



MAY 2007

What's Inside

President's MessagePage 2
 Mrs. Township Mountrail Co.Page 2
 Executive Secretary's CornerPage 3
 Notes from TreasurerPage 3
 Tax Incentive SoughtPage 4
 Country LawyerPage 5
 Open House UGPTIPage 6
 NATaT Washington MeetingPage 7

The Official Newsletter of the ND Township Officers Association • NATaT Member

NDTOA Was Effective in the 60th Legislative Session

Commentary by Ken Yantes

In late December of 2006 the NDTOA office/apartment was established in Bismarck to deal with the 60th legislative session.

Ken and Darleen Yantes and Larry and Pat Syverson moved in the required furniture in preparation for the four month effort. Larry came back and was very active in supplying testimony in the hearing rooms and the halls of our states capitol.

Ken and Larry served as the Township lobbying team for most of the legislative session. Kerry Schorsch provided guidance through e-mail input and actual presence testimony to many bills. Barb Knutson and Chuck Thacker stepped up to the plate when a lot of our bills needed defending in early February.

Thanks to these Township Officers, we have a good report to offer for this legislative session. This report will cover the two bills we lost, twelve of the bills we supported and had success with and six of them that we worked to kill as they would have been detrimental to ND townships.

We lost two bills early in the session. As the legislators became aware of our continued presence, success came our way. **SB2275** was a bill that asked for four million dollars to be paid out of the general funds surplus to townships for road maintenance. This bill was lost by a close vote of 22 for and 24 against.

SB2208, a bill we had introduced which called for farm homes to keep

their exempt status after more than three years of declared disasters, was hog housed by Senator Cook and it then asked for taxation on farm homes. We worked to have this bill killed and were successful in a 2 to 42 vote in the Senate.

Bills killed in defense of townships started out with **HB1306** which would have given anyone who owns land in a township the elector status.

Townships have always reserved the right to vote at township meetings to the residents of the township. This bill was killed in the house of origin by a 12 for and 81 in opposition vote.

HB1051 would have put caps on the amount of increases of taxation in political subdivisions. Our policy asked for the authority to increase our caps so we opposed this bill and it was killed in the Senate by a 20 to 27 vote.

HB1335 asked for taxation on farm homes. We have policy against that so we opposed the bill and it was killed in the house of origin by a House vote of 17 to 77.

HB1420 was supported by the Farm Bureau and would have removed the township's authority to zone for environmental issues. *We would not allow this infringement on township authority.* We offered amendments, supported hog house amendments and finally could find nothing to oppose in the remains of **HB1420** so we let it and the study resolution which called for a legislative interim study of CAFOS in ND to pass.

SB2331 was a companion bill to **HB1420** which called for the same thing

and had a lot of Farm Bureau support but the local governmental entities of North Dakota refused to allow their authority to be eroded and the bill was killed by an 18 for and 29 in opposition vote.

HB1480 would have required township assessors to send out notice to taxpayers if their assessed valuations were raised by any amount. We opposed this bill due to the amount of effort it would create in our member townships across the state. The bill was killed by a 15 to 78 margin.

IN BILLS WE SUPPORTED:

HB1029 was a bill that prohibited the use of city sales tax to be used for the primary support of schools in the city. Without this bill, rural taxpayers would be paying sales tax in the larger cities for the support of city schools, if the home rule city imposed a sales tax for that purpose. The legislators decided it wasn't right for the rural residents to pay these sales taxes for that purpose and the bill was passed and signed by the Governor.

HB1186 asked for the undisputed share of a tax abatement to be paid to the governmental entities that the tax was due to be paid to. Testimony indicated very large sums of money were being held back while the abatement process continued for long periods of time. The legislators decided that it was not right to do so. They voted a 50 for and 39 in opposition vote in the House and in the Senate 45 for and 1 in opposition. The bill was signed by the Governor.

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President's Message *Chuck Thacker*

I hope all you Township Officers had a good winter. It has been a busy winter for our executive secretary and lobbyist at the Legislative sessions as there are a lot of bills to testify on.

I would like to thank Larry Syverson for all the effort he has put into helping Kenny testifying on bills and Barb Knutson for her help.

I've been attending a lot of spring meetings and there has been a lot of interest in zoning. If you have a computer, go to ndtoa.com—our web site and view zoning regulations of Stanley Township. It is a very well put together zoning ordinance.

