

**1999 SENATE GOVERNMENT AND VETERANS AFFAIRS**

**SB 2136**

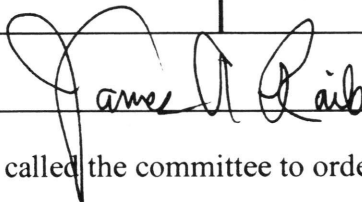
1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2136

Senate Government and Veterans Affairs Committee

Conference Committee

Hearing Date January 8, 1999

Tape Number	Side A	Side B	Meter #
1	X		0-750
Committee Clerk Signature 			

Minutes: Chairman Krebsbach called the committee to order and instructed the clerk to call the roll. At this time CHAIRMAN KREBSBACH opened the hearing on SB 2136 which is a bill relating to sale of land acquired by the Bank of North Dakota. Appearing before the committee with testimony in support of the bill was ERIC HARDMEYER-Senior Vice-president in charge of lending with the Bank of North Dakota. A copy of his written testimony is attached.

Following testimony questions were offered by several senators.

SENATOR THANE-Give us an example of the small parcels you are referring to, and what you consider a small parcel.

MR. HARDMEYER-We recently had an opportunity to sell one acre of land to the Trail County Highway Department. There had been some flooding in the Red River Valley and part of the road had been eroded away when the flood waters came. They wanted to purchase one acre of land to rebuild the roadbed for a thousand dollars and because of the exercise that we had to go

through they just didn't think it was worth it nor did we to go through with that type of sale. So we never did get the deal accomplished.

SENATOR THANE-I understand that and I'm not being picky, but I guess I'm a little curious that where you draw the line between a small parcel which is probably worth nothing to anyone else verses a parcel of land, a small parcel so to speak that has a greater economic value. I mean, where would you draw the line, I guess that is what I am fishing for?

MR. HARDMEYER-I guess we've drawn the line of value at ten thousand dollars. You have to be appraised prior to a selling. In the Red River Valley that may be 10 acres, in the western part of North Dakota that may be 20 acres.

SENATOR THANE-I understand the \$10,000 value, I'm looking at actual acres.

MR. HARDMEYER-Well it must be appraised, the appraised value. For the most part it is going to be farm real estate.

SENATOR KREBSBACH-Eric, there is more than one type of appraisal, do you use a certain standard of appraisal for this? My second question falls into the fact of often times adjoining land owners are very interested in parcels of land. Would they have some kind of notification with this type of a sale?

MR. HARDMEYER-Again we would require a certified appraisal. Not necessarily would they be notified of this sale. If we sell the land that we think is appropriate that may or may not be the case. It depends on the circumstances.

SENATOR KREBSBACH-You say in a manner suitable to the circumstances. What manner would be suitable in your eyes?

MR. HARDMEYER-Just the negotiation between a buyer and a seller. Without the public

auction and the advertising. Just a private sale.

SENATOR KREBSBACH- Would that be to just anyone at large or would it be to another governmental agency, or?

MR. HARDMEYER-It could be to public or private.

Are there further questions?

SENATOR KILZER-Are appraisals required for other reasons also in this sort of transaction.

For example, obviously when you have an appraisal you get a price. The appraiser gives you a price. Do you have to receive that price from the buyer or doesn't that matter?

MR. HARDMEYER-That would matter. You need to get the appraised value.

SENATOR KILZER-So there really are a couple of reasons to get an appraised value.

Obviously with one acre the appraisal fee might be quite substantial as far as pertaining to the whole selling price goes.

MR. HARDMEYER-That's correct.

SENATOR KREBSBACH-Are there further questions from the committee?

SENATOR KREBSBACH-Is there anyone else here today to testify in favor of SB 2136?

JOHN HOEVEN-Bank of North Dakota appeared in support of this proposed legislation. The only thing I would throw in. We just try to come up with a diminimas value so when we have these parcels that have small value that we can go ahead and sell them in a fairly efficient and effective manner. Any larger parcel we'll take to auction of course. The \$10,000 is just what we came up with as a value for these smaller parcels. And again it's just to do business in a cost effective manner.

SENATOR KREBSBACH- Answer me this, you just wanted to sell 1 out of 40/50 acres you

said? What do you intend to do with the balance of that property? MR. HARDMEYER-We would continue, right now that is under lease. We would continue to lease it to the current lessee. Eventually we would try to sell it. We are presently under a 3 year lease. There were no further questions at this time. No further testimony was offered in support, opposition to, or in neutral position on SB 2136. SENATOR KREBSBACH closed the hearing on SB 2136.

