

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION  
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2/100

2001 SENATE GOVERNMENT AND VETERANS AFFAIRS

SB 2100

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2100

Senate Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date January 18, 2001

Tape Number	Side A	Side B	Meter #
1	X		11.1-26.0
Committee Clerk Signature <i>James A. Kail</i>			

Minutes: Chairman Krebsbach opened the hearing on SB 2100 which relates to the prepayment by the North Dakota mill and elevator association to contractors for construction or equipment; and to declare an emergency. Appearing before the committee in support of the proposed legislation was Vance Taylor, President and General Manager of the State Mill and Elevator Association. A copy of his written testimony is attached. Mr. Taylor indicated that with this bill there are some proposed amendments which deal primarily with removal of some specific references which Mr. Taylor feels are not applicable to the mill. Chairman Krebsbach indicated to the committee that there is a Fiscal Note attached to this bill. The clerk was instructed to read the narrative to the committee. Senator T. Mathern indicated that on page 2, line 1 through 7, there is the wording regarding 95% of the contract. He wondered if there really was a need to be that specific in law. As he listened to the testimony, Mr. Taylor was looking for some ability to be flexible in terms of contracts and then it would be put into law in specifics. What is the reason for that amount? Mr. Taylor indicated that that portion of the language deals with

retainage on a contract and when the retainage should be paid, and he believed that this portion of the language relates to retainage and not the down payment. Chairman Krebsbach so in other words if the project is not 95% complete there would be no payment? Mr. Taylor Madam Chairman, the intent of this bill would be to allow us to make a prepayment up front at the very beginning of the contract. The bids are put out, we award the bid to a certain contractor, it's a specialized job, for the contractor to be comfortable with that he might require a payment of a certain percentage of the contract up front before the construction actually begins. At present we would be required to actually receive the equipment and sign the receiving ticket before any payment was made. It's quite common with equipment manufacturers especially smaller manufacturers to require down payments up front for customized equipment. Karlene Fine indicated to the committee that when counsel drafted this legislation looked for what the legislature has approved for municipalities and this was actual language taken from a section of the code and there the legislature has said what they need to have. We didn't create anything new for the mill, we just took what was already in the code for the municipalities and applied it to the mill and elevator association. We did add some new language which you can see in lines 17 through 24 which talks about equipment. Questions and discussion continued with questions and comments offered by Senators Mathern, Krebsbach, Kilzer, Wardner, Dever, and C. Nelson. Responses we offered by Karlene Fine and Vance Taylor (meter #'s 16.7-23.0, Tape 1, Side A) There was no additional testimony offered in support of, neutral position, or in opposition to SB 2100. The hearing was closed at this time. A motion for Adoption of Amendments to SB 2100 was made by Senator C. Nelson, seconded by Senator T. Mathern. No discussion. Roll Call Vote indicated 6 Yeas, 0 Nays, 0 Absent or Not Voting. A motion for Do Pass as Amended was

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Senate Government and Veterans Affairs Committee

Bill/Resolution Number SB 2100

Hearing Date January 18, 2001

made by Senator C. Nelson seconded by Senator Wardner. Roll call vote indicated 6 Yeas, 0

Nays, 0 Absent or Not Voting. Senator C. Nelson will carry the bill.

# FISCAL NOTE

Requested by Legislative Council  
12/22/2000

Bill/Resolution No.: SB 2100

Amendment to:

**1A. State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

**1B. County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

**2. Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

The Mill is unable to identify specific savings for each biennium. Currently the Mill is not planning on any major projects within the near future. During the construction of the current \$19.5 Mill renovation and expansion project, the Mill experienced time delays because of its inability to prepay for specialized equipment. It is estimated that the delays cost the Mill more than \$200,000. The Mill believes that having the flexibility to prepay a contractor for specialized equipment will allow a project to be completed in a more timely manner and will result in savings.

