned about the counties that are not using this and it seems to me that they are just taking the three dollar fee and just using it for the operation of the office. What would be the problem if you are going to charge this three dollar fee, that you actually use it for this purpose.

Dewey: Like I said, change comes slow, those counties that are just sticking that three dollars away, probably want to bill up there fund, some of them, so they can computerize. Some are slow to change.

Rep. Klemin: Before 2001 there wasn't this extra three dollar fee for this particular fund that was created. The three dollar fee was tacked on, the counties that are just using three dollar fee that you are charging couldn't you say that you have to use that three dollar fee for that purpose?

Dewey: Yes, it wouldn't be any problem forcing them to use it, the three dollars does get set aside for preservation, where before the money we took in on a recording fee, just went to the general fund. Different counties received money from FEMA, after the flood.

Rep. Boehning: What does it cost to set up.

Dewey: It varies, between 2000 and 5000 dollars.

Chairman Haas: This process should be standardized across the state with regard to every county, how would you react to that. Through the association of counties or through the association of recorders or through NDRIN. How would tie all of this together and standardize the procedure for the benefit of the public.

Dewey: Yes, chairman I would agree with that, it would be a lot easier if we were all on the same page. There is politics involved and money involved. We should put it all on the computer and put it on discs.

Rep. Froseth: Why do some counties pay two dollars and some only pay one dollar.

Dewey: If you pay two dollars you can download, you get the microfilm and you are doing everything that NDRIN can do for you. The dollar is pretty much saying I am going to be with

you in the future and I am helping you out, this is support, we like the system, but right now we don't have the money to really get into it.

Chairman Haas: Further questions for Dewey, if not thank you. Any further testimony in favor of SB 2024.

Robert "Tork" Kilichowski, Walsh County Commissioner President-North Dakota County Commissioners Association-For- Testimony Attached

Chairman Haas: Thank you, have you had any discussions in that circle about standardizing this process and providing assistance to counties across the state in order to standardize this process of storing and preservation of these records.

Robert: No, not to my knowledge, it is up to each individual county.

Chairman Haas: Thank you, are there further questions. Thank you, is there additional testimony on SB 2024.

Bobbie Kukla, Dunn County Recorder-For-Testimony Attached

Chairman Haas: Thank you, I take it you have your own micro filming equipment.

Bobbie: No, Dunn county does not have there own.

Chairman Haas: Are you using the digital transfer method to the repository?

Bobbie: Yes we are.

Chairman Haas: OK thank you.

Rep. Klemin: The whole purpose of this bill is to remove the sunset clause and as I recall that you be here today giving us a progress report.

Bobbie: We would like the sunset clause removed, because we have proven that this is a vital process, that we need the assurance that we are going to be able to have the preservation funds

available to us. Speaking on behalf of smaller counties, I do not know if we would have enough money to continue what I have started in our county, as well as the repository, scanning, scanning all the old documents. If this was taken away, I doubt that we enough money to continue that, so where would that leave us.

Rep. Klemin: Instead of removing that sunset clause, we could put on a new sunset clause that would be good until 2009. You could come back here in four years and justify it again, just like you are doing now, would that be a problem.

Bobbie: We are asking for the sunset clause to be removed.

Chairman Haas: Are there further questions for Bobbie, if not thank you very much. Is there any additional testimony on SB 2024.

Klaus Lempke-North Dakota Association of Realtors-It would not have passed if the sunset clause would not have been on there, they need the three dollars on there. We have changed our position, we are supporting the removal of the sunset clause.

Chairman Haas: Any further questions for Klaus, additional testimony on SB 2024.

Ron Ness-North Dakota Petroleum Council-Representing the Land Mens

Association-For-We were skeptical of this legislation at best in 2001 and now it has become critical in leasing of minerals, it is a very valuable resource back in the pockets of those mineral owners in those counties, I would encourage other counties to get on board with this, because accessed information is critical in the business of leasing minerals and what we have heard from our members and land men across the state is the system that McKenzie county has made it much easier and it is really a benefit to those citizens of those counties.

Chairman Haas: Thank you Ron, are there questions for Ron, thank you very much. Further testimony on SB 2024.

Gerald Newborg-State Archivist-State Historical Society of North Dakota-For-Testimony

Attached

Chairman Haas: Are there questions, thank you Gerald, any more testimony in favor of SB 2024, is there testimony opposing SB 2024, if not the hearing will be closed on SB 2024.

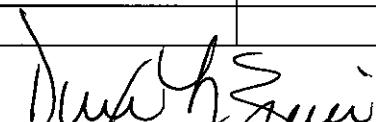
2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2024

House Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 2/25/05

| Tape Number | Side A | Side B | Meter # |
|---|--------|--------|-----------|
| 2 | x | | 13.9-16.4 |
| | | | |
| Committee Clerk Signature  | | | |

Minutes: SB 2024 Relating to the expiration of the document preservation fund.

Chairman Haas: We will look at 2024. What are your desires on this bill, this is the document preservation fee of three dollars. I had a conversation with Terry Trainer and the recorders that they would much prefer to see the sunset removed and have some permanent in that three dollar document preservation fee being used for that purpose. I think it is safe to say from all the testimony that we heard, this is more of a problem with county commissioners commitment to the idea of document preservation then it is with the recorders commitment and I think they are looking for that type of targeted funding to make sure that fund is available in there. Terry Trainer said that if the sunset comes off, he is positive, based on his work with the counties that in a very short period of time, because they want assurance that the money will be there, that there will 90 per cent or more of all the counties will be participating in NDRIN and that is somewhat speculative, but that is his opinion.

Rep. Froseth: I visited with one of the recorders from McKenzie County afterwards too, if the sunset goes back on that hampers there future plans, because if they are planning on buying equipment, for the long term for the usage of recording, if they know they have to come back in four years and the program might be halted, it jeopardizes what they can do in long range planning.

Chairman Haas: Mr. Trainer also suggested that if we take the sunset off, which would be my inclination, we might want to add an additional reporting requirement, in four years. We want a complete update on the status of what the recorders are doing, how many counties are doing this, a detailed accounting of what every county is doing with regard to document preservation.

Rep. Klemin: The thing that kind of troubles me here is that four years ago we tacked on an additional three dollars, which over the course of four years has amounted to 1.7 million dollars, just for that three dollars, sixteen counties basically putting that money into there pockets. We put this money in here to require that document preservation fund, for a hundred years, the counties have been required to maintain these records. That is the reason that they are all there. Some counties have been doing a better job, obviously, then others counties and some counties were not doing that. They had trouble with the county recorders getting the county commissioners give them the money to do that.

Chairman Haas: We had some conversation about that, would you be interested in putting a requirement in here, requiring counties to do certain things and then report back in two years.

Rep. Klemin: I don't see a problem to put a reporting requirement on here, they could report to the Legislative Council.

Chairman Haas: Do we want to put an additional requirement on recorders that they do this, this and this.

Rep. Kasper: I have another concern, the central repositories, if you look at the money they are receiving to hold computer data, almost a couple of million dollars, what ever the number is. Then I heard in testimony, they are charging an absorbent amount when people want to use the data base to get more information from them and they are probably a monopoly. I would sure like to know if we require information from that company about there financial status.

Rep. Klemin: The contract with the county, isn't that public information.

Chairman Haas: I would think so. I think the way we could handle that is request that the state auditor do an audit on NDRIN, which would led them to High Plains Technology would certainly expose the financial figures that you are referring to.

Rep. Kasper: I talked to some of the recorders after the hearing and they said that was a concern on some of the costs they are being charged.

Rep. Sitte: I talked to several recorders after wards and asked them if we should mandate this and they really believed not, because there are several elderly recorders out there. When you consider that since August 31st, seven more counties have gone on line, they really believe that by removing the sun set clause, more will definitely take advantage of it and will start to put there records on line. They said that there are some county commissioners out there that really oppose it, because they are really hesitant to put all those public records on the Internet, it will just take time.

Rep. Froseth: I disagree, somewhat with Rep. Klemins analogy of the counties that are just taking money. I think it was brought out that most counties have updated there systems. One lady

said there files were in shambles, they had to buy new books. I think they are using that money, not just pocketing it. A couple of years ago when we had this bill, the big opposition to it was from the users that objected to the three dollar fee and today the users came in and said they were satisfied with it, that it was a very good program.