COMMITTEE DISCUSSION-January 14, 1999 (Tape 1, Side A, Meter #4680-End) The committee discussion on SB 2136 was opened by SENATOR KREBSBACH. SENATOR WARDNER presented a copy of a letter from John Hoeven to the committee. It talks about the appraisal and how it is done. A copy of the proposed amendment was also handed out at this time. SENATOR STENEHJEM-A question on the amendment, I assume that the reason for the amendment is to give the adjoining land owner an opportunity to bid or attempt to purchase the property. Is there any reason where, many times the landowner may live in Arizona and you've got a farmer actually farming the land on a lease basis that he might want to purchase the land. SENATOR KREBSBACH-If generally a case of where. Excuse me I don't think it would be in the possession of a landowner in out of state. This is land that they have acquired through some form or another. SENATOR STENEHJEM-No no, the land is in North Dakota but the landowner, the adjacent landowner might live in Arizona and he's leasing the land out to someone else and he might want to purchase it. Finding out who they are might be difficult. SENATOR KREBSBACH-Our concern basically was, basically where this came up is they had was it like 40 acres and the highway department wanted 10 acres of this and their hands were pretty much tied in disposing of it just to sell to another agency. We want to give them that allowance to do so, however, we felt that you know when you leave it open such as the bill does

state, we felt it only fair that the adjacent landowners be notified in the event of a transfer. Now, if we should go further, we would have to look at it closer. SENATOR KILZER indicated he believed it would be easier to send notices to adjacent landowners than it would be to adjacent land renters. Further discussion was offered from SENATORS DEMERS, WARDNER, and W. STENEHJEM.

SENATOR STENEHJEM-Indicated that he wondered if a 14 day notice was adequate. He felt that perhaps a longer amount of time should be given.

COMMITTEE ACTION January 15, 1999 (Tape 2, Side A- Meter # 195-970) A brief committee discussion on SB 2136 ensued regarding the proposed amendment to the bill. The committee members determined that the amendment should be changed to read certified mail instead of registered mail and the words 20 days be inserted before the words before execution of the sale. Following this discussion SENATOR W. STENEHJEM moved that the proposed amendment to SB 2136 be adopted, seconded by SENATOR DEMERS. Vote indicated 7 YEAS, 0 NAYS, 0 ABSENT OR NOT VOTING. A motion for DO PASS AS AMENDED was made by SENATOR W. STENEHJEM, seconded by SENATOR KILZER. Roll Call Vote indicated 7 YEAS, 0 NAYS, and 0 ABSENT OR NOT VOTING. SENATOR KILZER Volunteered to carry the bill.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2136

Page 1, line 13, after the period insert "However, the Bank of North Dakota shall send notice of the proposed sale or lease of agricultural real estate with an appraised value of less than ten thousand dollars to the adjacent landowners by ~~registered~~ certified mail before the execution of the sale or lease documents."

*Certified*

*20 days*

Renumber accordingly

Date: 1/15/99  
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2136

Senate GOVERNMENT AND VETERAN'S AFFAIRS Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Adopt Proposed Amendment

Motion Made By Sen. Stenehjem Seconded By Sen. Demers

Senators	Yes	No	Senators	Yes	No
SENATOR KREBSBACH	✓				
SENATOR WARDNER	✓				
SENATOR KILZER	✓				
SENATOR STENEHJEM	✓				
SENATOR THANE	✓				
SENATOR DEMERS	✓				
SENATOR MUTZENBERGER	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment \_\_\_\_\_

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



Date: 1/15/99  
Roll Call Vote #: 2

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2136

Senate GOVERNMENT AND VETERAN'S AFFAIRS Committee

- Subcommittee on \_\_\_\_\_
- or
- Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass as Amended

Motion Made By Sen. Stenehjem Seconded By Sen. Kilzer

Senators	Yes	No	Senators	Yes	No
SENATOR KREBSBACH	✓				
SENATOR WARDNER	✓				
SENATOR KILZER	✓				
SENATOR STENEHJEM	✓				
SENATOR THANE	✓				
SENATOR DEMERS	✓				
SENATOR MUTZENBERGER	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen. Kilzer

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

**REPORT OF STANDING COMMITTEE**

**SB 2136: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2136 was placed on the Sixth order on the calendar.

Page 1, line 13, after the underscored period insert "However, the Bank of North Dakota shall send notice of the proposed sale or lease of agricultural real estate with an appraised value of less than ten thousand dollars to the adjacent landowners by registered mail twenty days before the execution of the sale or lease documents."