I had many calls regarding as to who can serve on a township board. As long as you have lived in the township 30 days prior to the election on the third Tuesday of March you can serve on the board and you don't need to be a landowner as long as you are a resident.

If you have any questions regarding things to do with bills relating to townships give Kenny a call and pick his brain.

Now that spring is here, I hope township officers will be taking a drive around your township—checking signs, culverts and roads to make sure they are safe driving conditions and take along a map of your township and mark down things that need attention.

We owe a big thanks to Kerry Schorsch for his work at keeping our website up-to-date. A special thanks to the Senators and Representatives for all the support on the bills pertaining to the townships.

Without their dedication it would be a very hard task. I don't want to forget the County Commissioners and the many Township Officers for their support shown to the townships.

With that I am going to sign off and hope you all have a good, safe spring and summer!



This past month Rosemary Martens of rural Ross, ND received the Mrs. Township Officer Honoree Award from the Mountrail County Township Officers Association. Rosemary, who has been an officer for the Brookbank Township since 1980, has served as clerk and treasurer. Mountrail County Extension Agent, Jim Hennessy, presented this special award to a very dedicated and deserving person!

Notes from the Treasurer

Barb Knutson

It is coming close to a year since I took over this position as your treasurer, and all in all, things are going very well. I want to thank you for your prompt payment of dues.

Those of you that have included a list of townships you are paying for—thank you for that! When you include the lists of new officers, please add their addresses so I can get them on the mailing list for the *Grassroots* newsletter.

I appreciated the calls from the members to clear up misunderstandings and to ask questions. I would also like to thank all those who have cheered me on and provided the information that we needed to get our association where it should be as far as record keeping goes.

There was one little glitch. If you have an association in your county, and your dues are paid collectively by the association, please pay the dues to the association so they may retain their portion of the dues. Otherwise I have to send that back to the county and that makes an extra step.

It has been a pleasure working with Ken Yantes and Larry Syverson at the Legislature. Now it's over and they have gone home. They put a lot into the process and much was accomplished. Good work guys!

A big thanks to John Oxton for the help he has given in getting names and addresses on the mailing list. He was also very helpful in other areas of the process.

I appreciate the effort of the board members and officers in the counties that are working together to make a difference. Keep up the good work!

Secretary's Corner

Ken Yantes, Executive Secretary

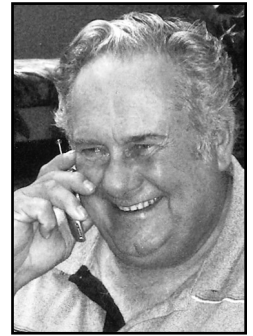
During the 2007 Legislative Session, HB1265 was introduced on behalf of North Dakota's Water Boards. This bill, in its original form, would have given water boards the authority to locate, relocate, size and install culverts through roads which are not on the routes of assessment drains but which are within the assessment area and are necessary for surface water to reach the assessment drain.

This seemed to us to be taking away a township's authority to control what is happening on our roads and ditches. Our first thought was to kill the bill to retain control of our responsibility to the traveling public.

A resolution was passed at our 2006 annual meeting which called for townships to cooperate with water boards. Recognizing the need to move water in an orderly manner to preserve and protect township roads spurred negotiations with the water board's representatives.

The legislative arena is a place for compromise and cooperation. It's not a place to lay down and play dead.

We offered friendly amendments that were acceptable to the water boards and we went forward together in support of the bill as amended.



The amendments we offered consisted of these lines of thought. If the water boards were to propose a new assessment drain, maintain or reconstruct an existing assessment drain, they must seek approval from the township prior to starting the projects.

Township officers must know the who, what, when and where of any project that is happening within their legal jurisdiction (township roads and ditches). The traveling public must be warned of the activity through the use of proper construction site standards for risk management purposes.

Township officers, if your local water board asks your approval for a project, please give them due consideration as they are trying to provide a service to the citizens of North Dakota.

This new law clarifies that you, as township officers, may grant water boards the right to deal with specific culverts in your roads if they change water flows within their jurisdictions. They must get your approval first.

NDTOA to meet at Fort Ransom

On June 8th, the State Board will be holding a board meeting in the Rockstad River Inn meeting room at Fort Ransom, ND.

This is the first time that the board has met there and we would like to invite local township officers to attend.

We have been trying to meet across the state at different locations to gather input from our membership and we would like to hear from the south-eastern township officers.

Please contact the Rockstad River Inn at (701) 973-2103 for more details.