Chairman Haas: I think the reporting requirement is an excellent idea. I think that we could do this by a subcommittee, Rep. Froseth will be the chairman, Rep. Meier and Rep. Potter, volunteered. Your charge is to formulate some type of amendment that would put a reporting requirement on here, perhaps even in two years, so that we would know the status of document preservation in every single county in the state of North Dakota.

Rep. Klemin: I don't think it is an issue whether it is being put on the electronic format or not, as you heard from Maxine, former National President of the County Recorders Association and the whole industry is moving in that direction, but until they get standardized nationally, there is nothing we do can change that.

Chairman Haas: We will leave SB 2024 and bring it back next week for further discussion.

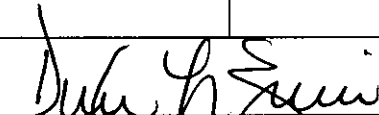
2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2024

House Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 3/3/05

| Tape Number | Side A | Side B | Meter # |
|---|--------|--------|-----------|
| 1 | x | | 13-9-14.1 |
| | | | |
| Committee Clerk Signature  | | | |

Minutes: SB 2024 Relating to the expiration of the document preservation fund.

Chairman Haas: We will look at SB 2024, Rep. Froseth, remember this is the bill, it has to do with the recording fee, for the county recorders, the consensus of the committee was that we wanted some type of recording requirement, so we know what the status was. Rep. Froseth.

Rep. Froseth: This amendment addresses recording requirements of the county recorders, the expiration date of the recording requirement is July 31, 2009, the intent that within four years it should be proven that they are using that money towards the proper sources.

Rep. Klemin: I am wondering of the timing of the report, because if it is August 1st, what good is going to do have it filed on August 1st. All the interim committees have already completed there work. The next thing that is going to happen is the legislative session of 2007, would it be reasonable to have this submitted at a time when it could go to an interim committee.

Chairman Haas: I think the intent hear, was to have it as to the end of a fiscal year. The date of the report is one question. The other question that Rep. Froseth brought up about whether or not

we want to make reference to Association of Counties and have them be an intermediate collecting agency for state report or report that we want required.

Rep. Kasper: I would be very uncomfortable with that, because they then could make the report the way they wish and why put them in a situation. Put them in a risk situation, where they gave misinformation, I don't think they would want to be in that position.

Rep. Conrad: They could do it themselves. They can just say all the counties, send it to Association of Counties. They can do it themselves without putting it into law.

Chairman Haas: You are correct, but what we are requiring here, specifically is a report from each county.

Rep. Klemin: The report could go to the state treasury. It is a fund issue.

Rep. Sitte: I was going to suggest the state auditor.

Chairman Haas: Any other thoughts, are we making your committee job easier or more difficult, Rep. Froseth. I wanted to make one comment. I had a conversation with Terry Trainer yesterday and we were talking about those sixteen counties that weren't really doing a whole lot to document preservation, four more, just recently are completely computerized and waiting for this sunset to come off before they tie into NDRIN, they want to have some assurances that the funding is going to be there to do the work, so that would really bring us down to 12 counties that aren't, that what we would consider to be in compliance with a good method of document preservation.

Rep. Klemin: The other alternative is to extend the sunset clause like we talked about before.

Rep. Froseth: Maybe we should tell them to report to there county commissioner.

Rep. Klemin: While the county commissioners have there eyes on this money.

Chairman Haas: The county commissioners have been the stumbling block all along in not providing the resources for the recorders to get there job done. I think that was pretty obvious from the testimony.

Rep. Kasper: Maybe in the amendment it should specify the periods of time, being are they are on a calendar year, should specify January through December, each year be submitted by February the following year.

Chairman Haas: Are all counties on a calendar year, coincide with there fiscal year?

Rep. Froseth: I think so.

Chairman Haas: Rep. Froseth do you have enough direction to proceed.

Rep. Froseth: Yes.

Chairman Haas: Any other comments, we will stand adjourned.

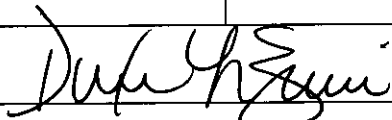
2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2024

House Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 3/3/05

| Tape Number | Side A | Side B | Meter # |
|---|--------|--------|-----------|
| 1 | | x | 26.2-27.3 |
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| Committee Clerk Signature  | | | |

Minutes: SB 2024 Relating to the expiration of the document preservation fund.

Discussion and voting:

Chairman Haas: We will look at SB 2024. Rep. Froseth has the floor.

Rep. Froseth: This is the newest version of the amendment and seems to meet with everyone's approval. County report shall be submitted to the North Dakota Association of Counties for compilation and submitted to the legislative council prior to April 1st of each even numbered year.

Chairman Haas: Thank you and I believe Rep. Froseth meant with Mark Johnson again this morning and they are very comfortable with this procedure, they indicated it is not a problem to have the reference made to North Dakota Association of Counties in statute, because they said that it is in quite a few other places. Is there a motion on the amendment, Rep. Froseth moves the amendment, seconded by Rep. Potter, is there any further discussion on the amendment. If not we will do a voice vote on the amendment, all in favor say I, oppose say no, amendment carried.

Page 2

House Government and Veterans Affairs Committee

Bill/Resolution Number SB 2024

Hearing Date 3/3/05

Rep. Froseth moves a DO PASS as AMENDED on SB 2024, seconded by Rep. Boehning, is there any further discussion on this bill. If not we will have the clerk take the roll on a DO PASS motion as Amended on SB 2024.

VOTE: YES 13 NO 0 ABSENT 1 DO PASS AS AMENDED ON SB 2024

REP. FROSETH WILL CARRY THE BILL.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2024

Page 1, line 1, after "to" insert "create and enact a new section to chapter 11-18 of the North Dakota Century Code, relating to county recorder reports to the legislative council regarding use of document preservation funds; to"

Page 1, line 2, after "fund" insert "; and to provide an expiration date"

Page 5, after line 11, insert:

"SECTION 3. A new section to chapter 11-18 of the North Dakota Century Code is created and enacted as follows:

Document preservation fund - County recorder reporting requirement to legislative council. Before August first of each even-numbered year, each county recorder shall file with the legislative council a report that specifies how the county used the county's document preservation funds during the preceding two fiscal years; how the county's use of the document preservation funds have furthered the goal of document preservation; and the county's general strategic plans for document preservation.

SECTION 4. EXPIRATION DATE. Section 3 of this Act is effective through July 31, 2009, and after that date is ineffective."

Renumber accordingly

Date: 3/3/05
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB2024

House House Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS AS AMENDED

Motion Made By Rep Froseth Seconded By Rep Boehning

| Representatives | Yes | No | Representatives | Yes | No |
|---------------------------------|-----|----|-----------------------|-----|----|
| Chairman C.B. Haas | ✓ | | Rep. Bill Amerman | ✓ | |
| Bette B. Grande - Vice Chairman | ✓ | | Rep. Kari Conrad | ✓ | |
| Rep. Randy Boehning | ✓ | | Rep. Louise Potter | ✓ | |
| Rep. Glen Froseth | ✓ | | Rep. Sally M. Sandvig | ✓ | |
| Rep. Pat Galvin | ✓ | | | | |
| Rep. Stacey Horter | ✓ | | | | |
| Rep. Jim Kasper | AB | | | | |
| Rep. Lawrence R. Klemin | ✓ | | | | |
| Rep. Lisa Meier | ✓ | | | | |
| Rep. Margaret Sitte | ✓ | | | | |
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Total (Yes) 13 No 0

Absent 1

Floor Assignment Rep. Froseth

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

Froseth moves the amendment
Potter seconds
voice vote - carried

REPORT OF STANDING COMMITTEE

SB 2024: Government and Veterans Affairs Committee (Rep. Haas, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2024 was placed on the Sixth order on the calendar.

Page 1, line 1, after "to" insert "create and enact a new section to chapter 11-18 of the North Dakota Century Code, relating to county recorder reports to the legislative council regarding use of document preservation funds; to"

Page 1, line 2, after "fund" insert "; and to provide an expiration date"

Page 5, after line 11, insert:

"SECTION 3. A new section to chapter 11-18 of the North Dakota Century Code is created and enacted as follows:

Document preservation fund - Recorder reporting requirement to legislative council. Before March first of each even-numbered year, each recorder shall prepare a report that specifies how the county used the county's document preservation funds during the preceding two fiscal years; how the county's use of the document preservation funds has furthered the goal of document preservation; and the county's general strategic plans for document preservation. The county reports must be submitted to the North Dakota association of counties for compilation and submittal to the legislative council before April first of each even-numbered year.

