

# MICROFILM DIVIDER

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ROLL NUMBER

DESCRIPTION

2435

2001 SENATE POLITICAL SUBDIVISIONS

SB 2435

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2435

Senate Political Subdivisions Committee

Conference Committee

Hearing Date February 9, 2001

Tape Number	Side A	Side B	Meter #
1		x	16.-53.9
2	x		0.8-14.6
2/15/01 2	x		17.6-20.3
Committee Clerk Signature <i>Mary Jo Wocken</i>			

Minutes:

The hearing was opened on SB2435.

SENATOR CAROLYN NELSON: Introduced SB2435 relating to qualifications required of newspaper to publish legal notices. The gentleman has a concern about the definition that is currently in the Century Code that defines the newspaper that is eligible for, to become the official newspaper of the county. Every year we get the choice of do we want a vote for the Casselton Recorder or the Fargo Forum. Every time we vote, every time the Forum wins. So, I filled out this little book the other day, just to see where we were classifying. Now this is put out by the North Dakota Newspapers Association and it does list, because I understand some of you have gotten some e-mail's on this particular issue. At the beginning we had daily newspapers, most of those are also the official newspapers of the county. Second ones you get are the weekly newspaper and I believe that where a lot of the concern was coming from. There's another section in here called shoppers' and you'll notice that sectioned out as shoppers, and theirs

another section that's called "other newspapers". Now its not called other publications, other anything else, its called newspapers. So I thought that John had a point when we asked me if I would submit this piece of legislation and I said yes I would. I said I will if you'll come and explain to the committee why you want this bill. He is here, and one of the cosponsors is here and just wants to put in a couple of words before Mr. Strand explains the bill. SENATOR TOMAC: You know there is an old adage that says you don't want to pick a fight with someone who buys their ink by the barrel. But I do think, its, I want to say that maybe it takes a certain amount of courage just to step forth and discuss a matter such like this. I hope you will bear that in mind. I also want to reassure the members of the committee, and those present, that in no way, is my sponsorship, co-sponsorship of this bill, aimed at putting or designed at putting anyone out of business especially small town weekly's who seem to take offense to this bill. The bill raises several important questions and one of which Mr. Strand will address. But the question as I read this and really considered why were doing what were doing, is, it seems to be based on the assumption that you should have to have a subscription to a paper to be provided legal notice of official notice of information that is generally public. I mean your school board minutes, your county notices, those legal notices. It seems to me to be contrary to have to pay to be provided notice of something that should be automatic. Why should you buy a subscription to the Bismarck Tribune and pay the \$300+ dollars. Why are you being forced to pay that to receive official notification of those notices, and of those minutes. I'm not sure that is right. I, in no way, oppose the nominal fee of the \$20 or \$ 30 that most of the weekly do charge. But to pay that fee and as editor of the paper in Linton e-mailed me, we discussed that, it seems to me that he did have a good counterpoint that one can go to the library if your close to one. Or you can go to the Political Subdivision that's printing the notice and actually get that directly from them. But in

concept at least, I think, that it is an exhorbant fee to have to pay, to be provided the legal notice that you should be entitled to. That's one of the arguments that I bring forth, the other one, is really based on the service that actually provided. What this bill actually does in my mind is it takes out, the requirement that you have a subscription, a paid subscription that the U.S. Postal Service requires, to be designated the official newspaper. The official newspaper of Morton County is the Mandan News. Frankly, other than the legal notices, I'm not sure that the Mandan News provides any information about the St. Anthony area. And either does any other newspaper. I can tell you this, the weekly shopper that is provided by the Finder, is fairly well read by all of the rural residents in the St. Anthony area. They are excluded from publishing, or from being the official publication. Its' classified as the shopper, they are not a paid subscription, and so therefore the people in St. Anthony who, well are not served by the official county newspaper, if they want to notified have to pay the nominal fee of \$25 or \$35, that's not the issue, but, you know it seems to me that there is no other service there other than that. So, I think it does pose the question, and there are pockets in the state, and there issues there that says, why are we doing what were doing. I think the third issue that the committee may want at least consider, and I challenge the opponents to address is what affect and what impact is the Internet going to have on the whole issue of official publications. I mean is it something that in ten years that is not going to be publicized cause you can log on to the web site. It is a question at least in theory, that I think that we need to consider as we consider the bill before you. Again, I want to reassure those that are here that I have not designed or not cosponsored this bill because I think that any of the small town weeklies are, I don't believe that it puts them in jeopardy because I don't think that the local school board or the county commission is going to change in that case. I do think this bill does give the opportunity to Mr. Strand, who is in a much larger community, the ability

to provide a service to the constituents at no cost. Those are three things I think that bear some consideration as the committee considers this bill. SENATOR LEE: The part that would be struck in the bill said "bona fide subscription list", I believe its 150, but does it, does it then imply that its a paid subscription list. Wouldn't for example, with the Shopper, everybody to whom address it goes, be a part of the list of people receiving that? And it may not be.

SENATOR TOMAC: That is a good question, and I'm not sure, somebody else may, but I do know this. The Shoppers generally do not have a subscription list. They are generally a postal patron of sorts and they distribute it to everybody. SENATOR FLAKOLL: Senator Tomac, in a

similar vein, if we strike out, the 150 subscriptions, what assurances do we have of providing adequate coverage to those people out in the communities so that everyone has a fairly accessible way to get to it, or, and how do we deal with those people who are homebound in terms of making sure they know. Are they through this able to get so called subscriptions even through some kind of free publications? SENATOR TOMAC: That's a fair question. At least in the area, of rural Morton County, the Finder is distributed to every resident, whether or not they, and it is at least in Manna to. Whether or not they pick it off their lawn and throw it away or whatever they do with it, that is certainly up to them, but its at least distributed in the same, almost the same manner as the post office would deliver the mail. So, I think that answers one of your questions. I think too, where, lets not miss the point, this bill takes an election. The voters of the county are still going to vote on whether or not they want this or whether or not they want this. all this does is make a certain class of newspaper, shopper or a pre-subscription paper eligible to be on that list. And in effect it does form some competition at least in larger communities. MR.

JOHN STRAND: See written testimony. SENATOR LEE: I often read your publication, and I enjoy it very much. But I am just concerned about anything that is picked up in a stand as

opposed to being on a regular delivery list as having a real broad based coverage. There are people who might pick up the or might have a subscription to a traditional newspaper here. Or might even be reading it through the Internet, who might not get to the grocery store or might not be at an area where the stands might be, where the High Plains Reader or other requester products are distributed. How do we make sure that we have a broad base distribution if that, not that we should prevent running from being a candidate, but I think that's part of the challenge.