Renumber accordingly

**1999 HOUSE GOVERNMENT AND VETERANS AFFAIRS**

**SB 2136**

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2136

House Government and Veterans Affairs Committee

Conference Committee

Hearing Date 2-26-1999

Tape Number	Side A	Side B	Meter #
1	X		13.5 - 47.9
Committee Clerk Signature <i>Jan Williams</i>			

Minutes: Some of the individuals testifying submit written testimony. When noted please refer to it for more detailed information.

Representative Klein, Chairman of the GVA Committee opened the hearing on February 26, 1999.

Summary of the Bill: Relating to sale of land acquired by the Bank of North Dakota.

Testimony in Favor:

Eric Hardmeyer, Bank of North Dakota submitted written testimony to the committee which he read in it's entirety (**please refer to his testimony**).

Representative Klein, Could you give us an example?

Hardmeyer, We had a 50 acre parcel in the Red River Valley that was foreclosed on. The county wanted to acquire 1 acre for a change in the road. We negotiated to sale it for a 1000 dollars which is one fiftieth of the selling price. When we realized it we had to hold a public auction and

the county didn't want to wait that long. We never did consummate the deal because the length of time and the cost to sale the property.

Representative Klemin, The senate amendments, what's the point? It seems that you have already decided to lease or sale the property and then you have to notify the other people? If the deals already done, what's the point.

Hardmeyer, I agree, we didn't put that amendment on it. The senate side did that.

Representative Klemin, Your just letting them know who their new neighbor is. Wouldn't it be more practical to give them notice that it is for sale.

Hardmeyer, I agree.

Representative Winrich, It doesn't provide for a hearing or anything.

Hardmeyer, Were trying to get away from hearings.

Representative Thoreson, Isn't it a matter of how your interpretation of purposed is?

Representative Klemin, Doesn't the bank or can't the bank send a notice of the opportunity to purchase the property.

Hardmeyer, As a matter of courtesy I suppose they could.

Representative Thoreson, Based on the amendment, how would you propose to notify these people. By newspaper or do you have any intentions of notifying people?

Hardmeyer, Were talking about a small parcel of property. Not some large section or acreage.

Representative Klein, What your trying to do here, is for the things that you don't have time to go through a long drawn out procedure.

Hardmeyer, That's correct.

Representative Thoreson, Wouldn't that give certain people an inside track as to the knowledge of this sale?

Hardmeyer, We are not property managers and want to get rid of this type of property.

Representative Grande, Isn't there already public notice of the land being available, due to the foreclosure?

Hardmeyer, That's correct.

Representative Winrich, Why not turn this over to a Realtor?

Hardmeyer, That's a possibility. We have people in the bank that already do this and we may go back to that possibility. But this is small parcels were talking about.

Testimony in Opposition: None.

Representative Klein, Closed the hearing on SB 2136.

Committee Action:

Representative Klemin, Line 13-15 regarding the notice, abstracting and title work may take more than 20 days. It's a wasted process the way it's written.

Representative Haas, I agree, the amendment actually defeats the purpose of the bill.

Representative Hawken, I think after listening to the testimony, these are just small things that get in the way and the bank just wants to get on with it. I can see why this would be a hassle.

Representative Winrich, I have some problems with this bill even if we un-amend it. In the example that he gave us, I can see some sort of process needed to accomplish that situation. But otherwise I find it very distasteful, we have to provide for appropriate notification. Maybe if it's to expensive for the department to do, we would have to turn it over to a private entity to handle.

Representative Klemin, I believe the bank can turn it over to a Realtor now if they want to.

Representative Thoreson, I think this is also or should be a fairness issue. This is government property and I think the public has a right.

Hardmeyer, This property is already been listed for sale in say a county newspaper or what have you. These are just simply small parcels of land that for some reason or another it is cost prohibitive.

Representative Kroeber, This has been or has had public notice

Hardmeyer, Absolutely.

Representative Hawken, Basically what were changing here is you don't have to do the auction. You could if you were doing an auction and wanted to put that piece on it?