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NATaT Seeks Tax Incentive for Local Volunteers and Officials

The National Association of Towns and Townships (NATaT) represents the interests of towns and townships on federal issues. NATaT seeks to promote legislation in the U.S. Congress that will provide tax fairness and incentives for local town and township officials and local volunteers, by:

• **Providing Tax Incentives to Recruit and Retain Local Volunteer First Responders** – NATaT supports legislation (H.R. 943 - Volunteer Responder Incentive Protection Act of 2007) to amend the Internal Revenue Code: (1) to exclude from gross income real or personal property tax rebates or any other benefits provided to volunteer firefighters and emergency medical responders; and (2) to exempt from social security, unemployment taxes, and wage withholding real or personal property tax rebates or any other benefits provided to volunteer firefighters and emergency medical responders; and

• **Providing Tax Relief to Local Officials** – NATaT seeks legislation to amend the Internal Revenue Code to

exempt local government workers who are minimally compensated in order to reduce the income and FICA tax withholding and reporting burdens on small local governments and their citizens who provide important services to their communities. NATaT supports excluding from the definition of “employment” for income tax and FICA payment purposes those elected or appointed holders of local “public office” who make less than \$1,300 annually.

In order to build support for these approaches in Congress, NATaT needs information from you. **Please respond to the member survey below and return the information as soon as possible to the NDTOA and NATaT:**

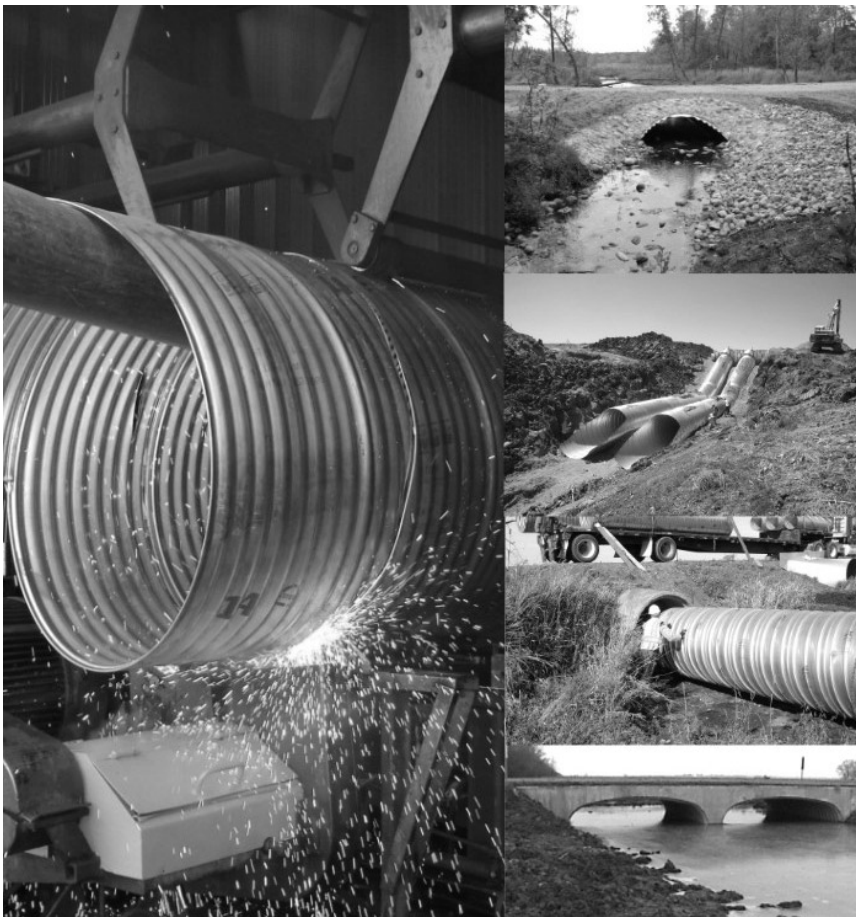
1. Is your town/township served by volunteer firefighters? If so, how many qualified volunteer firefighters currently serve in your community?
2. Is your town/township served by volunteer EMS personnel? If so, how many qualified volunteer EMS personnel currently serve in your community?
3. Does your jurisdiction provide any

income tax, property tax, or other benefits to volunteer firefighters and/or emergency service personnel? Please describe.

4. Please list the position names, if any, of elected or appointed town/township positions in which the position pays more than \$1, but less than \$1,300, per year.
5. If you listed any positions in response to Question #4, please provide an estimate of the costs (in hours and dollars) that your town/township expends on an annual basis to process, withhold, and report federal tax payments for such positions.
6. What State and town/township do you represent?