JOHN STRAND: Somebody had suggested you might consider a percentage of the population as a minimum press run for circulation or something of that nature so that your not going to end up with a newsletter with 50 articles going out. But again if that 50 article person or business has got elected, it would be the will of the people I guess, which would be maybe a message, that I don't like who is the incumbent. The pre distribution newspapers and electronic distribution of newspapers are available readily available and without cost. My newspaper puts out 12,000 papers every week. That's 3 or 4 times bigger than the biggest weekly paper in North Dakota. Its' the 5th largest circulated paper to my knowledge in the state, so if you looked at and you wanted to find to make sure some kind of presence in the community, you might consider that. I wouldn't say you should, or shouldn't, but it is a legitimate concern. I don't think you would want somebody out there with no subscriptions or no readership or no distribution, or no product. So you could weigh that into your discussion, usually. SENATOR WATNE: Do know of any newspapers in the state of North Dakota that are, requires here at least ¼ th in English, that are other languages? JOHN STRAND: No, I don't. I'm not sure if anybody know how old this law is. But it was probably put in the days when you had your horse and buggies that had to be hooked up on the front too with a file. Its' one of those things that just in there and I am not aware of any other product or publication at all or across the region that would be a problem in

that regard. SENATOR MATHERN: More of a comment. Mr. Strand, I think your paper really appeals and attracts our young people, and I am happy to see that. I always enjoy the diversity of it, and the difference things and the different opinions. I realize you don't always pick a political stand but I've never been able to determine if your of a specific party because your quite well versed as well as a lot of other people in the paper. So I just want to say that I do appreciate the publication. JOHN STRAND: Thank you, Senator Mathern. SENATOR FLAKOLL: Do we ever have to worry that in a situation. I know how you have distribution points that different. JOHN STRAND: Ah,Ah. SENATOR FLAKOLL: that go to stores or whatever. And say what happens if you have a section of north Fargo, as an example, that something is going to affect them so that the notices are in there. Do we ever have to worry about, the full monty factor, where remember in the movie, the full monty there was something in the newspaper that they didn't want anybody else to see, and so they just grabbed the whole stack of newspapers and threw them away. JOHN STRAND: Um, SENATOR FLAKOLL: I know that quirky, but there are some people that would possibly be doing that. I hate to say that, cause everyone in North Dakota are good people. JOHN STRAND: I won't assure you, Senator Flakoll, you will like my editorials. Newspapers are driven by demand. If there is advertising and customers you have a product. I can't speak for other newspapers, I'm sure there is the definition and community standards, there is something that is always offensive or repulsive or disheartening to somebody, somewhere, out there out in the world. I can't speak for other products and I can't say my product at times doesn't upset somebody. But, I can say that any paper or any publication anywhere, sometimes I can rip it apart somehow or other. SENATOR FLAKOLL: What I'm saying is, there could be, if you were being awarded the, to have all the legales put in there, there could be something on a subdivision that's going up in a certain area that somebody might not want them to know about.

that is going to happen and they could get blind sighted because somebody did something, that's what I am referring to. I have nothing about current content, now. I have nothing to do with that, what I am saying is, your contractor or something and you want something to go through, the easiest way to have a resistance, to fight is not to have people know about the hearing. JOHN STRAND: A business would have to be elected to be the official county paper. So if you are elected, by your voters to be the official county newspaper, you get what's designated to them regardless. There is no picking and choosing what gets published or not. Now your school district, your city, your township, and other entities, get to choose who their official newspaper is. The cities you vote whether or not you want published public notices. Then if your city people do vote for public notice, then they appoint a public, a newspaper to serve that. So, you have to, those public entities have to follow what their required to do for public notice and a vehicle, the newspaper, if just the vehicle. Its where they put the information for public dissemination. We couldn't in any way influence somebody else's choices whether they follow the statute of law, or publish or not. Am I addressing this bill? SENATOR FLAKOLL: Do you have a provision with your particular publication, is someone is homebound. Can they receive a copy of that via mail, I mean do you have service for that? JOHN STRAND: Absolutely, just like the Forum or the Herald, you can subscribe. We have some subscribers, folks we put about 75 papers out every week in the mail, but out of 12,000 papers I mail 75 you can see my concern about having the post office regulate us. REPRESENTATIVE BILL DEVLIN: I am also the publisher of the official weekly newspaper, the Steele . My opposition may serve self serving for that reason, but I spend a lot of years, 15 years on county commission boards and covered school boards, covered city government, covered all types of government and I see the need for the local boards as some insurance that there notices are being published in a publication that people are asking for and

inviting into their homes. I think that gives them the base they need to insure that it is going to the population that they want to serve. I think we want to make sure we reach those people, and I have nothing against the pre circulation papers, the Shoppers". I've been in that business myself, I see them all over North Dakota, in gas stations, cafes, laying on lawns or whatever. I have no idea of the readership of it, I've seen surveys that have a very low, but I'm sure they can show surveys of readership very high. I am not going to argue that at all. I think the case here today is we work very hard in the newspaper industry in North Dakota to insure that the people of North Dakota get the legals in the papers they want but we also make an effort to get the legals to other papers. To answer Senator Tomacs' question, every legal we publish in the Steele County Press for any of our cities, counties, school boards are also published free of charge on the Internet through the North Dakota Newspaper Association. There is many different ways, to access these minutes, besides just the paper. They can go to the local board. They can go to the library. I don't know how many, even college libraries, that most of us send free subscriptions to them every year. To make our papers available to them. I think that we work hard as a newspaper industry, in this state. We're part of our community, we cover their news from births to deaths. We work in communities on economic ground issues, cover their children in sports, school, school plays, musical production and every aspect of community life. I think that's' what an official newspaper has to be. And most of the testimony from the proponents are usually from great papers that serve a very special interest. Maybe its an entertainment guide or motor vehicle guide, or whatever, but it isn't a broad base that we as a elected officials on a county level or local level want to see, to insure that we have that strong base of our people that were taxing, having the paper, inviting them into their home, every week. I think this bill would be large step backwards for the taxpayers of North Dakota. It would move to a system, where there is a no

accountability there is no way for local government to determine how much readership there is or where it at. I mean that Mr. Strand is a friend of mine, we go back a lot of years and I see that he was editor up at Grafton. I see his paper in counties all through eastern North Dakota.

Circulation and where its at I think its vital .I think you have to be able to prove that. I think you have to be able prove that your serving the area, that your representing. I think the only way to do that is through a proven subscription that is sent through the mail. SENATOR COOK:

Representative Devlin as a publisher, has your newspaper ever criticized you?

REPRESENTATIVE DEVLIN We have kind of a unique policy with the Stele County Press, we do not print political letters to the editor, that every newspaper. I can show you a waste baskets of them, except the ones that criticize me. We'll take every one of them, because I never want to be

in the position of having somebody he wouldn't print my letter because it was about him. And any of us that have ever served in public office treat it exactly the same. JACK McDonnell:

Appearing here today on behalf of the North Dakota Newspaper Association. See written testimony. SENATOR LEE: I am not anxious to stand in the way of any business in North

Dakota of being able to decide, but I think what we need to be concerned in this committee is making sure. Have you done any demographic or survey work with the newspaper association about whether or not there is a broad scope of agents that describe to daily or weekly newspapers. Is the readership of a shopper or any of that kind of stuff or any of the other publications, tell me what you know about that?