SECTION 4. EXPIRATION DATE. Section 3 of this Act is effective through July 31, 2009, and after that date is ineffective."

Renumber accordingly

2005 TESTIMONY

SB 2024

TO: Chairman Cook and Members of the Senate Political Subdivisions Committee:

Regarding: SB2024

Removing Sunset Clause from the Document Preservation Fee as enacted by the 57th Legislative Session, 2001, SB 2173

Written testimony provided by:

Ann M. Johnsrud, McKenzie County Recorder
President North Dakota County Recorders Association

Mr. Chairman and Committee Members,

I am here today to provide you with some history behind the drafting of SB 2173 and events leading up to it.

As you are all aware of the flooding in the Red River Valley in 1997, there was great destruction and one of the hardest hit areas was the Register of Deeds office (now Recorder) in Grand Forks. They were faced with overwhelming damage to their irreplaceable permanent records. I have attached some photographs of the destruction to this testimony. Many of these records were destroyed and could not be replaced due to counties not being prepared for a disaster such as this.

During the aftermath, cleanup and assessment, "Disaster Preparedness for the Future" became a popular topic of discussion. Governor Schaefer endorsed preservation and technology enhancements for the state of North Dakota in his State of the State address after the floods took place in 1997. "Our goal is to disaster proof North Dakota. We cannot prevent wind, flood, fire, storm or drought, but we can make our state more resistant to the damaging effects of these unavoidable prairie forces". Action was initiated, committees were formed and with the assistance of Cass County and the Federal Emergency Management Agency (FEMA) a workable plan was developed and

implemented to microfilm all real estate records in all 53 counties and to provide for storage of that film in a secure, off site place. A grant from FEMA for 1.2 million dollars was applied for and granted which allowed all counties in North Dakota to put in place tools to insure that valuable records can be replaced in the event of a disaster.

The grant also allowed a central repository to be built for storage of our electronic records. This computerized central repository has become a reality and places the state Recorders offices on the cutting edge of technology, which makes us unique to the entire country. This system not only provides another means of safeguarding the Recorders records, but also delivers to users access to public records via the internet.

Many county Recorders do not have the necessary funds to upgrade their operations to include a computer or to even maintain the ongoing microfilming process for security.

SB 2173 established a fair and painless plan to raise those funds by increasing the first page recording fee and established a document preservation fund in each county. The \$3.00 fee increase has provided funds to counties to begin the process of computerization, technology upgrades and for the ongoing process of microfilming and storing their records off site. In 1999 Legislators told us, a fee increase is used to place the increase where it belongs, on the users.

SB 2173 has provided the funding to continue the work the FEMA grant began and to allow county offices to add the technology needed to participate and most importantly to insure that our counties records are microfilmed and stored in safe facilities, diminishing the concern of another disaster, natural or man made, destroying these valuable records. The North Dakota County Recorders Association asks that you remove the sunset clause and give a do pass on SB2024. Mrs. Dalen will be giving further testimony on our behalf.

CHAPTER 121**SENATE BILL NO. 2173**
(Senator Lee)**DOCUMENT PRESERVATION FUND AND DEED FEES**

AN ACT to create and enact a new section to chapter 11-18 of the North Dakota Century Code, relating to creation of a document preservation fund; to amend and reenact section 11-18-05 of the North Dakota Century Code, relating to fees charged by the register of deeds; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 11-18 of the North Dakota Century Code is created and enacted as follows:

Document preservation fund. The county treasurer shall establish a document preservation fund to receive the portion of the recording fees authorized by section 11-18-05. The revenue in this fund may be used only for contracting for and purchasing equipment and software for a document preservation, storage, and retrieval system; training employees to operate the system; maintaining and updating the system; and contracting for the offsite storage of microfilm or electronic duplicates of documents for the county register of deeds' office.

⁵³ **SECTION 2. AMENDMENT.** Section 11-18-05 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

11-18-05. Fees of register of deeds. The register of deeds shall charge and collect the following fees:

1. For recording an instrument affecting title to real estate:

a. Deeds, mortgages, and all other instruments not specifically provided for in this subsection, seven dollars for the first page and three dollars for each additional page. In addition, for all documents recorded under this section that list more than five sections of land, a fee of one dollar for each additional section listed which is to be recorded in the tract index.

(1) "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.

(2) The printed, written, or typed words must be considered legible by the register of deeds before the page will be accepted for recording.

⁵³ Section 11-18-05 was also amended by section 1 of House Bill No. 1105, chapter 361.

- (3) Each real estate instrument must have a legal description considered to be adequate by the register of deeds before such instrument will be accepted for recording.
 - (4) A space of at least four inches by three and one-half inches [10.16 by 8.89 centimeters] square must be provided on the first or last page of each instrument for the register of deeds' recording information. If recording information can only be placed on the reverse side of an instrument, an additional page charge must be levied.
 - b. Instruments satisfying, releasing, assigning, subordinating, continuing, amending, or extending more than one instrument previously recorded in the county in which recording is requested, seven dollars for the first page and three dollars for each additional page plus three dollars for each such additional document number or book and page. In addition, for all documents recorded under this section which list more than five separate sections of land, a fee of one dollar for each additional section listed which is to be recorded in the tract index.
 - c. Plats, irregular tracts, or annexations, ten dollars for one lot plus ten cents for each additional lot, with the exception of auditor's lots which must be a single charge of seven dollars.
 - d. All instruments presented for recording after June 30, 2001, must contain a one-inch [2.54-centimeter] top, bottom, or side margin on each page of the instrument for the placement of computerized recording labels. An instrument that does not conform to this margin requirement may be recorded upon payment of an additional fee of ~~two~~ ten dollars.
2. For filing any non-central indexing system instrument, ~~five~~ ten dollars.
 3. For making certified copies of any recorded instrument or filed non-central indexing system instrument, the charge is five dollars for the first page and two dollars for each additional page. For making a noncertified copy of any recorded instrument or filed non-central indexing system instrument, a fee of not more than one dollar per instrument page.
 4. ~~For making a copy of any filed non-central indexing system instrument, one dollar for each five pages or portion thereof. For making a certified copy of any non-central indexing system filed instrument, five dollars plus one dollar for each additional five pages or portion thereof.~~
 - 6- 5. For filing, indexing, making, or completing any statement, abstract, or certificate under the Uniform Commercial Code central filing data base, the computerized central notice system or the computerized statutory liens data base, for receiving printouts, and for other services provided through the computerized system, the fee is the same as that provided in sections 41-09-42 and 41-09-43, as applicable.
 - 6- 5. The register of deeds may establish procedures for providing access for duplicating records under the register of deeds' control. Such records

include paper, photostat, microfilm, microfiche, and electronic or computer generated instruments created by governmental employees.

- ~~7.~~ 6. Duplicate register of deeds' records stored off-site as a security measure are not accessible for reproduction.

SECTION 3. AMENDMENT. Subsection 1 of section 11-18-05 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. For recording an instrument affecting title to real estate:
 - a. Deeds, mortgages, and all other instruments not specifically provided for in this subsection, ~~seven~~ ten dollars for the first page and three dollars for each additional page. In addition, for all documents recorded under this section that list more than five sections of land, a fee of one dollar for each additional section listed which is to be recorded in the tract index. Three dollars of the fee collected for the first page of each instrument recorded under this subdivision must be placed in the document preservation fund.
 - (1) "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.
 - (2) The printed, written, or typed words must be considered legible by the register of deeds before the page will be accepted for recording.
 - (3) Each real estate instrument must have a legal description considered to be adequate by the register of deeds before such instrument will be accepted for recording.
 - (4) A space of at least four inches by three and one-half inches [10.16 by 8.89 centimeters] square must be provided on the first or last page of each instrument for the register of deeds' recording information. If recording information can only be placed on the reverse side of an instrument, an additional page charge must be levied.
 - b. Instruments satisfying, releasing, assigning, subordinating, continuing, amending, or extending more than one instrument previously recorded in the county in which recording is requested, ~~seven~~ ten dollars for the first page and three dollars for each additional page plus three dollars for each such additional document number or book and page. In addition, for all documents recorded under this section which list more than five separate sections of land, a fee of one dollar for each additional section listed which is to be recorded in the tract index. Three dollars of the fee collected for the first page of each instrument recorded under this subdivision must be placed in the document preservation fund.