NDTOA and NATaT has been granted an extension for gathering this information. It is important that you submit your answers as soon as possible.

Please e-mail your responses to NATaT at andy.seth@natat.org, fax to (202) 331-1598, Attention-Andy Seth, or mail to NATaT, c/o The Ferguson Group, 1130 Connecticut Avenue, NW, Suite 300, Washington, DC 20036, www.natat.org



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The Country Lawyer

Thomas R. Moe, Attorney-at-Law



Greetings Township Officers! Spring is here and summer is just approaching. Annual meetings for townships have come and gone and most have completed equalization work. The Legislature finished its work after one of the longest sessions in State history. Ken has a full briefing of his work with the Legislature elsewhere in this issue. Several changes to laws which affect Townships occurred, and you should take note of those changes as outlined by Ken. I'm sure we'll get together this summer and begin the process to prepare new pages for our Township Officer's Handbook which will reflect those new laws.

I believe I'm in my 21st year with NDTOA. It seems like just yesterday when Chet Larson and Oscar Erie asked me to help out with "just a little bit of work with some proposed legislation!"

Recently, the Board asked me to review with you what my present duties and responsibilities are as it's good to revisit that from time to time. Generally, I am an advisor to the State Board of Directors only, and specifically the State President and Executive Secretary.

In the early days, the procedure was to have any questions from township officers go through the board first. We were to be an additional resource for you just as your handbook is. But with cell phones, etc., it became apparent that it was easier to just call me in the first place.

That means I now get several hundred telephone calls yearly from township officers all across the state. Although that's many more calls than we originally contemplated, it has been the procedure for the last several years, and it has worked out pretty well. However, since I don't represent individual townships, I must be careful to make only general comments about your township situation.

This procedure has worked fairly well also over the years, and I try to answer some of the more broad based questions via this column in the Grassroots.

Several townships have asked for individual written responses and generally I cannot do that as once again, I do not represent townships individually, and a letter from me surely and ethically implies that I represent you.

In order to do that, I would need to enter into an individual representation agreement with each Township and time does not allow me to do that because of the rigors of my own private practice and my obligations to my existing clients. The State Board of Directors has also instructed me not to provide written comments or individual representation as well.

Many townships have potential litigation issues, and your liability carrier (in most cases the Insurance Reserve) is the one to talk to. Township issues have become increasingly complex especially regarding zoning and confined livestock feeding concerns. It's best to work with a local attorney or a specialist regarding these types of legal matters as that person is much more aware of local practice, procedures, and local personalities.

I hope this helps to clear up any misunderstanding there may be out there regarding my association with NDTOA. With Ken Yantes now on board as your full time secretary, he's been able to field more of the questions and has really assisted me in taking up more and more responsibility to you the members of NDTOA.

Q. I notice some of our neighboring townships had their annual meeting on Equalization day. It makes sense to kill two birds with one stone, but I thought they couldn't do that.

A. You're right. State law is very specific—township electors shall "assemble annually on the third Tuesday in March." No other date is allowed. I'm afraid that those townships that attempt to meet annually on a different day may well have their business agenda items (including tax levy and budget items) invalidated because of this. It is allowed

to have a "Special" meeting of the township on any day of the year—that requires proper notice of course.

Q. We've got a road that's falling into the river due to erosion. We will close it of course, but now what do we do? We need a road through this area.

A. Closing the road is of course the prudent thing to do. Make sure you close it properly with the right barriers and signs. As to the future, you have two choices. Either buy a voluntary easement from the adjacent landowner (in writing please!) and build on this easement area, or, if the landowner is not cooperative, you may have to go into Court under your eminent domain powers and have the Court declare a road here as a public necessity and get a Court-ordered easement.

Q. We've got an irrigator that insists on aligning the system so the last sprinkler washes up on the section line. It's not much of a road there, but it can make a mess. Isn't that illegal?

A. Yes. See Section 61-14-16 in our handbook. No person may "willfully allow water from irrigation works or equipment to flow or fall upon any highway, street, or road." Take a picture, see your states attorney, and swear out a complaint.

Q. We want to send a letter out this spring to all landowners in our township about cleaning out their ditches. Then we'll come back this fall and do it for them and charge the work against their taxes. Is this the right procedure?