JACK McDonnell: There have been some studies in demographics and I am not particular knowledgeable of that, Roger Bailey of the Newspaper Association will testify next and he could better address that. But there have been some surveys about the demographics. Yes, my quick answer is that it certainly well reflects the population of North Dakota, although the younger

population is perhaps not well as they are moving out of the state. By the time they get old enough to where they might decide the newspaper its not here anymore. ROGER BAILEY: See attached testimony. We ask that you give a Do Not Pass recommendation on SB2435.

SENATOR LEE: Could you answer the demographics question whether or not there is any research about who reads various types of publications? ROGER BAILEY: I am happy to do that. I wish I had the exact figures with me. North Dakota Newspaper Association, conducted an extensive survey in 1996, that' our most recent one. The numbers were astounding. The survey was conducted by a research firm from our of state so it wasn't skewed by any means. The indications from that survey to us, were that legal notices, public notices were read something in the area of usually by newspaper readers of 80%. The readership is even higher. North Dakota "newspapers are read" is the slogan when used in a promotion of that survey. I don't have the numbers with me, but I can assure you that the numbers are astoundingly high. SENATOR

FLAKOLL: Curiosity point, do we have a financial data, because these are public notices that are going into fine individual county or anything, as far as impact within the various counties, how much is spent on a newspapers for these services? ROGER BAILEY: That is public information obviously. Its not information that we have compiled, but it certainly is available. SENATOR

COOK: Mr. Bailey, just to clarify the fee that you are allowed to set. Is it set by OMB? Is that correct? ROGER BAILEY: Yes, that's true. The legal rate fee by line is set by OMB, and its the same for every newspaper in the state, regardless of its circulation. SENATOR LEE: I heard discussion about that at the suspicion to daily and weekly newspapers to have diminished as people more and more been reading their newspaper or touching base with publications through the Internet instead. You see that being an issue we need to think about as far as being far

reaching and tying this in with subscription with. If readership or subscriptions I should say, do we know if readership of any of these publications is the same or greater than it was through the Internet being added in another room. ROGER BAILEY: Newspaper readership is continuing to grow. Even though the number of our newspapers is declining. People reading, getting information from the Internet is certainly a issue, most of our newspapers now in North Dakota have an Internet presence as well as their hard copy newspaper. So it is a factor. One of our real concerns in that area is that Internet access to the elderly and to the people in rural areas is not as great as it is in the cities obviously, and so we are concerned about that part of it. JILL

DENNING: See attached testimony. I strongly urge you to give SB2435 a Do Not Pass.

ALLAN BURKE: See attached testimony. Urge a Do Not Pass on SB2435. SENATOR LEE:

Mr. Chairman, maybe you can clarify for me, my understanding is we'd still be having an election for the county official newspaper. Do I misunderstand that, I believe just to clarify we would still have an election in place? Is this talking about the criteria that would qualify a newspaper to be considered as a potential candidate? ALLAN BURKE: But I think the issue involves the school districts and others voting. I think that is where the problem comes in.

SENATOR EBERLE: I send a weekly column back to 6 weekly newspapers. I am 60 miles from a daily newspaper and they are a vital life link to our communities and to our constituents. I've been around here just long enough to know that that face value of the bill, can always change.

Once the committee is done, so I don't get to excited about the bills, but, if the final result of the committee action here is detrimental to my weeklies I will be in definite opposition to SB2435.

Hearing Closed on SB2435.

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Senate Political Subdivisions Committee

Bill/Resolution Number SB2435

Hearing Date, ~~February 9, 2001~~

February 15, 2001 ( Tape 2, Side A, Meter # 17.9-20.3)

Senator Cook called for discussion on SB 2435.

After lengthy discussion, Senator Cook asked for the wishes of the committee.

Senator Lee moved for a Do Not Pass

Senator Watne- 2nd

Roll Call Vote: 6 Yeas, 2 No 0 Ab

Carrier: Senator Flakoll



**REPORT OF STANDING COMMITTEE (410)**  
February 15, 2001 1:14 p.m.

Module No: SR-28-3519  
Carrier: Flakoff  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

**SB 2435: Political Subdivisions Committee (Sen. Cook, Chairman) recommends DO NOT PASS (6 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2435 was placed on the Eleventh order on the calendar.**

2001 TESTIMONY

SB 2435

**Testimony on SB 2435  
Senate Political Subdivisions  
Feb. 9 10:15 a.m. Red River Room**

Good morning, Chairman Cook and committee members. I'm Jill Denning Gackle, general manager of BHG Inc., a company that owns a group of 10 weeklies north of here. Thank you for the opportunity to appear today on SB 2435, a bill that would allow publications of virtually any kind to publish legal notices.

You might think that because we started the newest weekly community newspaper in Velva, ND, last year, that we might support a bill of this kind. We started with zero subscribers, no advertisers, no office and no reputation. Today, just almost six months later, we have 900 paid subscribers, we have two full-time staff members and we make a weekly deposit at the local bank. The one thing we lack are paid legal notices from, among others, the school board or city council. Because we have not been publishing at least weekly for one year we don't qualify to be the legal newspaper for the City of Velva or the Velva School Board.

We hope to earn the city's and the school's designation as an official newspaper when our one year anniversary rolls around. We hope we have provided the readers and their community with a reliable, factual publication that touches the community's lives on a variety of forums: sports, entertainment, school news, people features, columns and even news on what really happened to Sheriff Lamar.

If SB 2435 were to pass, public notices could appear virtually anywhere and at any time. Instead of looking for the legals in The Forum every Monday when it is delivered to my home in Garrison, I might find them in the High Plains Reader, which I can only see when I am in Fargo, since I can't get it at my home. Or I might find the Fargo school district legals in the Fargo North and Fargo South High School papers. I might find the West Fargo legals in one of that city's area shoppers, or maybe the city magazine, which I can't get at home either. And which, by the way, even people living just a few miles north of West Fargo couldn't get delivered or mailed to their homes either. Why? Because none of these publications have subscription lists and none have been admitted to the U.S. Postal Service.

I always pick up the High Plains Reader, whenever I can find a copy. It's entertaining, well written and colorful. It tests my open mindedness and reminds me that there is a whole world out there that this 43-year-old mother isn't experiencing but wants to know about. But I'm not quite as open minded as I'd like to think I am when I read the personals and consider that this bill would put the personals next to minutes of a recent school board meeting. Somehow Title IX news next to SWPM and ISO GWM (which I still haven't figured that one out) just doesn't suit me.