Hardmeyer, Yes.

Representative Thoreson, That is for a piece at 10,000 dollars or less?

Hardmeyer, We have had pieces of property that we have managed and the county has come in said we could use one acre of land. If we were listing it we would not publicly advertise just one acre of land.

Representative Thoreson, But technically it has never been advertised. A lot of people don't want to buy 50 acres, but may want to buy one acre to build a house on.

Representative Winrich, Is the fact that the county wanted that one acre typical of what goes on. Is it mostly political subdivisions that want this property or do private individuals want this.

Hardmeyer, By in large it is political subdivisions. Occasionally private individuals.

Representative Fairfield, How long does this process take?

Hardmeyer, Six to eight weeks.

Representative Klemin, According to the amendment even after the process your talking about, you still have to wait another 20 days because you have to send a notice to the adjacent landowners that your selling it and there is nothing that those landowners can do about it at that time. It seems to me that it's a wasted effort.

Representative Klein, Here's what I suggest. Let's take the amendment out and send the bill out as it is.

Representative Klemin, Made a motion to amend the first engrossment to remove the senate amendment.

Representative Grande, Seconded the motion.

Motion Passes: Yes (vocal).

Representative Klemin, Made a motion for a Do Pass on the amended bill.

Representative Grande, Seconded the motion.

Representative Fairfield, When the land is put up for sale, is it statutory as to how long this will be to take place.

Hardmeyer, Were talking about small parcels here, and I can't imagine every negotiation of how it would go.

Representative Winrich, I can't support a do pass for much of the reasons I stated before.

Representative Klemin, Regarding Representative Fairfield's concern, a foreclosure doesn't happen over night. There is a whole legal process that takes place. The party that is being foreclosed on has a one year period of redemption and after that they still have additional options to lease it back from the BND. The Bank has had it for a long time before it gets to this point.



Representative Haas, Would could propose an amendment on line 10 to include municipalities.

Mr. Hardmeyer did say that most of this property is sold to a political subdivision or municipality.

Representative Thoreson, I think that's a good idea.

Hardmeyer, It could be workable, but could cause some problems.

Representative Kliniske, I have a problem with that idea.

Representative Metcalf, This land has been forfeited to begin with to the state of ND because they didn't pay their bills. What's the difference between that and a private bank, they would do what they have to in selling this parcel of land. Do we not have enough trust in our own people and organization to handle this. It's a matter of economic trusts and were not asking them to do anything different than a private institution would do.

Motion Passes: Do Pass **11-3**.

Representative Metcalf, Is the carrier for the bill.

Date: 2-26-99

Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2136

House GOVERNMENT AND VETERANS AFFAIRS Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken DO PASS AMENDED

Motion Made By KLEMIN Seconded By GRANDE

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN KLEIN	✓		REP. WINRICH		✓
VICE-CHAIR KLINISKE	✓				
REP. BREKKE	✓				
REP. CLEARY	✓				
REP. DEVLIN					
REP. FAIRFIELD		✓			
REP. GORDER	✓				
REP. GRANDE	✓				
REP. HAAS	✓				
REP. HAWKEN	✓				
REP. KLEMIN	✓				
REP. KROEBER	✓				
REP. METCALF	✓				
REP. THORESON		✓			

Total (Yes) 11 No 3

Absent 1

Floor Assignment MET CALF

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

**REPORT OF STANDING COMMITTEE**

SB 2136, as engrossed: **Government and Veterans Affairs Committee (Rep. Klein, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2136 was placed on the Sixth order on the calendar.

Page 1, line 13, remove "However, the Bank of North Dakota shall send notice of the proposed sale or"

Page 1, remove lines 14 and 15

Page 1, line 16, remove "documents."

Renumber accordingly

**1999 TESTIMONY**

**SB 2136**

TESTIMONY TO THE  
SENATE GOVERNMENT AND VETERANS AFFAIRS COMMITTEE  
SENATE BILL 2136  
ERIC HARDMEYER - BANK OF NORTH DAKOTA

The Bank of North Dakota supports Senate Bill 2136 which amends 6-09-37 and allows for the bank to sell its acquired property with an appraised value of less than \$10,000 in a manner suitable for the circumstances. This amendment will allow the bank to expedite and reduce the costs associated with the sale of small parcels of property.

