

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2142

2005 SENATE POLITICAL SUBDIVISIONS

SB 2142

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2142

Senate Political Subdivisions Committee

☐ Conference Committee

Hearing Date January 13, 2005

Tape Number	Side A	Side B	Meter #
1	X		6004 - End
1		X	0 - 2120
Committee Clerk Signature <i>Shirley Borg</i>			

Minutes:

Senator Cook opened the hearing on SB 2142 relating to fees and commissions collected by sheriffs. There is a fiscal note with this bill. All members (6) present.

Senator Lyson, District 1, Williams County, Prime Sponsor, introduced SB 2142. The bill is to raise fees on services that sheriffs perform for their counties. Senator Lyson retired six years ago, and was a sheriff for nineteen years and the fees were the same then as they are now. It is time for a change.

Terry Traynor, Assistant Director, ND Association of Counties, testified in support of SB 2142. (See attachment #1) Urges a Do Pass. Mr Traynor called the committees attention to page 1 line 11. There was a suggestion of an additional change that came up later. It has been proposed that we add in "and miscellaneous itemized expenses" (which would include cell phone, fax costs and things that go along with this) He will work to develop an amendment if it is acceptable to the committee.

Scott Busching, Sheriff of Williams County, and Legislative Liaison for ND Deputy's

Association. appeared in support of SB 2142. He would like to see the rates increase to reflect the economy. The sheriffs are under increasing pressure from their commissions to try and decrease their cost and live within smaller budgets. One way that they can do that is to increase their projected income side of that budget and that is through the fees that they collect. The fees for housing prisoner is going up, fees for mileage is going up. It is time for the fees to reflect that raise.

Senator Dever : Could you give us a feel of what kind of dollars the impact would have?

Scott Busching: Yes, last year the fees that I collected were approximately eighty thousand dollars. This would probably just about double that, looking at bringing in one hundred and forty thousand dollars. The sheriffs do not expect to make money but would like to get close to breaking even and pay for some expenses.

Senator Hacker: Were you working as a sheriff in 1988 or 1989.

Scott Busching: I was a deputy sheriff in 1989 under Sheriff Lyson.

Senator Hacker: At that time was it requested to raise the fees to where they are established.

Scott Busching: I think it was an arbitrary figure at that time. The fees just had to go up.

Senator Cook: Section 2 of the bill deals with commissions. Some of the work you do is tied to the commission relative to the dollar amount of the sale that you make. Do you put in more work for a larger sale than a smaller one.

Scott Busching: Often times we do put in a lot more work for larger fees. He doesn't know why that is in there.

Senator Hacker: Is it a challenge to find the appraisers to come and appraise property at the current fifty dollar fee? Do you know what the market rate is for appraisers right now to appraise basic property?

Scott Busching: The fees are quite a bit higher now. We have never been able to pay our appraisers what our fees were. We have had to pay them out of general fund dollars out of the budget. I can only collect fifty dollars. North Dakota is pretty cheap.

Senator Hacker: Why didn't you ask for the actual amount you have to pay appraisers?

Scott Busching: When this bill was first drafted it was considerably higher. However doing our research afterwards in the surrounding states and that type of thing, we lowered them down. The fees should be considerably higher but we do not want to put ourselves out of business, we do not want to create a business of paper servers and get so expensive they will hire it out and have someone else do it because we are professionals. We don't want to take care of the mess that would generate. We don't often use appraisers. Only when it is contested.

Jim Thoreson, Chief Deputy, Cass County Sheriffs Office testified in support of SB 2142. Our office in 2004 served approximately 10,350 papers in the civil process. About thirty percent of those are papers that there is a fee associated with serving. The others are court papers. This would generate on the process serving about thirty five thousand dollars to Cass County. One indicator that we are at a fee much lower than it should be is that we don't have private process servers doing this because they can not do it for ten dollars a paper. The service may be accomplished on the first attempt or maybe the third or fourth attempt. It takes up a few hours of time for this ten dollar fee.

Senator Cook: You indicated that you don't have any competition on this work but you could have. If someone wanted to compete privately that is a choice that exists.