**Public notices need to be placed in publications that are broadreaching.**

Newspapers surviving and thriving on paid subscriptions have to appeal to their readers' hearts, heads and pocketbooks. **We provide readers with a broad-based, traditional message they seek to read each day or each week . . . or they cancel their subscriptions.** Cities, counties and schools need to be assured that their public notices are in the hands of as many people as possible. Requiring a paid subscription list and postal service requirements guarantees this.

Thank you for the opportunity to speak on SB 2435. I strongly urge you to give it a "**do not pass.**"

TESTIMONY BEFORE THE SENATE POLITICAL SUBDIVISIONS COMMITTEE

Friday, February 9

SB 2435

Senator Cook and members of the committee:

My name is Allan Burke. My wife, Leah, and I publish, the Emmons County Record in Linton, and I'm here today to talk to you about Senate Bill 2435 and to urge a "DO NOT PASS" vote on the measure.

This bill poses a threat to the survival of small town weekly newspapers in our state that publish various legals each week. Quite frankly, without the income from publishing legal notices, a significant number of small weeklies could not survive. I do not think it is in the best interests of North Dakota to put small businesses out of business at a time when most voters and most politicians favor economic development.

My newspaper is over 116 years old, and it is seen by the residents of Emmons County and others interested in our county as the source of information about our area, including legal notices. We are experienced in handling legals and handle them very carefully because of the important information that they contain.

Very few people in our area have access to the Internet, but everyone has access to the newspaper, either by subscribing to it or by reading the paper free of charge at the library or by reading it at one of the cafes in our county that provides a copy for customers to read.

It is also true in Fargo, Bismarek, and the other cities with daily newspapers that people have easy access to the local newspaper. For those who do not subscribe or choose to buy it over the counter, a daily paper can be read free of charge at a public library or at any of the restaurants that provide copies for customers to read. As a matter of fact, I read the Fargo Forum yesterday at Maggie's Cafe in Wishek, which is many miles from Fargo.

Daily and weekly newspapers in North Dakota are the most widely available sources of legal notices, and I believe a system that is not broken should not be fixed.

However, my primary concern in testifying today is the idea that units of government would be given a choice in where to place legals. This is a tremendous threat to the First Amendment to the United States Constitution which protects freedom of the press. The effect of this permissive choice feature in the bill would be to allow the county commission, for example, to punish the local paper for a story or editorial it did not like. They could punish the paper by moving their legals to some other publication. We already have boards in our state that do not want their actions made public. This would give awesome power to government to punish the press and to put legal notices in the most obscure places.

I was in the Capitol on Wednesday when the rural electric cooperative members from throughout North Dakota filled the hallways. If you think there was a crowd here Wednesday, just imagine what would happen if the subscribers of the weekly and daily newspapers in North Dakota felt their access to legal notices was threatened or that the survival of their home town paper was at stake. They would come here by the hundreds if not thousands.

Regardless of whether people are happy with a particular newspaper or editor or editorial position, they support their right to know. This is clearly evident in the overwhelming votes cast in favor of publishing minutes. I am not bragging, but in Emmons County when the Record is on the ballot, it usually receives more votes than any politician on the ballot, including those without opposition. Yes, there have been a couple of times when our Sheriff, who is viewed by the voters as one of the saints, has run without opposition and received two or three votes more than the Record, but sometimes he comes in second, too. The reason is that people want to be able to read legal notices in their local paper.

Mr. Chairman, we want to be in business to print those legals for them. Please do not pass a bill out of this committee that would in any way damage the public's right to know.

Thank you for your consideration. If you have any questions, I will try to answer them.

N.D. Senate Political Subdivisions Committee

**Senate Bill 2435 – Definitions of Legal Newspaper**

Testimony of John Strand, Publisher of High Plains Reader, Fargo-Grand Forks

Feb. 9, 2001

Ladies and Gentlemen, thank you for opening a discussion that has been long overdue in North Dakota. My particular thanks to Senators Carolyn Nelson, Linda Christensen and Steve Tomac, and Representatives Mary Ekstrom and John Warner. May the signing of your names to this bill not cost you support of your local hometown newspapers. I wish the same for any others of you who decide that this issue deserves a fair, open debate, giving us an opportunity to "fine tune" our laws. So we all agree, at the heart of Senate Bill 2435 should be the issue of Public Notice, particularly in light of an evolving technological world. If we can finish this discussion with a contemporary approach to meeting requirements of Public Notice, without diminishing the result, while increasing cost effectiveness and reinforcing fair trade / competition doctrines, we'll not have reduced our mutual desires to best serve the public interest.

I co-own and publish the High Plains Reader, a newspaper that is put at a competitive disadvantage in the marketplace because of laws on the books in North Dakota. These laws are not unusual across the country, nor is it unusual that today we have a new mix of media, a new variety of newspapers, a new world of technology and information dissemination. This proposed statute change is not about the High Plains Reader, nor should it be. Where the Legislature goes with this bill should reflect today's world of technology, today's mix of media options.

~~Senate Bill 2435 as it is proposed, will not likely fly. You do have some, however, the opportunity to revisit the issue of Public Notice, in light of contemporary technology.~~

As it stands, Senate Bill 2435 is non-discriminatory. It does not favor one type of newspaper or publication over another. If passed, as it is, it would open competition for publishing public notices to subscription-driven newspapers, to shoppers and advertisers, to free distribution editorially driven newspapers like HPR, maybe even to electronic or digital newspapers.

By changing the law, you allow contemporary media to enter the competitive mix to help various government entities and agencies meet Public Notice requirements. You will be increasing choices the people have in the ballot box. You will be opening up the opportunity for people to not have to "pay twice" for public notices – once to get them published at the rate set by OMB, and again to receive the publication carrying those public notices.

Two years ago, some 10,000 people voted for the High Plains Reader for Official Newspaper in Cass County. Technically, N.D. law prohibits the Reader from running for official newspaper or publishing legal notices because it follows a different business

model than traditional subscription driven newspapers. Nonetheless, competition should be healthy.

North Dakota law requires that newspapers be regulated by the Postal Service, and that they have a minimum paid subscription list. Some alternative papers in other states have successfully met Postal Service requirements to satisfactorily qualify and comply with Second Class Mailing Status requirements. The process is excessively costly and inefficient, and takes several years to accomplish. There is no efficiency requiring a newspaper to be regulated by a governmental agency it does not use. The Legislature could just as well dictate that free editorially driven newspapers be regulated by the Center for Disease Control or the Food and Drug Administration.

For the sake of discussion, you ought to know that the Postal Service makes a distinction between advertisers and editorially driven papers like the Reader. While both are "requestor" rather than "subscriber" products, the Postal Service requires that to get a Periodical or Second Class Permit that "requestor" newspaper must have no more than 75 percent in advertising. Also, the Postal Service requires that the newspaper be at least 24 pages. By considering these parameters, you might satisfy objections presented you by the North Dakota Newspaper Association, avoiding concern that shoppers or newsletters or other publications could become official newspapers or qualify for publishing official public notices.