- c. Plats, irregular tracts, or annexations, ten dollars for one lot plus ten cents for each additional lot, with the exception of auditor's lots which must be a single charge of seven dollars.
- d. All instruments presented for recording after June 30, 2001, must contain a one-inch [2.54-centimeter] top, bottom, or side margin on each page of the instrument for the placement of computerized recording labels. An instrument that does not conform to this margin requirement may be recorded upon payment of an additional fee of two dollars.

SECTION 4. EXPIRATION DATE. Sections 1 and 3 of this Act are effective through June 30, 2005, and after that date are ineffective.

Approved April 9, 2001
Filed April 10, 2001

To: Chairman Cook and Members – Senate Political Subdivision

From: Sheila K Dalen – Ward County Recorder
County Records Legislative Chairman

RE: SB2024

Good morning Chairman Cook & Committee members. For the record my name is Sheila Dalen, I am the Ward County Recorder from Minot and I also chair the Legislative Committee for the County Records.

I too am here today to ask your support on SB2024 and to add to Mrs. Johnsrud's testimony.

The legislators placed a sunset clause on the preservation fund to give us the opportunity to prove this could be done and in the past 3 years it has proven itself to be a successful project without the cost being placed on the County General funds or County Taxpayers. The \$3.00 dedicated preservation fee places the fee on the users of the records.

After the flooding in 1997, 45 counties participated in the first Fema technology grant ever awarded. These counties signed statements of assurances to continue to preserve County records by microfilming and storing copies off-site. Without the preservation fee, these counties are obligated to continue fulfilling the terms of the Fema grant. The dollars currently coming out of the preservation fund to do this will have to come out of the County General Funds if the sunset is not removed.

The central repository Mrs. Johnsrud mentioned for the storage of digitized records began with 8 counties participating. Through the aid of the \$3.00 preservation fee, 38 counties are now storing digital images on this site. The central repository is accessible 24-7 with some 60 users currently accessing the electronic information being pushed up to the internet by 27 counties. This is also allowing all 38 of these counties to receive microfilm copies of these records to be stored off-site as required under North Dakota law and the Fema grant.

The Recorders have kept close watch over this project and have surveyed the counties yearly. All counties are using the funds as put in place. Several counties have been able to purchase computer equipment, others are preserving the records within their offices that were becoming torn, tattered and headed for destruction. Other counties continue to save the money to eventually have enough in their preservation fund to purchase the equipment needed to preserve records within a county. Our surveys show this project is working and can continue to be a successful project for county government across the state of North Dakota. I have attached a copy of our preservation fee analysis as done from 7/1/01 through 8/31/04 to show you how each county has been able to use these dollars.

The preservation fee put in place by the 2001 Legislature has been successful. North Dakota is a leader in establishing and supporting a preservation plan for county records without it first being mandated by state law.

It is our hope that with the sunset removed, more dollars will stay in the counties to allow all 53 counties to eventually be fully automated and protecting and preserving these valuable records for years to come.

I ask that you remove the sunset clause and give a do pass on SB2024 and continue to allow North Dakota to be a leader in the care and preservation of the records within the County Recorders office.

Preservation Fee Analysis 7/01/01 through 8/31/04

| County | # of Docs | Contract Preservation | County Purchases | Balance |
|---------------|-----------|-----------------------|------------------|-------------|
| Adams | 2633 | \$2,633.00 | \$4,364.62 | \$3,722.33 |
| Barnes | 9172 | \$17,415.00 | \$7,102.50 | \$3,767.50 |
| Benson | 3579 | \$3,579.00 | \$13,441.00 | \$0.00 |
| Billings | 4743 | \$0.00 | \$8,997.23 | \$7,400.00 |
| Bottineau | 9649 | \$0.00 | \$29,070.95 | \$1,325.00 |
| Bowman | 4517 | \$4,517.00 | \$1,495.00 | \$9,355.11 |
| Burke | 4274 | \$0.00 | \$9,409.50 | \$3,173.73 |
| Burleigh | 67,979 | \$135,958.00 | \$43,831.00 | \$36,363.00 |
| Cass | 128,351 | \$256,702.00 | \$88,480.00 | \$32,278.00 |
| Cavalier | 5629 | \$10,648.00 | \$5,801.00 | \$1,849.97 |
| Dickey | 4857 | \$0.00 | \$1,887.95 | \$12,002.05 |
| Divide | 5565 | \$0.00 | \$18,287.43 | \$0.00 |
| Dunn | 4430 | \$8,860.00 | \$7,195.01 | \$375.00 |
| Eddy | 1685 | \$1,685.00 | \$4,000.00 | \$2,142.01 |
| Emmons | 3788 | \$0.00 | \$4,879.06 | \$6,954.94 |
| Foster | 3567 | \$3,567.00 | \$267.80 | \$2,086.70 |
| Golden Valley | 2500 | \$2,500.00 | \$9,763.13 | \$1,171.09 |
| Grand Forks | 46,907 | \$0.00 | \$123,354.61 | \$17,001.39 |
| Grant | 2792 | \$0.00 | \$7,589.51 | \$771.49 |
| Griggs | 2528 | \$4,833.00 | \$2,000.00 | \$2,294.00 |
| Hettinger | 2913 | \$0.00 | \$4,494.79 | \$4,677.21 |
| Kidder | 3088 | \$0.00 | \$8,069.20 | \$1,114.90 |
| LaMoure | 3936 | \$0.00 | \$14,276.97 | \$286.18 |
| Logan | 2064 | \$0.00 | \$4,183.92 | \$2,798.08 |
| McHenry | 5490 | \$10,980.00 | \$5,600.29 | \$671.00 |
| McIntosh | 3282 | \$3,312.00 | \$5,345.00 | \$1,346.00 |
| McKenzie | 10170 | \$20,340.00 | \$10,797.10 | \$1,441.75 |
| McLean | 8334 | \$16,668.00 | \$6,761.23 | \$2,378.38 |
| Mercer | 7722 | \$7,722.00 | \$9,216.38 | \$8,311.14 |
| Morton | 20854 | \$41,708.00 | \$14,881.77 | \$14,025.49 |
| Mountrail | 6288 | \$0.00 | \$4,799.42 | \$12,992.58 |
| Nelson | 2880 | \$5,539.00 | \$2,286.22 | \$1,528.56 |
| Oliver | 1913 | \$0.00 | \$2,671.42 | \$3,187.58 |
| Pembina | 4029 | \$8,058.00 | \$17,195.60 | \$1,434.17 |
| Pierce | 4329 | \$4,329.00 | \$8,331.19 | \$2,920.31 |
| Ramsey | 8977 | \$9,657.00 | \$14,811.45 | \$5,109.11 |
| Ransom | 5582 | \$10,081.00 | \$12,650.00 | \$0.00 |
| Renville | 4335 | \$0.00 | \$15,483.08 | \$1,905.00 |
| Richland | 13847 | \$27,694.00 | \$11,622.10 | \$3,821.95 |
| Rolette | 3434 | \$3,434.00 | \$8,755.75 | \$0.00 |
| Sargent | 3752 | \$6,164.00 | \$5,228.00 | \$0.00 |
| Sheridan | 2167 | \$2,167.00 | \$5,108.53 | \$724.56 |
| Sioux | 467 | \$467.00 | \$1,296.87 | \$1,766.13 |
| Slope | 751 | \$1,502.00 | \$1,200.00 | \$3,523.52 |
| Stark | 20478 | \$41,643.00 | \$17,393.00 | \$513.00 |
| Steele | 2896 | \$3,064.00 | \$5,771.53 | \$817.49 |

| | | | | |
|-----------------|--------|--------------|--------------|--------------|
| Stutsman | 14261 | \$28,707.00 | \$55,456.17 | \$0.00 |
| Towner | 3021 | \$3,021.00 | \$6,406.00 | \$557.00 |
| Traill | 8644 | \$0.00 | \$17,019.11 | \$11,617.00 |
| Walsh | 9051 | \$18,102.00 | \$15,037.59 | \$1,948.08 |
| Ward | 40443 | \$80,922.00 | \$21,081.00 | \$20,754.23 |
| Wells | 4606 | \$9,202.00 | \$4,158.63 | \$1,307.00 |
| Williams | 18238 | \$36,476.00 | \$8,523.20 | \$17,933.35 |
| Totals | 571387 | \$853,856.00 | \$737,129.81 | \$275,444.06 |

4

**Testimony To The
SENATE POLITICAL SUBDIVISIONS COMMITTEE
Prepared January, 2004 by the
North Dakota Association of Counties
Terry Traynor, Assistant Director**

CONCERNING SENATE BILL NO. 2024

Chairman Cook and members of the Senate Political Subdivisions Committee, I am here on behalf of the North Dakota Association of Counties to express our strong support for Senate Bill 2024.