In 1989, through a legislative act, the Bank of North Dakota began to manage property that it had acquired through legal action or deed back activity. Such activity, although infrequent, is a normal and vital part of the banking business. The land is eventually resold in accordance with chapter 15-07 of the ND Century Code. This process requires the Bank of North Dakota to advertise the sale and then hold a public auction. In the past, the Bank of North Dakota has been asked to sell small parcels of land with minimal value but, has declined because it is not cost effective with such requirements.

Therefore, it is recommended that the Bank of North Dakota be authorized to negotiate and sell appraised property with a value of less than \$10,000 in a manner appropriate to the Bank of North Dakota.

ond to indemnify state for col-  
1995, ch. 162, § 8.

5

OTHER RIGHTS

logist — State department of  
epartment of health, on the request  
ls, shall visit any land leased under  
of the visit to the board. The state  
h may not receive a fee for making  
aid necessary expenses incurred in

ction 6 of chapter 54, S.L. 1995 became  
ective August 1, 1995.

15-06  
GRANT LANDS

ed. The term "original grant  
tofore have been or hereafter  
States for the support and  
r the support and maintenance of  
North Dakota youth correctional  
e school for the deaf, any normal  
or charitable institution, and any  
state through a trade of any such  
s which have been sold on contract  
s until the contract has been paid

ion 25 of chapter 120, S.L. 1995 became  
ective August 1, 1995.

15-06-20. Coal lands not to be sold but may be leased. Repealed  
by S.L. 1995, ch. 162, § 8.

CHAPTER 15-07

SALE AND LEASE OF NONGRANT LANDS

Section  
15-07-10. Mortgagor has right to repurchase.

15-07-10. **Mortgagor has right to repurchase.** If any mortgagor or  
a member of the mortgagor's immediate family, including a father, mother,  
son, daughter, brother, sister, or spouse, desires to repurchase land lost  
through foreclosure or by a deed given in lieu of foreclosure, such repurchase  
may be made by matching the highest bid within one hour after public sale.  
The terms and conditions of any sale under this section must be established  
by the board of university and school lands, consistent with this title and the  
fiduciary responsibilities of the board.

Source: S.L. 1939, ch. 224, § 2, subs. 12; section 1 of chapter 164, S.L. 1995 became  
R.C. 1943, § 15-0710; S.L. 1987, ch. 193, § 4; effective August 1, 1995.  
1995, ch. 164, § 1.

Effective Date.  
The 1995 amendment of this section by

CHAPTER 15-08

PROVISIONS RELATING TO ORIGINAL GRANT AND TO  
NONGRANT LANDS

Section  
15-08-25. Lease or sale of public lands tra-  
versed or bisected by a high-

way, road, railroad, canal,  
river, or lake.

15-08-25. **Lease or sale of public lands traversed or bisected by  
a highway, road, railroad, canal, river, or lake.** All boards, depart-  
ments, and officials of government are authorized and permitted to lease or  
sell school and public lands traversed or bisected by a highway, road, or  
railroad, canal, river, or lake as two or more separate parcels, each of which  
may be leased or sold separately or together with an adjoining tract. Lands  
consisting of less than one hundred usable acres [40.47 hectares] may either  
be leased or sold separately or with tracts in the same section or adjacent  
section.


Source: S.L. 1947, ch. 159, § 1; R.C. 1943, section 6 of chapter 162, S.L. 1995 became  
1957 Supp., § 15-0825; S.L. 1987, ch. 191, effective August 1, 1995.  
§ 2; 1995, ch. 162, § 6.

Effective Date.  
The 1995 amendment of this section by

# BND

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BANK OF NORTH DAKOTA

TO: Senator Karen Krebsbach  
FROM: John Hoeven, President   
DATE: January 12, 1999  
RE: Appraisal requirements for acquired property

You had inquired about what the appraisal requirements were on property the Bank of North Dakota acquires and offers for sale. Chapter 15-07-10 (enclosed) requires that the terms and conditions of any sale must be established by the Board of University and School Lands. The board has established the procedure for land sales under its Acquired Properties Management Agreement, which the Bank of North Dakota follows.

Under this agreement, any sale of land requires the owner, (BND in this case) to hold a public sale, and the minimum acceptable bid must be the appraised value. Consequently, this agreement mandates that an appraisal must be done on the subject property.

In addition, SB 2136 states that the real estate have an appraised value of \$10,000 or less, so the new statute itself would require an appraisal.