Good luck as you weigh all these elements in your discussions about Public Notices and definitions of newspapers. Should you have any questions, I'd be more than pleased to answer them if I can.

**TESTIMONY BEFORE THE  
SENATE POLITICAL SUBDIVISIONS COMMITTEE**

**SB 2435**

Chairman Cook and committee members:

My name is Roger Bailey and I represent the 10 North Dakota daily newspapers and the 78 weekly newspapers in North Dakota who are all members of the North Dakota Newspaper Association.

On behalf of the 88 North Dakota newspapers, I request that SB 2435 receive a recommendation of DO NOT PASS from this committee.

The law that defines a legal newspaper has been virtually unchanged and has served this state and this industry well for over 100 years.

In an era of concern for the rural economy and the existence of cities and towns in rural North Dakota, Senate Bill 2435 looms large on the horizon. We contend that the newspaper in a rural community is largely the heart of the community -- the newspaper is the line of communication between people -- the purveyor of everything that helps hold a rural community together.

It's difficult to find a person who does not favor the continuation of the family farm as a stronghold for North Dakota's future. It's equally important for North Dakota's future that the rural newspapers survive as well. I am very familiar with many rural North Dakota communities that would love to have a newspaper but don't have the economic wherewithal to sustain a community newspaper. The elimination of legal newspaper status to the remaining rural newspapers in North Dakota would, I'm afraid, spell the end for many of the existing weekly newspapers.

Is this a question then of economics? In one sense, yes. The newspapers need to operate in a profitable manner. Public notices help reach that end. But beyond that, public notices give newspaper credence. Public notices give newspapers the opportunity to explore further notices that might be written in legal terminology -- explaining in more readable language the content of the notice. Few "specialty" publications of the type this bill would open public notices to would provide that kind of service to the people of North Dakota. It's a role newspapers have long fulfilled in North Dakota and one that I hope will continue. Public notices deserve to be published in publications of integrity and credibility -- general circulation and general interest newspapers -- as they have for the past 100-plus years. This is also the reason why all newspapers must be treated equally regardless of the size of their city or their newspaper circulation. North Dakota's rural

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and urban newspapers do more than just print public notices - they research and report regularly on public notices and on many agencies of government from city councils and county commissions to airport authorities and library boards.

One last point: The current law provides that newspapers must have a subscription list and be mailed through the U.S. Postal Service. Those regulations provide for long-term stability. Virtually all of North Dakota's current legal newspapers have their origins back to the late 1800s - some are getting close to being 150 years old. Having SB 2435 leave this committee with a DO NOT PASS will help make that possible.

Thank you for your consideration. And I will try to answer any questions you might have.

February 9, 2001

SENATE POLITICAL SUBDIVISIONS COMMITTEE  
SB 2345

CHAIRMAN COOK AND COMMITTEE MEMBERS:

My name is Jack McDonald. I am appearing today on behalf of the North Dakota Newspaper Association. While we appreciate and respect the intentions of the sponsors, we nevertheless strongly oppose SB 2345 and urge a do not pass.

In North Dakota, only "legal" newspapers can print legal notices. Each of North Dakota's 53 counties has an official county newspaper that is selected by the voters in that county. That newspaper, which must be a "legal" newspaper, then prints all of the official legal notices for that county, the city in which its located, and other political subdivisions that choose it or that are required to publish in the official county newspaper.

Other political subdivisions, such as cities and school districts, are free to choose any "legal" newspaper they wish as their official newspaper, as long as it's a "legal" newspaper in general circulation in their area. This newspaper may or may not be the official county newspaper. For example, there are two newspapers published in Walsh County, the *Grafton Record* in Grafton and the *Walsh County Press* in Park River. The *Record* is the official county newspaper and serves as the official newspaper for the City of Grafton and several other cities and school districts in the area. The *Walsh County Press*, while not the official county newspaper, nevertheless serves as the official newspaper for Park River and several other area cities and school districts.

Section 46-05-01, as printed in the bill, sets out the requirements to be a legal newspaper. This bill eliminates practically all the requirements except that it be published and be at least three-quarters in English.

These requirements, which are similar to those in other states, were put in place to guarantee that legal notices are published by newspapers that can prove their general circulation and longevity. Public officials are under a duty to see that these notices reach the general public. These requirements provide proof of that. And, they avoid court battles over the legitimacy and adequacy of public notices.

Under SB 2345, any publication would qualify...a school newspaper, a church's Sunday bulletin, a city or chamber of commerce publication, a lunch counter newsletter, etc. There's no guarantee how many people get or read these publications. There's no guarantee or ability for people outside the immediate vicinity to see these publications, since they have no subscribers and are not mailed.

SB 2345 will only hurt North Dakota businesses...the state's weekly and daily newspapers. It will not lead to greater circulation or readership of legal notices.

We respectfully request a do not pass. If you have any questions, I'd be glad to try to answer them. THANK YOU FOR YOUR TIME AND CONSIDERATION.



- E200 Periodicals
- E210 Basic Standards

## E212 Qualification Categories

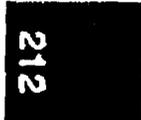
**Summary** E212 describes the circulation, advertising, and eligibility standards for general publications, publications of institutions and societies, state department of agriculture, requester, and foreign publications.

1.0 **GENERAL PUBLICATIONS**

**Basic Standards** 1.1 General publications must meet the applicable basic standards for Periodicals in E210 and must be originated and published to disseminate information of a public character or be devoted to literature, the sciences, art, or some special industry.

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**Circulation Standards** 1.2 General publications must meet these circulation standards:



- a. General publications must have a legitimate list of subscribers who have paid or promised to pay, at more than a nominal rate, for copies to be received during a stated time.
- b. Records for subscriptions to a publication obtained with subscriptions to one or more other publications must be kept so that individual subscriptions to each publication, by title, can be verified.
- c. Persons whose subscriptions are obtained at a nominal rate and those whose copies bear an alternative form of address must not be included in the legitimate list of subscribers. These copies must be treated as nonsubscriber copies, subject to the applicable rate.
- d. Subscriptions may be paid for with dues or contributions, if the dues or contributions and the subscription price are separated to show compliance with 1.2, including the amount paid for the subscription. The USPS may require evidence of compliance (e.g., the forms used to obtain payments for dues and subscriptions). For example, dues statements would read: "Annual membership dues of [\$] include [\$] for a 1-year subscription to [Title]."
- e. To determine whether a subscription is genuine, it must be so separated from all other business transactions as to constitute a distinct, voluntary, and independent act. Publishers must be able to show that subscriptions to their publications are voluntary, that the subscription price is paid or definitely promised, and that the relationship of subscriber is understood and agreed to.
- f. At least 50% of a publication's distribution must be to persons who have paid above a nominal rate. Nominal rate subscriptions include those sold at a subscription price so low that the rate cannot be considered a material consideration; or at a reduction to the subscriber (under a premium offer or any other arrangement) of more than 50% of the basic annual subscription rate that would entitle the subscriber to receive one copy of each issue published during the subscription period. The value of a premium is considered its actual cost to the publisher, its recognized retail value, or its represented value, whichever is highest.
- g. Publications primarily designed for free circulation and/or circulation at nominal rates may not qualify for the general publications category. Publications are considered primarily designed for free circulation and/or circulation at nominal rates when more than 50% of all copies circulated are:
  - (1) Provided free of charge to the ultimate recipients;