As has been explained, this bill does not propose a fee increase – rather a continuation of a fee that has been in-place for four years. This fee, as you have heard from the County Recorders, is a critical component to a long-range and statewide plan to protect our State's vital land records.

In addition to simply stating the support of our Association, I want to also provide some basic information about recording fees in general. The back of my testimony contains several tables and a chart. I will very briefly explain them, but I think they show quite clearly that the fees addressed in this legislation are not unreasonable.

In North Dakota our recording fees are among the lowest in the nation, well below the cost of the service in many counties. A fee study completed in Morton County concluded that the real cost of recording a document was \$13.81. Unfortunately, that fee study was completed over 10 years ago, well before the cost of current preservation efforts were factored in.

Mr. Chairman and committee members, I would like to defer to those most knowledgeable about this issue, but first, close by urging a Do Pass recommendation on Senate Bill 2024.

Analysis of Land Recording Fees of Surrounding States

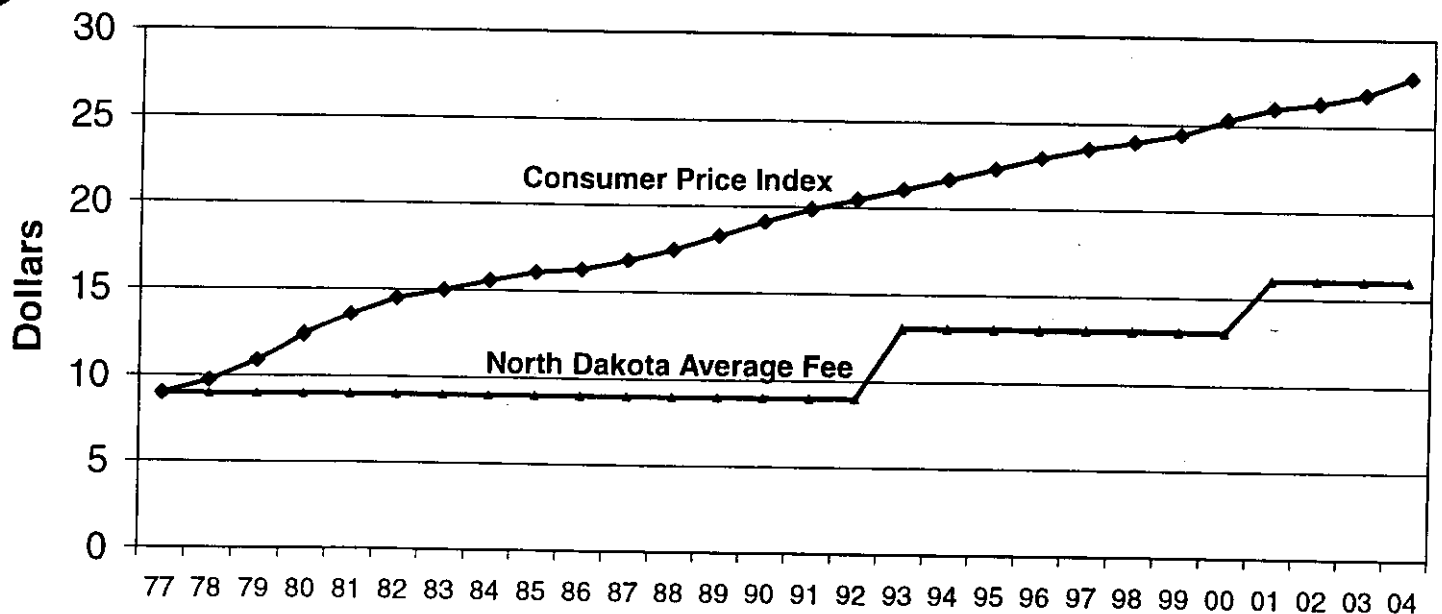
| | Recording Deeds | | Recording Mortgages | | Penalty Fee | | Cost to Record Average 3-Page Conforming Deed | Real Estate Revenue Star (\$100,000 Prope |
|-------------------------|-----------------|---------------------|---------------------|---------------------|-------------|--|---|---|
| | First Page | Additional Pages | First Page | Additional Pages | Amount | Reason | | |
| North Dakota (SB2173) | \$10 | \$3 | \$10 | \$3 | \$10 | Page lacks sufficient margin for imaging | \$16.00 | None |
| South Dakota | \$10 | \$2 | \$10 | \$2 | \$0 | No penalty fees | \$14.00 | \$100.00 |
| Minnesota * | \$19.50 | \$1 | \$19.50 | \$1 | \$10 | Failure to meet any format requirements | \$19.50 | \$330.00 |
| Montana | \$6 | \$6 | \$6 | \$6 | \$6 | Overize pages counted as two | \$18.00 | None |
| Nebraska | \$5.50 | \$5 | \$5.50 | \$5 | \$5 | Insufficient room for stamp | \$15.50 | \$175.00 |
| Iowa | \$11 | \$5 | \$6 | \$5 | \$5 | Overize pages counted as two | \$21.00 | \$159.20 |
| Average of Other States | \$10.40 | \$3.80 | \$9.40 | \$3.80 | \$ 5.20 | | \$17.60 | \$152.00 |

* Minnesota's \$19.50 first page fee covers any number of pages up to 15 - \$1 of which is reserved for equipment.

History of Land Recording Fees in North Dakota

| | Recording Deeds | | Recording Mortgages | | Penalty Fee Amount | Notes | Cost to Record Average 3-Page Conforming Deed |
|----------------|-----------------|---------------------|---------------------|---------------------|--------------------------|--|---|
| | First Page | Additional Pages | First Page | Additional Pages | | | |
| 1977 or Before | \$5 | \$2 | \$5 | \$2 | \$0 | | \$9 |
| 1983 (HB1231) | \$5 | \$2 | \$5 | \$2 | \$0 | Bill created UCC filing requirements | \$9 |
| 1987 (SB2295) | \$5 | \$2 | \$5 | \$2 | \$0 | Bill amended UCC definitions | \$9 |
| 1989 (SB2079) | \$5 | \$2 | \$5 | \$2 | \$0 | Bill clarified definition of instrument | \$9 |
| 1991 (SB2493) | \$5 | \$2 | \$5 | \$2 | \$0 | Adds \$3 when additional sections are mortgaged on same instrument | \$9 |
| 1993 (SB2296) | \$7 | \$3 | \$7 | \$3 | \$0 | Adds \$3 when additional sections are recorded on same instrument | \$13 |
| 1999 (HB1406) | \$7 | \$3 | \$7 | \$3 | \$2 | Bill amended UCC definitions | \$13 |
| 2001 (SB2173) | \$10 | \$3 | \$10 | \$3 | \$10 | Page lacks sufficient margin for imaging | \$16 |

Comparison of ND Average Fee to CPI



CPI is Midwest Urban - All Items from the US Dept. of Labor website at <http://www.bls.gov/cpi/home.htm>

Testimony in support of
SB 2024

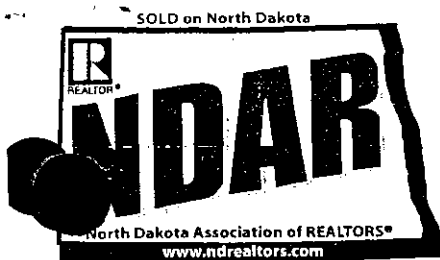
I am speaking in support of SB 2024, which removes the sunset clause for the county recorders' document preservation fund.