Jim Thoreson: Yes, particularly in the area of the serving process. Over the years there has been people that dabbled in the area but no one does it because they can not compete with a ten dollar service fee. If the fee is too high that opens the door for someone to compete.

Richard Garvey, Deputy of Cass County Sheriffs Office, appeared in support of SB 2142. One of the things he looked at is what is happening in other areas around us. He checked with Moorhead, Blake County is thirty five dollars, Billings, Montana is thirty five dollars, Sioux Falls is twenty five dollars and fifty cents per service and Cheyenne Wyoming is twenty one dollars. We are lagging far behind and need to address this.

Greg Sampson, Grand Forks County Sheriffs Department and Currently with Civil Process Board which is the committee on the ND sheriffs and deputy association. He testified in support of the bill. He clarified the sheriffs commission. The commissions are only collected when there is a sale or there is a certain type of civil process work. There is a lot more liability associated with this type of activity. There is a set commission on this type of service which is outlined in section 2.

Kim Rau, North Dakota Unit of Collector Association, appeared in support of SB 2142. Their department is a user of the service instead of a deliver. We send the summons and complaint paper to them. They like the sheriffs to serve the papers instead of private companies.

Senator Cook: Could you give us some information on what the rates are of those in the private sector that might compete with the sheriffs.

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Senate Political Subdivisions Committee
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Hearing Date January 13, 2005

Kim Rau: I will get that information to the Intern, Carlee Mcleod. The private sector is not required to be licensed in the state. Anyone can do it.

No further testimony for or against the bill.

Senator Cook closed the hearing on SB 2142

The meeting was adjourned.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2142

Senate Political Subdivisions Committee

☐ Conference Committee

Hearing Date January 21, 2005 (Action)

Tape Number	Side A	Side B	Meter #
1		X	154 - 1330
Committee Clerk Signature <i>Shirley Borg</i>			

Minutes:

Senator Cook opened discussion on SB 2142. All committee members (6) present.

Copies of amendments from Terry Traynor, League of Counties were passed out.

Also amendments that Carlee McLeod had prepared were passed out.

The amendments were discussed.

The amendments would be to add "and miscellaneous itemized expenses," on Page 1 line 11.

Senator Triplett moved the proposed amendments presented to the committee by Carlee McLeod Intern, with the addition of the word itemized after miscellaneous.

Senator Hacker, seconded the motion.

Discussion.

Carlee McLeod, Intern passed out information on cost of services provided by Kim Rau, ND Unit of Collector Association. (See attachment 1) The committee discussed how inclusive the miscellaneous expense would be.

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Senate Political Subdivisions Committee
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Senator Cook: Does that open the door to any type of expenses. Mileage for 37 cents a mile.

Senator G Lee: Ask if there wasn't a cap on it of \$20.00.

Senator Cook: It says on line 10 in addition to the actual incurred cost.

Senator Triplett: Part of it is the on going relationship between a sheriffs office and the attorneys office. If they would abuse the expense, they would not be asked to do it again.

Senator Cook: Take a look at Line 6. The sheriff shall charge and collect the following fees on behalf of the county. Does that mean that they have to charge mileage.

Senator Gary Lee: I Agree by adding that statement in there it adds a demension that we are not sure what it will do and by keeping it out, we know that it is twenty dollars.

No further discussion.

Roll Call Vote: Yes 0 No 6 Absent 0

The amendment failed.

Senator Triplett moved a Do Pass on SB 2142

Senator Gary Lee seconded the motion

Roll call vote: Yes 6 No 0 Absent 0

Carrier: **Senator Triplett**

FISCAL NOTE STATEMENT

Senate Bill or Resolution No. 2142

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: 1-21-05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2142

Senate Political Subdivisions Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Amendments on SB 2142

Motion Made By Senator Triplett 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			

Total (Yes) 0 No 6

Absent 0

Floor Assignment _____

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

Amendments rejected

done

REPORT OF STANDING COMMITTEE (410)
January 21, 2005 12:52 p.m.

Module No: SR-14-0863
Carrier: Triplett
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2142: Political Subdivisions Committee (Sen. Cook, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2142 was placed on the Eleventh order on the calendar.