SEE P.264 \*



- (2) Paid for at nominal rates by the ultimate recipients.
- (3) Addressed with an alternative form of address, or
- (4) Intended by the publisher to be circulated for free and/or at nominal rates.

h. For the standard in 1.2g, the distribution of all copies of a publication is considered, whether circulated in the mail or otherwise

**Advertising Standards**  
1.3

Advertising is defined in E211. General publications primarily designed for advertising purposes do not qualify for Periodicals mailing privileges, including publications that:

- a. Contain more than 75% advertising in more than half of the issues published during any 12-month period.
- b. Are owned or controlled by individuals or business concerns and conducted as an auxiliary to and essentially for the advancement of any other business or calling of those who own or control the publications.
- c. Consist principally of advertising and articles about advertisers in the publication.
- d. Have only a token list of subscribers and that print advertisements free for advertisers who pay for copies to be sent to a list of persons furnished by the advertisers.
- e. Are published under a license from individuals or organizations and that feature other businesses of the licensor.

**2.0 PUBLICATIONS OF INSTITUTIONS AND SOCIETIES**

**Eligibility**  
2.1

A publication that meets the applicable basic standards in E210 and contains only the publisher's own advertising and not, under any condition, the advertising of other persons or organizations, is eligible for Periodicals mailing privileges if it is:

- a. Published by a regularly incorporated nonprofit institution of learning, i.e., an organization of a permanent nature where instruction is given in the higher branches of education only, owing its origin to private or public munificence, and established solely for the public good and not for private gain.
- b. Published by a regularly established state institution of learning supported in whole or in part by public taxation.
- c. Published by any public or nonprofit private elementary or secondary institution of learning or its administrative or governing body.
- d. A bulletin issued by a state board of health, a state industrial development agency, a state conservation or fish and game agency or department, or a state board or department of public charities or corrections.
- e. A program announcement or guide published by an educational radio or television agency of a state or political subdivision thereof or by a nonprofit educational radio or television station.

**Eligible Publications**  
2.2

The following types of publications are eligible for Periodicals mailing privileges if they meet the basic standards of E211, contain only the publisher's own advertising or general advertising subject to 2.3, and are published by:

- a. A benevolent or fraternal society or order organized under the lodge system and having a bona fide membership of at least 1,000 persons (publications under the auspices of the society or order are also eligible).
- b. A trade union (publications under the auspices of the union are also eligible).



- c. A strictly professional society, i.e., a group consisting solely of persons who have obtained professional status by advanced educational training, experience, specialized interest, or peer examination. Where applicable public certification in a particular field of the arts or sciences (such as engineering, law, or medicine) is considered in determining eligibility. The members must be engaged in their given profession under its binding standards of performance and conduct on which the public is entitled to rely.
- d. A strictly literary society, i.e., an organization whose sole purpose is to encourage and cultivate an appreciation of general literature, a literary subject, or an author of recognized literary accomplishment. The membership must be composed of individuals who discuss or analyze the style, composition, or other characteristics of the literature or authors in which they have a common interest.
- e. A strictly historical society, i.e., an organization whose sole purpose is to discover, collect, and systematically record the history of civilization or of a particular segment. Such a society should preserve this material and make it available to its members and the general public, and should extend education by producing published matter, holding regular meetings, presenting addresses and lectures, or using mass media.
- f. A strictly scientific society, i.e., an organization whose sole purpose is to bring individuals together for scientific investigations and pursuits in the applied, pure, or natural sciences, and to disseminate technical information on these subjects.
- g. A church (i.e., a congregation of worshippers who conduct religious services) or a church organization (i.e., organizations of individual churches, organizations that are subsidiary to individual churches, and national or regional organizations of churches).

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**Advertising Standards**  
2.3

Advertising is defined in E211. A publication qualifying for Periodicals mailing privileges under 2.2 may contain advertising of other organizations or persons if:

- a. It is not designed or published primarily for advertising purposes.
- b. It is originated and published to further the purposes of the qualifying organization.
- c. Its mailed circulation is limited to copies mailed to members who pay, either as a part of their dues or assessments or otherwise, at least 50% of the subscription price regularly charged to other members; to other actual subscribers; to exchanges; and to 10% of such circulation as sample copies. When members pay for their subscriptions as a part of their dues or assessments, individual subscriptions or receipts are not required.

**3.0 PUBLICATIONS OF STATE DEPARTMENTS OF AGRICULTURE**

**Eligibility**  
3.1

A publication issued by a state department of agriculture that meets the basic standards in E211 is eligible for Periodicals mailing privileges if it is published to further only the objectives of the department and contains no advertising (as defined in E211).

**In-County Rates**  
3.2

For determining the number of copies qualifying for In-County rates, all circulated copies are considered subscriber copies and the total number of such copies is the total paid circulation.



4.0 **REQUESTER PUBLICATIONS**

Basic Standards

4.1

A publication, whether circulated free or to subscribers, may be authorized to be mailed at the Outside-County Periodicals rates if it meets the basic standards in E211 and:

- X a. Each issue contains at least 24 pages.
- X b. No issue contains more than 75% advertising (as defined in E211)
- c. The publication is not owned or controlled by one or more individuals or business concerns and conducted as an auxiliary to and essentially for the advancement of the main business or calling of those who own or control the publication.

Circulation Standards

4.2

Requester publications must meet these circulation standards:

- a. The publication must have a legitimate list of persons who have requested the publication, and 50% or more of the copies must be distributed to persons who have made such requests.
- b. Subscription copies of the publication that are paid for or promised to be paid for, including those at or below a nominal rate, may be included in the determination of whether the 50% request requirement is met.
- c. Persons are not deemed to have requested the publication if their request is induced by a premium offer or by receipt of material consideration.
- d. Records of requests for a publication obtained with subscriptions or requests for one or more other publications must be kept so that individual subscriptions or requests for each publication, by title, can be verified.
- e. Requests that are more than 3 years old cannot be considered valid requests. Copies addressed using an alternative address format are not considered requested copies, and persons are not considered to have requested the publication if their copies are addressed in that manner.
- f. When a requester publication is issued by a membership organization, the organization may adopt a resolution specifying that each member receive a copy of each issue of the publication. *For example: "Resolved: That a copy of [publication title] shall be sent to each member of [organization name]."* Records must be kept to show that the publication is sent to organization members. Form 3511 must be accompanied by a certified copy of the resolution adopted and the written assurance of a responsible official that the required records are kept.