Few records are as personally and commercially valuable as those held by the county recorders' offices. The need to insure the preservation, security and accessibility of land ownership and other records is critical. This source of funds has been successful in generating needed money for this purpose and the document preservation fund has been very helpful in achieving this important objective. I urge the approval of SB2024.

Thank you.

Gerald Newborg
State Archivist
State Historical Society of North Dakota

6



North Dakota Association of REALTORS®

318 West Apollo Avenue • Bismarck, ND 58503-1412

Phone: 701-355-1010 or 800-279-2361 • Fax: 701-258-7211

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Moni Krantz

January 6, 2005

Testimony on SB 2024

To: Senate Political Subdivision Committee

From: Claus Lembke, Executive Vice President
North Dakota Association of REALTORS® (NDAR)

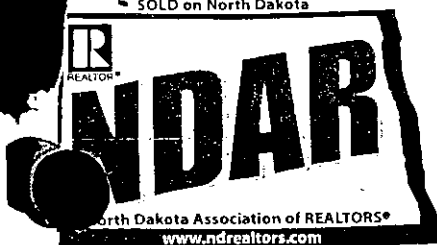
Chairman Cook and members of the Committee:

My name is Claus Lembke. I represent the North Dakota Association of REALTORS® (NDAR). We are a state-wide Trade Association with over 1200 members represented by eight local boards of REALTORS®.

With your permission I would like to introduce two members of our NDAR who have experience regarding SB 2024. Jack Kavaney, a REALTOR® with Logan Hill GMAC Real Estate in Bismarck was our lead person when this legislation was passed four years ago. He was instrumental in promoting a sunset clause which enabled support for the extra \$3 recording fee.

The other person to speak briefly is Wade Bachmeier who operates Century 21 Landmark Realty with offices in Bismarck and Mandan. Wade is a subscriber to the North Dakota Recorder Information Network (NDRIN).





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ADMINISTRATIVE ASSISTANT

Moni Krantz



January 6, 2005

Testimony on SB 2024

To: Senate Political Subdivision Committee

From: Jack Kavaney, Political Affairs Committee Member
North Dakota Association of REALTORS® (NDAR)

Mr. Chairman, Members of the Committee:

My name is Jack Kavaney. I am a REALTOR® and affiliated with Logan Hill GMAC Real Estate in Bismarck. I am also a member of the NDAR Political Affairs Committee. When this legislation was originally introduced four years ago, Representative Glen Froseth, Chairman of the House Political Subdivision Committee at that time, and our NDAR worked out a compromise, the result of which is the sunset clause.

A few weeks ago we met with representatives of the County Recorders Association (President Ann Johnsrud and Legislative Chair Sheila Dalen). After that meeting and some random checks with several counties we are convinced that there is still a need for the extra \$3 recording fee.

What we are still questioning are the cost and quality of services that the North Dakota Recorder Information Network (NDRIN) provides.

Three extra dollars may seem small, but it is sizeable when one looks at it statewide.

We estimate that the participating counties pay somewhere around \$500,000 to this NDRIN. We also believe that NDRIN received over \$1,000,000 in FEMA funds for start-up assistance. Remember that these document presentation efforts and increased fees are prompted by the devastating 1997 Flood which destroyed most of the Grand Forks records.

It is interesting to note that our information shows that Grand Forks is not participating with the NDRIN program.

We question the cost of operating the NDRIN. For example, Burleigh County and others pay NDRIN \$2 of the extra \$3 collected from each document. Does it really cost \$2 to retrieve and store an electronic document? Electronic document storage should cost pennies, not dollars.

NDRIN also charges users of their information a start up fee and monthly charges to access the stored data.

What we are asking this committee to do is to extend the sunset clause for the extra \$3 recording fee two more years to June 30, 2007.

This would preserve that income stream that the counties appear to need and gives us time to find answers to our questions.

The President of the County Recorder Association has invited us to attend any future meetings of the NDRIN Board of Directors. We have also asked to have a representative of our Association to sit on their Board as a consumer member which is under consideration. We applaud and thank the County Recorder leadership for their cooperation and willingness to work together on this issue.

Mr. Chairman and Members of the committee, please give us the time to find out what is right or wrong by simply extending the sunset clause on SB 2024 until June 30, 2007.

I am ready for any questions.

| ANALYSIS OF PARTIAL RESULTS OF SB 2024 | | | 1/6/2005 | |
|--|------------|------------|------------|--------------|
| COUNTY | # of DOCS. | \$ 3 FEE | 1/3 STAYS | 2/3 TO NDRIN |
| BURLEIGH | 22,123 | \$ 66,370 | \$ 22,123 | \$ 44,546 |
| CASS | 49000± | \$ 147,000 | \$ 49,000 | \$ 98,000 |
| MORTON | 6,675 | \$ 20,025 | \$ 6,675 | \$ 13,350 |
| McHENRY | 1,694 | \$ 5,082 | \$ 1,694 | \$ 3,388 |
| McLEAN | 2,680 | \$ 8,040 | \$ 2,680 | \$ 5,360 |
| WARD | 11,870 | \$ 35,610 | \$ 11,870 | \$ 23,744 |
| GRAND FORK | 0 | ???--\$ | ???--\$ | ???-? |
| WILLIAMS | 9,352 | \$ 28,056 | \$ 9,352 | \$ 18,704 |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | \$ 310,183 | \$ 103,394 | \$ 207,092 |
| | | | | |
| | | | | |
| | | | | |

Testimony Prepared for the
Members of the Government & Veterans Affairs Committee
February 25, 2005
By: Bobbi Kukla, Dunn County Recorder

RE: SB 2024

My name is Bobbi Kukla, and I am the Recorder for Dunn County. I am here to ask your support in removing the sunset clause and a do pass on this bill. I am testifying here today on behalf of smaller counties. As you have all heard previously from Ann and Dewey, the Recorders Association in conjunction with NDRIN are working hard to assure the preservation of the vital information in our offices. You have been brought up to speed on the guidelines we must meet according to statute, the process we go through to assure preservation and the ongoing maintenance of our records. Not only must we preserve all of the documents recorded in our office each day, we must maintain the clarity of ALL documents recorded for the last 100 years. The earliest document we have in our office is a Patent that dates back to 1905 and signed by Theodore Roosevelt. It is our responsibility to maintain a duplicate of all recorded information in our offices. As you have heard from Ann's testimony, the expense is tremendous.

In representing the smaller counties I can tell you that prior to the preservation fund, there were offices where there was no microfilm backup of any kind, no computers, their books were falling apart and plat maps were a disaster. These counties have limited county dollars available, so the preservation fund has been a godsend for them. They would still be in the dark ages without these additional funds.

The dollars received by Dunn County have allowed our county to maintain expensive equipment to record and scan these documents, to microfilm recorded documents, store our microfilm off site, and inspect microfilm that holds the image of the 100 year old

documents to assure their clarity. These funds may not seem like a substantial amount, but because of these funds, we can guarantee the integrity of every recorded document as well as the precious, irreplaceable patents. With our populations dwindling in these rural counties, we need any support we can get to carry on this requirement.

Let's ask the people who are requesting to record documents, to help the taxpayers in funding this vital practice and carry on what FEMA has begun. Help us to preserve for the future, despite what Mother Nature may hand us or what unfortunate event may take place. Help us to carry on a practice that we have proven to you today, is working well.

We are asking you to please vote for the removal of the sunset clause and a do pass on

SB2024.

Thank you for your time.

TESTIMONY GERMANE TO SB 2024

FRI - 25FEB05

TO: ND HOUSE GOVERNMENT & VETERANS AFFAIRS COMMITTEE

FM: DWAYNE J. "DEWEY" OSTER, McLEAN COUNTY RECORDER
CURRENT RECORDER PRESIDENT OF NDRIN BOARD

Chairman Haas and Members of the Government & Veterans Affairs Committee

Good morning. I am Dewey Oster, McLean County Recorder and current President of the NDRIN Board.