2005 HOUSE POLITICAL SUBDIVISIONS

SB 2142

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2142

House Political Subdivisions Committee

☐ Conference Committee

Hearing Date February 24, 2005

Tape Number	Side A	Side B	Meter #
1	x		14.8 to 48.9
1		x	8.5 to 9.2
Committee Clerk Signature <i>Laurie Gile</i>			

Minutes: **Rep. Devlin, Chairman** opened the hearing on SB 2142, A Bill for an Act to amend and reenact sections 11-15-07, 11-15-08, 11-15-09, 11-15-09, and 23-15-04 of the North Dakota Century Code, relating to fees and commissions collected by sheriffs.

Sen. Stan Lyson, representing District 1 and prime sponsor of the bill spoke in support and explained this proposed legislation. As a former sheriff he was quite familiar with all the fees, processes, etc and he did not know when the last time the fees were updated for which a sheriff could charge for various services. It was probably before the Senator came to the legislature (in 1999). Senator Lyson kept his comments short as the Sheriff from Cass County was present to give a complete and more current assessment of today's cost.

There was some questions and answers as to how the proposed fees were determined. Senator Lyson stated that as the bill was originally drafted the fees were higher but he took it upon himself to pare the fees and cut them back. Also his testimony was that the fees for the sheriffs office repaid only about 30% of the cost of the sheriff's office.

Terry Traynor, representing the North Dakota Association of Counties stated that the Association was 100% in support of the bill. Further he offered several pages of supporting and cogent information for the Committee. A copy is here attached.

Jim Thoreson deputy sheriff for Cass County North Dakota spoke in support of the bill and answered questions relative various fees, amounts of income and current cost. The discussions covered civil process servers and the current fees and whether private process servers could not do the same. The answer was that not a lot of private process servers are in business any longer because they could not work nor get reimbursed per diem, mileage and other costs competitively with the Sheriffs. A copy of his prepared remarks is attached. Also covered in the discussions were the executions, and levies for small claims court judgments.

There being no further testimony for nor against SB 2142, **Rep. Devlin, Chairman** closed the hearing.

Tape 1 Side B -- (8.5)

Rep. Maragos moved a 'Do Pass' motion for SB 2142. **Rep. Herbal, Vice Chairman** seconded the motion. On a roll call vote the motion carried **10 ayes 1 nay and 1 absent**. **Rep. Maragos** was designated to Carry SB 2142 on the floor. End of record (9.2).

Date: February 24, 2015
Roll Call Vote:

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2142

House POLITICAL SUBDIVISIONS

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken

Do Pass

Motion Made By

Rep. Maragos

Seconded By

Rep. Herbel

Representatives	Yes	No	Representatives	Yes	No
Rep. Devlin, Chairman	✓		Rep. Ekstrom	✓	
Rep. Herbel, Vice Chairman	✓		Rep. Kaldor	✓	
Rep. Dietrich	✓		Rep. Zaiser		✓
Rep. Johnson	✓				
Rep. Koppelman	✓				
Rep. Kretschmar	A				
Rep. Maragos	✓				
Rep. Pietsch	✓				
Rep. Wrangham	✓				

Total (Yes) 10 No 1

Absent 1

Floor Assignment

Rep. Maragos

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

REPORT OF STANDING COMMITTEE (410)
February 24, 2005 11:50 a.m.

Module No: HR-34-3561
Carrier: Maragos
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2142: Political Subdivisions Committee (Rep. Devlin, Chairman) recommends DO PASS (10 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). SB 2142 was placed on the Eleventh order on the calendar.

2005 TESTIMONY

SB 2142

**Testimony To The
SENATE POLITICAL SUBDIVISIONS COMMITTEE
Prepared January 13, 2004 by the
North Dakota Association of Counties
Terry Traynor – Assistant Director**

*Same
given to House*

CONCERNING SENATE BILL 2142

Chairman Cook and members of the Senate Political Subdivisions Committee, I am here on behalf of counties and county officials from across the State in support of Senate Bill 2142.