5.0 **FOREIGN PUBLICATIONS**

General Character

5.1

Foreign newspapers and other periodicals that meet the basic standards in E211 and have the same general character as domestic publications entered as Periodicals may be granted Periodicals mailing privileges.

Known Office

5.2

The known office of publication may be the office of the publisher's agent.

Rates

5.3

Foreign publications eligible for Periodicals mailing privileges under 5.0 are subject to the same Periodicals rates as domestic (U.S.) publications.

Circulation

5.4

Review of applications is based only on U.S. circulation.



**Copyright** 5.5 This standard does not authorize the mailing of a publication that violates a copyright granted by the United States.

**6.0 NEWS AGENT REGISTRY**

**Definition** 6.1 The term *news agent* means a person or concern selling two or more Periodicals publications published by more than one publisher.

**Authorization** 6.2 A news agent must be authorized by the USPS before the agent may mail Periodicals publications at Periodicals rates.

**Remailing** 6.3 A news agent may not remove packages of copies from a post office, write an address on each copy, and return them to the office for dispatch or delivery without paying additional postage.

**Unsold Copies** 6.4 Unsold copies returned to the publishers or other news agents, or copies sent to other news agents for purposes other than sale, or sent to persons not having subscriptions with news agents, are subject to the Outside-County Periodicals rates.

**Parts Returned** 6.5 Parts of publications returned to publishers to show that copies have not been sold are subject to the applicable Standard Mail or Package Services rates.

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E200 Periodicals  
E210 Basic Standards

## E211 All Periodicals

**Summary** E211 describes Periodicals publications and lists the eligibility standards for mailing at the Periodicals rate.

### 1.0 BASIC INFORMATION

**Second-Class Mail** Effective July 1, 1996, second-class mail was renamed Periodicals.  
1.1

**Qualification Categories** All Periodicals publications must be authorized Periodicals mailing privileges under one of five qualification categories (general publications, publications of institutions and societies, publications of state departments of agriculture, requester publications, and foreign publications). These publications are subject to the general standards below and the standards for each respective category.  
1.2

**Eligibility** Only newspapers and periodical publications meeting the mailability standards in C010 through C030 and the general and applicable specific standards in E200 may be authorized mailing at the Periodicals rates.  
1.3

**Postal Inspection** Periodicals matter is not sealed against postal inspection. Regardless of physical closure, the mailing of articles at Periodicals rates is consent by the mailer to postal inspection of the contents.  
1.4

### 2.0 PERIODICAL PUBLICATIONS

**Definition and Characteristics** For Periodicals purposes, *periodical publication* or *periodical* is one published at a stated frequency with the intent to continue publication indefinitely, with these characteristics:  
2.1

- a. The continuity of the periodical must show from issue to issue. Continuity is shown by serialization of articles or by successive issues carrying the same style, format, theme, or subject matter.
- b. The primary purpose of the periodical must be the transmission of information.
- c. The content of the periodical may consist of original or reprinted articles on one topic or many topics, listings, photographs, illustrations, graphs, a combination of advertising and nonadvertising matter, comic strips, legal notices, editorial material, cartoons, or other subject matter.
- d. The primary distribution of each issue must be made before that of each succeeding issue.

**Other Publication Types** The following types of publications also qualify as periodical publications:  
2.2

- a. Any catalog or other course listing (including mail announcements of legal texts that are part of post-bar admission education) issued by any institution of higher education or by a nonprofit organization engaged in continuing legal education.
- b. Any loose-leaf page or report (including any index, filing instruction, table, or sectional identifier that is part of such report) designed as part of a loose-leaf reporting service on developments in the law or public policy.
- c. Any transportation guide containing schedules, fares, and related information.

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**Restriction**  
2.3 Material that has been, or is intended to be, distributed primarily as a book may not be converted into an issue of a periodical by merely placing a periodical's title on it, placing the material within a periodical's cover, or using similar superficial methods. This restriction does not prohibit excerpts or condensations of books from being proper subject matter for periodicals.

**3.0 PRINTED SHEETS**

Periodicals publications must be formed of printed sheets. Sheets may be die cut or deckle-edged and may be made of paper, cellophane, foil, or other similar materials. They may not be reproduced by stencil, mimeograph, or hectograph. Reproduction by any other process is permitted. Any style of type may be used.

**4.0 KNOWN OFFICE OF PUBLICATION**

**Location**  
4.1 The publisher of a Periodicals publication must maintain a known office of publication at the location where the original entry for Periodicals mailing privileges is authorized.

**Purpose**  
4.2 The known office of publication must be a public office for transacting the business of the publication during normal business hours. It must also be the office where the publication's circulation records are kept or can be available for USPS examination.

**5.0 REGULAR ISSUANCE**

**Frequency**  
5.1 Each Periodicals publication must be issued at a regular frequency of at least four times a year.

**Statement of Frequency**  
5.2 The publisher must adopt a statement of frequency showing how many issues are to be published each year and at which regular intervals (e.g., daily; weekly; quarterly; four times a year in January, February, October, and November; weekly during school year; monthly except during July and August).

**Compliance**  
5.3 All issues must be published regularly as called for by the statement of frequency. To change the number of issues scheduled or the statement of frequency, the publisher must file an application for reentry. If a publication does not maintain regular issuance according to its stated frequency, even after USPS notice, the RCSC serving the known office of publication revokes the publication's Periodicals mailing privileges.

**6.0 ELIGIBLE FORMATS**

**Complete Copies**  
6.1 Complete copies of the regular issues of a Periodicals publication may be mailed at the applicable Periodicals rates. Incomplete copies (e.g., those lacking pages or parts of pages) are subject to the applicable First-Class Mail, Standard Mail, or Package Services rates.

**Issues and Editions**  
6.2 Issues and editions of a Periodicals publication may be mailed at the applicable Periodicals rates if they show continuity and meet the applicable standards in 7.0 or 8.0.

**7.0 ISSUES**

**Regular Issues**  
7.1 Regular issues must be published according to the publication's stated frequency. The publication of regular issues of general and requester publications must be reflected in the publication's identification statement and (where applicable) in the



subscription price. For requester publications, copies must be distributed to requesters.

**Extra Issues**  
7.2 Extra issues, not shown in the publication's stated frequency, published for communicating news and information received too late for insertion in the regular issue, but not for advertising purposes, may be mailed occasionally at Periodicals rates. The original entry post office must receive written notice of these issues before they are mailed.

**Content**  
7.3 Issues may include annual reports, directories, buyers' guides, lists, and similar material prepared as part of the content if copies of these issues bear the publication title and are included in the regular subscription price.

**Multiple Issues—  
Same Day**  
7.4 For determining Periodicals eligibility and postage, an issue of a newspaper or other periodical that is published at a regular frequency, more often than once a month, on the same day as another regular issue of the same publication, is deemed to be a separate publication that must independently meet the applicable standards for Periodicals mailing privileges if:

- a. More than 10% of the total copies of the issue is distributed on a regular basis to nonsubscribers or nonrequesters.
- b. The number of copies of the issue distributed to nonsubscribers or nonrequesters is more than twice the number of nonsubscriber or nonrequester copies of the other issue distributed on that same day.