In the last ten years there has been steady movement by the county recorders to use computers in their work place. For some, change has come quickly, for others more slow and deliberate. Availability of county funds plays a role in this progress. But computerization is here and it is here to stay. And along with this computerization comes digitized images and data. Information that requires a storage, back-up facility. One of the by-products of the FEMA grant was the development of a central repository to accommodate the county recorders and their storage needs for all this "technological stuff". A new era was born in addressing our preservation needs. This repository concept led to the development of the North Dakota Recorders Information Network or NDRIN.

NDRIN, operating under joint power agreements from each participating county, not only uses its technology to effectively back up all the recorder's daily images and data, but also is able to produce high quality microfilm. Under North Dakota statute, microfilm is the only recognized medium for archival purposes. This microfilm is stored off-site, usually in the protective environment of Underground Vaults & Storage, a salt mine facility in Kansas.

The FEMA grant provided funding for all participating counties to microfilm their records, but each county who participated had to sign "statements of assurance" that they would continue to film....to keep current and up-to-date the microfilmed records forever. NDRIN is one of the options available to accomplish this task, and 38 counties have presently selected this means for their preservation efforts. The North Dakota central repository concept is an idea that is being reviewed in other states. Iowa and South Dakota are two that have expressed an interest, so we must be doing something right.

The FEMA grant needed a governmental entity in which to distribute the federal funds. The two highly impacted counties from the 1997 flood were Grand Forks and Cass County. Grand Forks received their own FEMA monies, so Cass was the logical choice to receive and distribute this "God-send", first of a kind grant.

At present, the budget, income and disbursement of funds pass through the auditor and treasurer's office of Cass County. These funds are audited yearly.

The operation of the central repository....like anything else, involves on-going costs. There are constant upgrades and replacement of existing equipment. Additional counties and users are coming on board, resulting in more set up costs. The storage of 4.5 million images, which is constantly growing, is an ongoing expense. This does not take into account the document data that needs to be stored. Management costs are also involved as it is not possible for the recorders to actively handle the day-to-day activity of the repository. Our main duties tie us to our county workloads. But as a group we oversee and provide direction.

In addition to the repository, a bonus of the NDRIN technology was the development of a website. We, as recorders, didn't know at the outset what the response would be to an attempt to provide public access, at a nominal fee, to those businesses and individuals whose livelihood revolves around the real estate records. The website provides access "24-7" and has proven beneficial to oil/gas/coal landmen, bankers, attorney/law firms, abstractors, title companies, appraisers, realtors and assessors. From a few subscribers the site has grown to over 70 users. The website is an ever-evolving project. And, no doubt, it will probably undergo positive changes and improvements in the years ahead. With computer technology evermore in the forefront in the work place as we enter into the next decade, the NDRIN website can only be a useful, more important tool for the business world....not only in the state of North Dakota, but nationwide.

NDRIN....a truly, beneficial creation....with three wonderful components....repository.... microfilm....website. And the beauty of it all....the \$3.00 is already in place and doing the job....and the passage of this bill involves no new taxes....and no increase in recording fees. It is a win, win situation all the way around. How does that old saying go, You can't beat a deal like that!"

I ask that you cast a favorable vote on SB 2024, to permanently remove the sunset clause on the \$3.00 preservation fee. And to my written testimony I have attached letters of support for the NDRIN project. I'd be happy to try and answer any questions you may have. Thank you.



Board of Commissioners

Carroll Erickson
(701) 838-4604

Jerome Gruenberg
(701) 839-8845

Jim Lee
(701) 722-3667

Molla B. Romine
(701) 852-4142

Darlene Watne
(701) 852-4376

DATE: February 16, 2005
TO: House Government & Veterans Affairs Committee
FROM: Molla Romine, Ward County Commission Chairperson
M. Romine
RE: SB2024

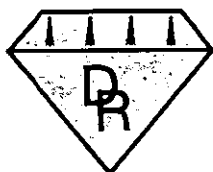
Chairman C.B. Hass and Committee Members:

Ward County Commissioners are writing to request your support for SB2024.

The document preservation fund established in 2001 has been an outstanding asset to our county. The additional \$3.00 fee on each recorded instrument has allowed our county to meet mandated preservation of all important documents. We have done so by replacing computers, updating software, publishing records to the internet and storing records off site.

The \$3.00 nominal fee to the people recording valuable documents has allowed our county to meet many demands in doing business without creating an additional burden on all tax payers in our county.

Therefore, we urge a DO PASS on SB 2024.



Diamond Resources, Inc.

Complete Energy Land Services

P.O. Box 1938 • 202 Main Street • Williston, ND 58802
701-572-4523 • Fax: 701-572-1490

Donn Skadeland, CPL
President
dskad@nemontel.net

Tod G. Maleckar, CPL
Vice President
maleckar@nemontel.net

February 21, 2005

North Dakota Senate
Political Subdivisions Committee

Re: Senate Bill No. 2024

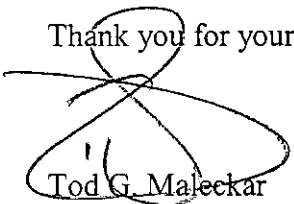
Dear Chairman Haas and members of the House Veterans and Government Affairs Committee,

This testimony is given in support of Senate Bill 2024. My company, Diamond Resources, Inc., is in the oil and gas leasing business in Williston. Having access to the county records on a 24/7 basis has been invaluable to the efficient conduct of our business. This service has allowed us to employ landmen during evening and weekend hours researching title for the purpose of acquiring oil and gas leases, as well as quick and easy access to the county records at a moment's notice.

To my knowledge, every broker working in North Dakota is using the Internet access for this purpose to some degree or another. This had undoubtedly resulted in more money being paid to landowners for leases as well as more employment for landmen and others who earn a living in the oil business. Easy access to the county records can do nothing but encourage oil companies to do business in this state.

As you can imagine, it is also vitally important to the public in general and to the oil industry in particular that the safety of these records be maintained through an off-site archival system. It would be devastating to our livelihoods should these records be lost by way of fire or natural disaster.

Thank you for your consideration of these comments.


Tod G. Maleckar
Vice-President
Diamond Resources, Inc.

To: Chairman Haas
Members of the Government & Veterans Affairs Committee

From: Ann M. Johnsrud ---- McKenzie County Recorder
President ND County Recorders Association

RE: SB2024

Chairman Haas and Committee members. For the record my name is Ann Johnsrud. I am the Mckenzie County Recorder from Watford City and also President of the North Dakota County Recorders Association.

I am here today to ask for your support of SB2024.

After the flooding in 1997, counties participated in the first FEMA technology grant ever awarded. This grant included Federal, State and County monies. The grant allowed all counties in North Dakota to put in place tools to insure that these valuable records could be replaced in the event of a disaster. The participating counties signed statements of assurance to continue the preservation, microfilming and storage of these records in a secure off-site facility, forever.

In 2001, SB 2173 provided the funding to continue the work the FEMA grant began. The Document Preservation Fee, dedicated to a Document Preservation Fund in each county, which can be used for preservation purposes only, has allowed counties to develop a plan for preservation of records in each office and to also develop a plan for automation technology.

During the past 3-½ years, the Recorders have kept a close watch over this project. Yearly surveys have been conducted to monitor how these funds are being used in the counties.

Preservation funds have been used for microfilming, storage of microfilm, computers and computer equipment, software, upgrades to computer equipment and software, which is ongoing, copiers for those counties who still use books, reader/printers to make copies of microfilm, copiers to reverse black documents to white, conversion of aperture cards, (which are not archival and were not covered under the FEMA grant) to archival microfilm, book repair, binding and laminating, and for storage of images and data in the repository. The list goes on and on. Without the document preservation fund, many of these projects could not have been accomplished.

Here are several examples of documents received in the Records office. This is a one page document, for which we receive \$3.00 for preservation, this is a 531 page document, for which we also receive only \$3.00 to preserve.

I have attached a copy of the preservation fee analysis that was completed from July 1, 2001 through August 31, 2004. As you can see, we have listed the number of documents each county recorded and whether or not they were participating in the contract services for preservation purposes. It also lists other "County Purchases" which were used for items listed in my earlier testimony.

- 22 Counties pay \$2.00 per document to have their images and data stored in the repository. \$1.00 stays in the county Document Preservation Fund, using the dollars as stated for preservation purposes.
- 15 associate counties pay \$1.00 per document to support the repository. \$2.00 stays in the county Document Preservation Fund, using the dollars as stated for preservation purposes.
- 16 counties are keeping the entire \$3.00. They are using the dollars as stated for preservation purposes, depending on their greatest need and the dollars available to them.