This bill is a comprehensive update of the fees that county sheriffs can charge for the various services they perform for the specific benefit of individuals and businesses. The revenue from these fees is deposited in the County General Fund, with the exception of the \$100 fee cited in subsection 6 of the first section of the bill – this fee is the allowable amount paid to a professional appraiser that is hired to assess the value of goods to be sold. It should also be pointed out that many of these services are also provided to the District Court and to state agencies for which no fee is paid.

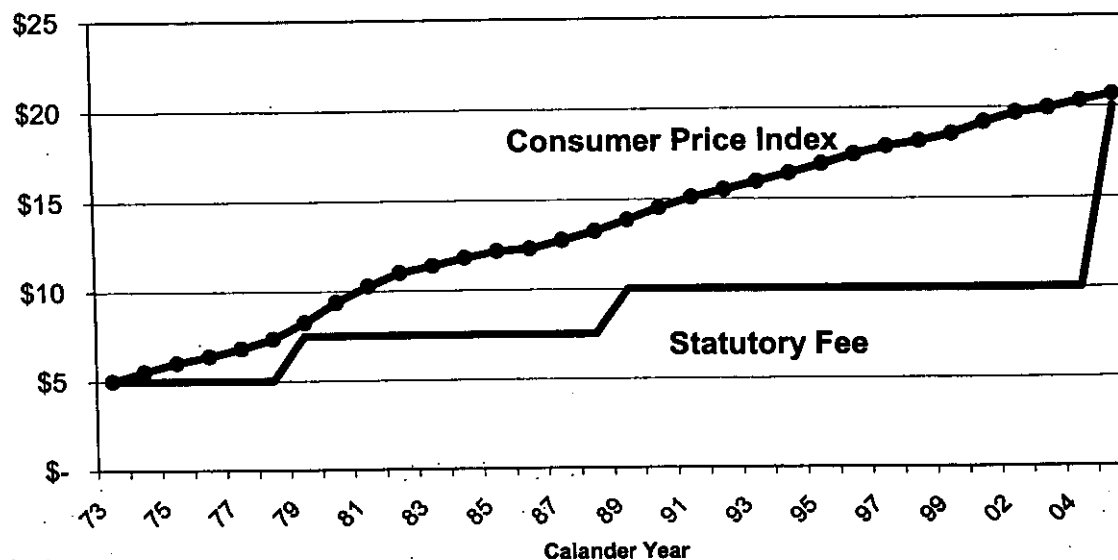
The North Dakota Association of Counties has maintained the position that government services provided for the direct benefit of individuals or businesses should be funded through user fees, rather than general property taxes paid by those that receive no benefit.

There are others here today that can provide a much better explanation of the activities involved in these various services, and the differences between a writ, a subpoena, and a order of replevin, and all the other legal documents referenced. I have however, researched the history of these fees to demonstrate that the increases proposed are reasonable, and in fact, quite modest.

The full-page table provides the history of each of these fees going back, in some cases, to the revision of the Century Code in 1943. As the table indicates, no fee has been adjusted for fourteen years, and most were established at the current level in 1989. We believe changes to these sections are overdue.

The Chart included with this testimony contrasts the actual fee allowed by statute for serving a summons with the Consumer Price Index applied to the fee in 1973. I think this shows that there is a lot of "catch-up" needed.

Summons Fee vs CPI



CPI - Midwest Urban - from DOL Website <http://www.bls.gov/cpi/home.htm>

Also included in the table is a comparison of the fees proposed with the similar fees charged by Clay County, Minnesota. I want to qualify this information in two ways. Minnesota law grants counties the authority to set their own fees to cover their actual costs, so each county is different. Also, when comparing the two States, it should be noted that our statutory definition for the various services are not entirely comparable. While the fee amounts indicated are actual, the services referenced are described differently in some cases by Minnesota law. Regardless of these qualifications however, it is clear that even the proposed increases fall well below the cost of doing business in Minnesota.

Mr. Chairman, and committee members, counties believe that it is time to address these fees, as our analysis suggests the property tax payers have been subsidizing these services for quite some time. Thank you for the opportunity to address this issue and we urge a Do Pass recommendation on House Bill 2142.