**Multiple Issues—  
Different Days**  
7.5 For determining Periodicals eligibility and postage, an issue of a newspaper or other periodical that is published at a regular frequency, more often than once a month, but not on the same day as another regular issue of the same publication, is deemed to be a separate publication that must independently meet the applicable standards for Periodicals mailing privileges if:

- a. More than 10% of the total copies of the issue is distributed on a regular basis to nonsubscribers or nonrequesters.
- b. The number of copies of the issue distributed to nonsubscribers or nonrequesters is more than twice the number of nonsubscriber or nonrequester copies of any other issue distributed during the period between the distribution of each of the issues whose eligibility is being examined.

## 8.0 EDITIONS

**Types**  
8.1 Issues mailed at Periodicals rates may be prepared in editions (e.g., demographic, morning). Subscribers and requesters must not routinely receive more than one edition of any issue.

**Extra Editions**  
8.2 Extra editions may be mailed at Periodicals rates to communicate news and information received too late for the regular edition. Extra editions may not be intended for advertising.

**Content**  
8.3 Editions may differ in content, but not so much that they constitute separate and independent publications. A separate publication is not acceptable as an edition of another publication.

## 9.0 BACK NUMBERS AND REPRINTS

Periodicals rates may be paid on mailings of unbound back issues (if the publication's Periodicals entry is in effect), reprint copies of daily publications printed within 1 week of the issue date, and reprint copies of other than daily



publications printed before the next issue is printed. Other mailings of back issues or reprint copies, including permanently bound back issues or reprint copies, are subject to the applicable First-Class Mail, Standard Mail, or Package Services rates.

## 10.0 IDENTIFICATION

**Title** 10.1 The publication title must be shown on the front or cover page in a position and in a type style and size that distinguishes the title from the publisher's name or other items.

**Identification Statement** 10.2 An identification statement, in an easily read type, must be included in all copies of publications authorized Periodicals mailing privileges and in all copies mailed pending approval of Periodicals mailing privileges.

**Unbound Publication** 10.3 In an unbound publication, the identification statement must be shown conspicuously in one of the following places:

- a. On one of the first five pages.
- b. On the table of contents page.
- c. In the masthead on the editorial page, if the location of the editorial page is shown in the table of contents on the front page of the publication.

**Bound Publication** 10.4 In a bound publication (one secured with two or more staples, spiral binding, glue, stitching, or other permanent fastening), the identification statement must be shown conspicuously as described in 10.3 or on one of the last three nonadvertising pages inside the back cover.

**Identification Statement Content** 10.5 The identification statement must contain:

- a. The publication title and number. The publication number includes an alpha prefix and must be within parentheses immediately after or below the publication title. If an International Standard Serial Number (ISSN) is assigned, it must appear in the identification statement (e.g., "THE WEEKLY JOURNAL" (ISSN 9876-543X)). If an ISSN is not assigned, the USPS number assigned by the RCSC must appear in the identification statement within 90 days after being provided (e.g., "THE CIVIC BULLETIN" (USPS 876-690)). The publication number may be on the front or cover page instead of in the identification statement.
- b. The issue date. The date may be omitted if it is on the front or cover page.
- c. A statement of frequency, such as described in 5.2.
- d. The issue number. Every issue of each publication must be numbered consecutively in a series that may not be broken by assigning numbers to issues unavoidably omitted. The issue number may be omitted if it is on the front or cover page.
- e. At the publisher's option, the subscription price, if the publication has one.
- f. The name and address of the known office of publication, including street number, street name, and the ZIP+4 or 5-digit ZIP Code. The street name and number are optional if there is no letter carrier service. The known office of publication must be clearly distinguishable from the name of other offices of the publication. For foreign publications, the address of the publisher's agent must be shown as the known office of publication.



- g. The imprint "Periodicals Postage Paid at..." or, if mailed at two or more offices, "Periodicals Postage Paid at... and at additional mailing offices." A notice of pending application is shown instead if copies are mailed while an application is pending: "Application to Mail at Periodicals Postage Rates is Pending at..."
- h. The mailing address for change-of-address orders, in the normal text type of the publication: "POSTMASTER: Send address changes to [publication title and mailing address]." Publications that are wrapped may use an alternative measure under C200. Change-of-address information may also be shown on the label carrier or container of publications prepared in envelopes, closed wrappers, or polybags.

## 11.0 ADVERTISING STANDARDS

- Advertising**  
11.1 Advertising is restricted or prohibited by E212 for the categories of Periodicals authorization. For these standards, the term *advertising* includes:
- a. All material for the publication of which a valuable consideration is paid, accepted, or promised, that calls attention to something to get people to buy it, sell it, seek it, or support it.
  - b. Reading matter or other material for the publication of which an advertising rate is charged.
  - c. Articles, items, and notices in the form of reading matter inserted by custom or understanding that textual matter is to be inserted for the advertiser or the advertiser's products in the publication in which a display advertisement appears.
  - d. A newspaper's or periodical's advertisement of its own services or issues, or any other business of the publisher, whether in display advertising or reading matter.

- Public Service Announcement**  
11.2 The term *public service announcement* means any announcement for which no valuable consideration is received by the publisher, which does not include any matter related to the business interests of the publisher, and which promotes programs, activities, or services of federal, state, or local governments or of nonprofit organizations, or matters generally regarded as in the public interest. A public service announcement is not treated as advertising.

## 12.0 DOCUMENTATION

Each Periodicals mailing must be accompanied by a postage statement using the correct USPS form or an approved facsimile. Supporting documentation may be required under E216 or, for specific rates, under E220 through E270.

## 13.0 FEES

- Fee Required**  
13.1 The required fee must accompany an application for:
- a. Periodicals mailing privileges (original entry).
  - b. News agent registry.
  - c. Additional entry (unless excepted in 13.2 or 13.3).
  - d. Reentry (unless excepted in 13.2 or 13.3) to request a
    - (1) Change in title, frequency of issuance, or original entry office.
    - (2) Change in qualification category.
    - (3) Change in eligibility from preferred rates or the preferred rate discount to regular Outside-County rates.
    - (4) Modification or cancellation of an additional entry.



- No Fee** 13.2 No fee is charged if reentry is only to change eligibility to preferred rates or the preferred rate discount.
- Single Fee** 13.3 Only one fee is charged for a single complete additional or reentry application that requests establishing, modifying, or canceling one or more additional entries if the effective dates for the requested actions do not exceed 30 calendar days.
- Return of Fee** 13.4 After an application is filed with the USPS, no part of the fee is returned to the applicant.
- Address Correction** 13.5 The fee for manual or automated address correction service is charged per notice issued.