A. Maybe. I think sending out a letter now is a great idea. You'll probably get some "discussion" and hopefully most will voluntarily get the job done. In order to charge against taxes for work done, you need to notify the offending landowner by certified mail, not just normal first class. If you're willing to certify your letters now, it probably will work as long as you indicate a deadline for the work to be done. I like your idea better, however, as you can save the certified letters for later this fall for only those offenders who didn't voluntarily get the work accomplished.

HB1265 was a bill that asked for cooperation between the water boards and township officers with regard to the sizing and placement of culverts in roads. Appropriate amendments were added to the bill by township lobbyists to enforce township authority and safety of the traveling public.

We then testified in support of HB1265 in the House and Senate hearings. The bill passed the House by an 89 to 0 margin and the Senate by a 46 to 0 margin.

HB1303, Our Legislator of the Year, Representative Gill Herbel submitted this bill which gives the township assessor the authority to use actual land use as one of the modifiers in the assessment process on agricultural land. We hope that this will give further equity to agricultural land taxation. The House passed it 84 to 10; and Senate passed it 46 to 0.

HB1321 supports the policy passed in 2005 which calls for the city extra-territorial zoning authority to be reduced from four miles to two miles around large cities in North Dakota. This bill passed and there is a legislative study to see what the effects of this bill will be on North Dakota communities. House passed it 70 to 16; Senate passed it 36 to 11.

HB1331 allows water boards to clean out road ditches as long as they get permission from the entity that controls the road way, that notification be given to the same entity before any work starts and that proper safety signing be in place during the work. The House passed it 91-1; Senate passed it 43 to 0.

HB1344 allows townships the right to give a farmer authority to construct a road along the section line from one parcel of his land to connect to the next one at his expense for agricultural travel between the parcels. The house passed it 92 to 1; Senate passed it 44 to 1.

HB1386 allows the township residents to increase a township officers compensation from the \$600 per year to \$1000 per year by allowing them to be paid for 50 days work at \$20 per day. Documentation for the days worked must be in place. It is not just an

increase in pay, it is payment if you work the extra days at \$20 per day. The votes on this bill are as follows: House passed it 76 to 17; and Senate passed it 45 to 1.

HB1392 allows the township zoning officers the authority to increase the township zoning violation penalties from \$500 to \$2000. House passed it 51 to 42; Senate passed it 47 to 0.

HB1446 allows townships to increase their excess mill levies from 50% of the general mill levy to 100% of the general mill levy. Our policy called for increasing the 18 mill levy to 30 mills but we could not find much support for it and we took an alternate route with the increasing of the excess mill levy. House passed it 58 to 34; Senate passed it 36 to 11.

SB2032 was supposed to be the compromise bill on property tax relief for North Dakota taxpayers. HB1051 started out to be the main bill, but after many amendments and several hog housings it was finally killed. Along comes SB2032 and takes its place as the property tax bill.

This bill was amended and hog housed many times and in the final minutes of the longest legislative session since statehood it passed. Although it is far from perfect it does return to some taxpayers through an income tax credit of \$115 million of the 540 million excess dollars in the ND general fund. The House voted 93 to 1 and the Senate voted 47 to 0 for the bill. A legislative study of this tax problem has been established.

SB2137 was passed to allow the counties to lend their emergency funds to townships so that the townships might match FEMA funds for emergency road repairs. This bill passed unanimously through both houses.

In conclusion, I want to thank the North Dakota Township Officers Association for allowing me to serve in Bismarck as your lobbyist and for all the help afforded to me by Larry and Pat Syverson, Barb Knutson, Chuck Thacker, Kerry Schorsch and all of the State Board members that contributed to making this legislative session

successful for the NDTOA. I have a special thanks to Mark Verke and his daughter, Shana, for devoting two days of furniture hauling and loading of my pickup and car for the final trip home.

Lastly a great deal of thank you goes to my wife, Darleen, who stayed home this session and took care of her job and our new grandson, Little Kenny.

When it came time to clean the apartment and load our belongings, Doll and I worked shoulder to shoulder to get it done. I know how much she would have enjoyed being here with me this legislative session and watching the NDTOA gain back its prestigious position as a very credible lobbying force in the ND legislative arena.

*Respectfully submitted by
Ken Yantes, NDTOA Ex. Secretary/
Director of Governmental Relations*

Open House UGPTI

To celebrate its expansion to Bismarck, the Upper Great Plains Transportation Institute will hold an open house June 18 from 1 to 4 p.m. at 515½ E. Broadway, Suite 101, Bismarck, ND.