Analysis of Sheriffs' Fees for Senate Bill 2142

SECTION 1. County fees

Subsection of 11-15-07	1965	1969	1973	1979	1985	1989	1991	SB2142 2005	Clay County 2004 m
1 Summons etc.	(1) \$ 1.50	\$ 2.00	\$ 5.00	\$ 7.50	\$ 7.50	\$ 10.00	\$ 10.00	\$ 20.00	\$ 35.00
2 Return/not-found	(2)						\$ 10.00	\$ 20.00	\$ 35.00
3 Taking/filing bond	\$ 1.00	\$ 1.00	\$ 5.00	\$ 7.50	\$ 7.50	\$ 10.00	\$ 10.00	\$ 20.00	\$ 35.00
4 Copy process	(3) \$ 0.01	\$ 0.01	\$ 2.00	\$ 2.00	\$ 2.00	\$ 2.00	\$ 2.00	\$ 2.00	\$ 5.00
5 Levying writ	\$ 2.50	\$ 2.50	\$ 10.00	\$ 15.00	\$ 15.00	\$ 25.00	\$ 25.00	\$ 40.00	\$ 75.00
6 Calling inquest	\$ 1.00	\$ 1.00	\$ 5.00	\$ 5.00	\$ 5.00	\$ 10.00	\$ 10.00	\$ 25.00	\$ 75.00
Appraiser fee	(4) \$ 10.00	\$ 10.00	\$ 20.00	\$ 20.00	\$ 20.00	\$ 50.00	\$ 50.00	\$ 100.00	Actual
7 Advertising sale	(5) \$ 1.50	\$ 1.50	\$ 5.00	\$ 5.00	\$ 5.00	\$ 10.00	\$ 10.00	\$ 20.00	\$ 40.00
8 Making deed	\$ 2.00	\$ 2.00	\$ 5.00	\$ 5.00	\$ 5.00	\$ 10.00	\$ 10.00	\$ 20.00	\$ 60.00
9 Issuing certificate	\$ 2.00	\$ 2.00	\$ 5.00	\$ 5.00	\$ 5.00	\$ 10.00	\$ 10.00	\$ 20.00	\$ 50.00
10 Sale/foreclosure	\$ 3.00	\$ 3.00	\$ 10.00	\$ 15.00	\$ 15.00	\$ 50.00	\$ 50.00	\$ 75.00	\$ 170.00
11 Prisoner Board	(6) \$ 2.50	\$ 3.50	\$ 3.50	\$ 6.50	\$ 8.00	\$ 8.00	\$ 8.00	\$ 8.00	\$ 20.00

Notes:

- (1) "plus actual incurred costs of postate and long distance calls" was added to fee in 1991
- (2) This "for making return of not-found" fee was initiated in 1991
- (3) This fee is a per-page fee and no change is proposed (fee was 1 cent per 10 words prior to 1973)
- (4) Paid to private appraisers contacted to value property
- (5) Plus actual costs of advertising
- (6) This fee was changed from a maximum to a minimum daily boarding fee in 1989
- (7) Clay County Minnesota Fees are best guess comparisons as duties regarding foreclosure/executions are broken down somewhat differently

Source:

Pol. C. 1877, ch. 39, § 9; S.L. 1881, ch. 77, § 1; R.C. 1895, § 2082; S.L. 1897, ch. 100, § 1; R.C. 1899, § 2082; S.L. 1903, ch. 178, § 1; R.C. 1905, § 2600; S.L. 1909, ch. 120, § 1; C.L. 1913, § 3514; S.L. 1943, ch. 122, § 1; R.C. 1943, § 11-1507; S.L. 1947, ch. 130, § 1; 1957 Supp., § 11-1507; S.L. 1965, ch. 102, § 1; 1969, ch. 135, § 1; 1971, ch. 127, § 1; 1973, ch. 91, § 1; 1975, ch. 98, § 1; 1977, ch. 98, § 1; 1979, ch. 165, § 1; 1981, ch. 139, § 2; 1981, ch. 144, § 1; 1985, ch. 82, § 19; 1989, ch. 146, § 1; 1991, ch. 110, § 1.