Since August 31, 2004, 7 of the \$1.00 counties are now \$2.00 members and 1 of the counties keeping the entire \$3.00 is now a \$2.00 member.

The legislators placed a sunset clause on the preservation fund in 2001. We were told to come back to the legislature in 2005 to prove there was a need for the \$3.00 preservation fee. We feel that we have proved that these funds are needed and are being used appropriately. North Dakota is a leader in establishing and supporting a preservation plan for county records.

The \$3.00 Preservation Fee has been and is supported by the users of the records.

If the \$3.00 fee goes away, the special fund dedicated to preservation goes away.

The dollars needed to continue the terms of the FEMA Grant "Statement of Assurance" and the ongoing protection and preservation needs will come from the county general fund, placing the burden on the taxpayer instead of the users.

It is our hope that with the sunset removed, sufficient dollars will stay in the counties to allow all 53 counties to eventually be fully automated and protecting and preserving these valuable records for years to come.

The North Dakota County Recorders thank you for giving us the opportunity to provide this information and ask that you remove the sunset clause and give a do pass on SB2024 to continue to allow North Dakota to be a leader in the care and preservation of the records within the County Recorders office.

Mr. Oster will be giving additional testimony in regard to the central repository site to help answer any questions you may have about the repository.

I would be happy to answer any questions that you may have.

Testimony in support of
SB 2024

I am speaking in support of SB 2024, which continues the county recorders' document preservation fund.

Few records are as personally and commercially valuable as those held by the county recorders' offices. The need to insure the preservation, security and accessibility of land ownership and other records is critical. This source of funds has been successful in generating needed money for this purpose and the document preservation fund has been very helpful in achieving this important objective. I urge the approval of SB2024.

Thank you.

Gerald Newborg
State Archivist
State Historical Society of North Dakota

**TESTIMONY TO THE
HOUSE GOVERNMENT AND VETERANS AFFAIRS COMMITTEE**

Prepared February 23, 2005 by

**Robert "Tork" Kilichowski, Walsh County Commissioner
President, North Dakota County Commissioners Association**

CONCERNING SENATE BILL 2024

Mr. Chairman and members of the Committee, I am Tork Kilichowski, a Walsh County Commissioner and President of the North Dakota County Commissioners Association. I am here today to present the support of the State's 221 county commissioners for this important piece of legislation.

County commissioners would be left to decide how to fund record preservation if this fee did not exist – and it would have to end up as a property tax cost. These important records are the foundation of land ownership and the property taxes that support schools, cities, counties, townships and all local government. We cannot afford to risk losing these records in a flood, fire or other disaster.

While county commissioners don't appreciate special funds any more than legislators do, dedicating the \$3 fee in this manner has been useful and it has become clear that this amount of money – and for some counties more – is necessary to do a good job of protecting these records.

Please give SB2024 a Do Pass recommendation.

March 2005

DOCUMENT PRESERVATION BY COUNTY RECORDERS

INTRODUCTION

This memorandum addresses the issue of whether state law dictates the format in which county recorders maintain permanent records. The issue arose as the House Government and Veterans Affairs Committee reviewed 2005 Senate Bill No. 2024, which removes the June 30, 2005, expiration date from North Dakota Century Code (NDCC) Section 11-18-22, the law providing for the document preservation fund.

ANALYSIS

Document Preservation Fund

The House Government and Veterans Affairs Committee questioned whether NDCC Section 11-18-22 authorizes county recorders to retain permanent records in an electronic format. Section 11-18-22 provides:

(Effective through June 30, 2005)

Document preservation fund. The county treasurer shall establish a document preservation fund to receive the portion of the recording fees authorized by section 11-18-05. The revenue in this fund may be used only for contracting for and purchasing equipment and software for a document preservation, storage, and retrieval system; training employees to operate the system; maintaining and updating the system; and contracting for the offsite storage of microfilm or **electronic duplicates** of documents for the county recorder's office. (emphasis supplied)

North Dakota Century Code Section 11-18-22 provides the authorized purposes for which a county may use money in the county's document preservation fund. The reference in this section to "electronic" documents specifically refers to electronic duplicates of documents and does not appear to address electronic permanent records or documents; therefore, although this section supports the position that duplicates of documents may be kept in an electronic format, it is unlikely that this section adds any substantive guidance to the issue of what format the county treasurers are required to maintain permanent records.

Duties of County Recorder

Looking further at the duties of a county recorder, NDCC Section 11-18-01(1) provides in part that the recorder shall keep "a full and true record, in proper books or other storage media provided for that purpose, of each patent, deed, mortgage, bill of sale, security agreement, judgment, decree, lien, certificate of sale, and other instrument required to be filed or

admitted to record." Although the use of the term "or other storage media" appears to support the position that a recorder may keep a true and full record of the document in formats other than books, it may be helpful to look at the legislative history for this section and to consider other portions of the North Dakota Century Code to determine if there is any guidance as to what might qualify as an appropriate storage media format.

Legislative History

North Dakota Century Code Section 11-18-01(1) was substantively amended in 1999 by Senate Bill No. 2280. The 1999 amendment added the words "or other storage media" and made a variety of amendments to Chapter 11-18, including changing the format in which the register maintains the record of fees and reception records. Before 1999 the register was apparently required to keep these records in book form. The 1999 bill appears to allow county recorders to keep these records in a format other than a book.

Other Portions of North Dakota Century Code

North Dakota Century Code Section 11-10-19, which was enacted in 1941, and Section 11-10-19.1, which was enacted in 1971, are part of the North Dakota Century Code chapter of general provision relating to counties and both address the use of photography in making county records.

11-10-19. Use of photography in making county records. Whenever the board of county commissioners shall deem it expedient to do so, photography may be used in the making of permanent county records. When permanent photographic or photostatic copies of any instrument, document, or decree which is required to be recorded are thus made, such copies may be filed and kept instead of the record books or records of instruments or documents required by any provision of this code.

11-10-19.1. Use of photography in making county records. Whenever a statute requires an order, will, or other instrument, document, or decree to be transcribed into a record book of a county official, the same may be done by affixing a photostatic or photographic copy thereof to a page of the record book. Such photostatic or photographic copy shall be certified as to correctness by the county official. The photostatic or photographic copy and the certificate shall then be affixed to the page of the record book, and the county official

shall inscribe on such page the nature of the instrument affixed, the date recorded, and the official's signature.

Although the legislative drafters understanding of the term photographic as used in these sections in 1941 and 1971 may differ from the use of the term in 2005, current definitions of the term photographic include "resembling a photograph, esp. representing or simulating something with great accuracy and fidelity or detail" as well as "capable of retaining accurate visual impressions." Additionally, in the 1965 North Dakota Supreme Court case of *Rausch v. Nelson*, the court interpreted NDCC Section 11-10-19

and determined that microfilm is a process of photography.

SUMMARY

North Dakota Century Code Section 11-18-22 regarding the document preservation fund appears not to dictate the formats in which a permanent record of the county recorder may be maintained. There may be uncertainty regarding what format the recorder may keep permanent records. Although photographic means may be used to retain county record books and records, it may not be clear what qualifies as photography and in what format a record may be kept.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2024

Page 1, line 1, after "to" insert "create and enact a new section to chapter 11-18 of the North Dakota Century Code, relating to county recorder reports to the legislative council regarding use of document preservation funds; to"

Page 1, line 2, after "fund" insert "; and to provide an expiration date"

Page 5, after line 11, insert:

"SECTION 3. A new section to chapter 11-18 of the North Dakota Century Code is created and enacted as follows:

Document Preservation fund - county recorder reporting requirement to legislative council. Before March first of each even-numbered year, each county recorder shall prepare a report that specifies how the county used the county's document preservation funds during the preceding two fiscal years; how the county's use of the document preservation funds have furthered the goal of document preservation; and the county's general strategic plans for document preservation. The county reports shall be submitted to the North Dakota Association of Counties for compilation and submittal to the legislative council prior to April first of each even-numbered year.

SECTION 4. EXPIRATION DATE. Section 3 of this Act is effective through July 31, 2009, and after that date is ineffective."

Renumber accordingly