Upper Great Plains Transportation Institute (UGPTI) is an independent center at North Dakota State University that provides education, research and outreach programs in small urban and rural transportation and logistics to enhance the safety, and mobility of people, goods, and agricultural commodities. With this opening, the institute will enhance its ability to provide transportation experience, expertise and technical assistance to state and local agencies and other transportation related clientele across the state.

The UGPTI operates several transportation-focused programs. The most recent program added is the North Dakota Local Technical Assistance Program (NDLTAP), based at the Bismarck office, providing technical training and information services to cities, townships, counties, states, tribal organizations, and other entities within North Dakota.

NATaT Washington Meeting

by Ken Yantes, NATaT Director

Your national organization convened its Board of Directors meeting in the Board Room of the Ferguson Group located at 1130 Connecticut Ave., Washington, DC on February 27, 2007.

The meeting was called to order by National President Keith Hite from Pennsylvania. The minutes and treasurer's report were approved as submitted. The audit and 401k program reports were approved.

Plans for the September 2007 Legislative Conference were completed with an emphasis on visitation to congress persons offices to support our policy stands as developed by our membership.

A review of tomorrow's visitation to the Senate and House member offices was discussed and plans put forth that each member to be seen, would have National Board Members and a representative from the Ferguson Group in attendance at the 27 planned meetings.

The issues to be discussed included as the main issue, IRS exemption of the payroll tax for township officers, the Farm Bill and its affect on local government and a tax credit for first responders of a \$1,000.

The Ferguson Group's representatives, Matt Ward, Jennifer Imo and Andy Seth had prepared very neat folders with papers on each of our platform planks to be left with each congressperson after our visits with them.

The locations of the offices and buildings and time schedules were thoroughly reviewed and understood by all. ***We were ready to do what the national organization is supposed to do... implement federal policies on a federal level on behalf of our membership!***

Membership recruitment brought a detailed discussion of the national bylaws. Copies of the bylaws were given to all board members. New changes in the bylaws were suggested and will be brought to the membership at the September annual meeting as board recommended changes.

The September 2007 annual meeting schedule was discussed and agreed upon. Chuck Thompson, CEO of the International Municipal Lawyers Association, spoke on the need for us to cooperate to serve our members better.

Dave Finger, a representative of the National Volunteer Fire Council talked on the like policies we have on public volunteerism. He was asked to join us on our congressional visit and he accepted.

Last minute visit plans were made the president adjourned the meeting.

On February 28, 2007, the National Board Members visited the following congressional offices and urged implementation of a bill (and received affirmative action from them) ***to allow township officers who receive less than \$1,300 to be exempt from paying and filing payroll taxes*** like the poll workers now have.

Sen. Kent Conrad, ND
Rep. Earl Pomeroy, ND
Sen. Debbie Stabenow, MI
Rep. Stephanie Herseth, SD
Rep. Sander Levin, MI
Rep. Charles Rangel, NY
Sen. Hillary Clinton, NY
Sen. Charles Schumer, NY
Rep. David Obey, WI
Rep. Allyson Schwartz, PA
Rep. Rahm Emanuel, IL
Rep. David Hobson, OH
Rep. Mike McKintyre, NC
Rep. Phil English, PA
Sen. Tim Johnson, SD
Sen. John Thune, SD
Rep. Collin Peterson, MN
Sen. Barack Obama, IL
Rep. Thomas Reynolds, NY
Sen. Tom Harkin, IA

NATaT's Federal Affairs Director Jennifer Imo has agreed to draw up a bill for Sen. Conrad's Chief of Staff to be introduced containing all the needs to allow township officers to be exempt from payroll taxes should they receive less than \$1,300 per year.

The snowbound crew stayed in Washington, D.C. for an extra day due to the snowstorm and flight cancellations in Minneapolis and surrounding area. This allowed for more congressional visits.

Your NATaT Board went home knowing that they served their membership in the nation's capital, implementing federal legislation, as their membership wants them to do.

North Dakota Township Officers: Please help Sen. Kent Conrad get rid of the Federal IRS ruling that we must file our federal payroll tax forms. He needs your input.

Please take the time to answer the questions numbered 1 through 6 on the ND Member Survey on page 4 of this newsletter. Send your responses to Ken Yantes, Executive Secretary, by e-mail or U.S. mail address located on page 2 of this newsletter.

If you want the payroll tax form to be eliminated, please complete the survey. Thank you!

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