SECTION 2. Commissions collected by sheriff

Subsection 11-15-08	1985	1989	SB2142 2005	Clay County 2004
For execution/attachment by value				
First \$400 (1)	3%			7%
\$400 to \$1000 (1)	2%			7%
First \$1000 (1)		\$ 50.00	\$ 100.00	7%
Amount over \$1000 (2)	1%	1%	1%	7%

Notes:

- (1) In 1989, the fee schedule was changed to a flat fee for all amounts up to \$1000
- (2) Fee on amounts over \$1000 has been 1% since at least 1943 - no change proposed

Source:

Pol. C. 1877, ch. 39, § 9; S.L. 1881, ch. 77, § 2; 1885, ch. 56, § 1; R.C. 1895, § 2082; S.L. 1897, ch. 100, § 1; R.C. 1899, § 2082; S.L. 1903, ch. 178, § 1; R.C. 1905, § 2600; S.L. 1909, ch. 120, § 1; C.L. 1913, § 3514; R.C. 1943, § 11-1508; S.L. 1985, ch. 82, § 20; 1985, ch. 162, § 1; 1989, ch. 147, § 1; 1991, ch. 111, § 1; 1993, ch. 102, § 1.

SECTION 3. Allowances when plaintiff bids in property at sale

Subsection of 11-15-09	1971	1991	SB2142 2005
1 Up to \$1000	\$ 10.00	\$ 20.00	\$ 40.00
2 More than \$1000	\$ 20.00	\$ 30.00	\$ 75.00

Source:

Pol. C. 1877, ch. 39, § 9; S.L. 1881, ch. 77, § 2; R.C. 1895, § 2082; S.L. 1897, ch. 100, § 1; R.C. 1899, § 2082; S.L. 1903, ch. 178, § 1; R.C. 1905, § 2600; S.L. 1909, ch. 120, § 1; C.L. 1913, § 3514; R.C. 1943, § 11-1509; S.L. 1971, ch. 128, § 1; 1985, ch. 162, § 2; 1991, ch. 111, § 2.

SECTION 4. Exceptions (Fireworks distributor license)

Subsection 23-15-04	1967	SB2142 2005
	\$ 5.00	\$ 20.00

Source:

S.L. 1947, ch. 199, § 4; R.C. 1943, 1957 Supp., § 23-1504; S.L. 1967, ch. 204, § 1; 1985, ch. 151, § 20.

Perry Braynor

Proposed Amendments to Senate Bill No. 2142

Page 1, line 11, remove "and" and insert immediately thereafter an underscored comma

Page 1, line 11, after "calls" insert ", and miscellaneous itemized expenses"

Renumber accordingly

PROPOSED AMENDMENT TO SB 2142

Page 1, line 11, after "postage" insert an underscored comma, overstrike "and", after "calls" insert ", and miscellaneous itemized expenses,"

Renumber accordingly.

SB 2142

Kim Rau
(attachment 1A)

Minot Procollect Services: \$20 each try, in town
More if out of town

Rollie Port Services: \$35/service (3 tries included, each additional try \$1) plus
\$.35/m., if over an hour driving, \$25/h.

Fargo Absolute Service: No answer, multiple tries

Bismarck Ron Houfek: No answer, multiple tries



Office of the Sheriff

Don Rudnick, Sheriff

Administration February 23, 2005
701-241-5800

Jail
701-271-2900

Mr. Chairman and Members of the Committee:

Juvenile Detention
701-241-5845

My name is Jim Thoreson, Chief Deputy with the Cass County Sheriff's Office. I am here to testify in support of Senate Bill 2142.

Emergency Mgmt.
701-241-5858

This Bill is for the sole purpose of making fees the Sheriff can collect more in line with the cost of doing business.

Fax
701-241-5805

Our office serves in excess of 10,000 civil papers annually and approximately 35% are services that can be assessed a fee. The remaining 65% are child support, subpoenas, and other court papers that are required services that no fees are collected. As you can see from the Bill, these increases are minimal, but are more in line with what it costs in our time it takes to make service.

The obvious need to increase Sheriff's fees can be found in the fact that few, if any, private process servers are in business due to the low fees Sheriff's can charge to serve civil process.

This change in fees is long overdue, and I urge you to support this Bill.

Thank you for your time, and I will certainly try to answer any questions you may have.

Respectfully,

Jim Thoreson
Chief Deputy

JT/dkb