**3. State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

**A. Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

**B. Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Karlene Fine	Agency:	Industrial Commission
Phone Number:	328-3722	Date Prepared:	01/16/2001

**PROPOSED AMENDMENTS TO SENATE BILL NO. 2100**

**Page 2, line 8, remove "forward the same to the city auditor or other official having the power to draw"**

**Page 2, line 9, remove "warrants, who shall"**

**Page 2, line 11, remove "or the proper officer"**

**Page 2, line 12, remove "required to issue the warrant falls or neglects to issue a warrant as provided in this section,"**

**Renumber accordingly**



Date: 1/18/61  
Roll Call Vote #: 1

**2001 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 2100**

Senate GOVERNMENT AND VETERAN'S AFFAIRS Committee

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

Legislative Council Amendment Number 18149.0101

Action Taken Adopt Amendments

Motion Made By Sen C Nelson Seconded By Sen. T Matherne

[illegible]

Total (Yes) 6 No 0

Absent 0

### Floor Assignment

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

Date: 1/18/01  
Roll Call Vote #: 2

**2001 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 2100**

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. C Nelson Seconded By Sen. Gardner

[illegible]

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen. C Nelson

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

**REPORT OF STANDING COMMITTEE (410)**  
January 19, 2001 7:31 a.m.

**Module No: SR-09-1259**  
**Carrier: C. Nelson**  
**Insert LC: 18149.0101 Title: .0200**

**REPORT OF STANDING COMMITTEE**

**SB 2100: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman)**  
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends  
**DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2100 was placed  
on the Sixth order on the calendar.

Page 2, line 8, remove "forward the same to the city auditor or other official having the power  
to draw"

Page 2, line 9, remove "warrants, who shall"

Page 2, line 11, remove "or the proper officer"

Page 2, line 12, remove "required to issue the warrant fails or neglects to issue a warrant as  
provided in this section,"

Renumber accordingly

2001 HOUSE GOVERNMENT AND VETERANS AFFAIRS

SB 2100

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2100

House Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 3/2/01

Tape Number	Side A	Side B	Meter #
I	X		323-750
Committee Clerk Signature <i>Robin L. Small</i>			

Minutes:

REP. M. KLEIN called the hearing to order with all members present.

In favor:

VANCE TAYLOR, PRESIDENT AND GENERAL MANAGER NORTH DAKOTA MILL  
AND ELEVATOR ASSOCIATION

Please see attached testimony.

REP. M. KLEIN asks about line 7 and 8. TAYLOR explains them to the committee.

REP. KROEBER asks how much of the remodeling has been done to date? TAYLOR replies  
that 90% is done.

REP. M. KLEIN asks when the project is complete it is hoped to earn double? TAYLOR replies  
yes, that is the plan.

No opposition.

No further testimony the hearing was then closed.

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House Government and Veterans Affairs Committee

Bill/Resolution Number SB 2100

Hearing Date 3/2/01

REP. KASPER motioned for a DO PASS, seconded by REP. BRUSEGAARD. The roll call was taken with 15 YES, 0 NO. The motion carries. The carrier of the bill is REP. METCALE.

SB 2100: DO PASS 15-0

CARRIER: REP. METCALE

Date: 3/2/01

Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2100

House GOVERNMENT AND VETERANS AFFAIRS Committee

☐ Subcommittee on \_\_\_\_\_

or

☐ Conference Committee

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

Action Taken DO Pass

Motion Made By Hopewell Seconded By Brusegaard

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN KLEIN	✓		REP KROEBER	✓	
VICE CHAIR GRANDE	✓				
REP BELLEW	✓				
REP BRUSEGAARD	✓				
REP CLARK	✓				
REP DEVLIN	✓				
REP HAAS	✓				
REP KASPER	✓				
REP KLEMIN	✓				
REP MEIER	✓				
REP WIKENHEISER	✓				
REP CLEARY	✓				
REP HUNSKOR	✓				
REP METCALF	✓				

Total (Yes) 15 No 0

Absent \_\_\_\_\_

Floor Assignment Rep. Metcalf

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

**REPORT OF STANDING COMMITTEE (410)**  
**March 2, 2001 9:36 a.m.**

**Module No: HR-36-4666**  
**Carrier: Metcalf**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2100, as engrossed: Government and Veterans Affairs Committee (Rep. M. Klein, Chairman) recommends DO PASS (15 YEAS, 0 NAYS, 0 ABSENT AND NO VOTING). Engrossed SB 2100 was placed on the Fourteenth order on the calendar.**



2001 TESTIMONY

SB 2100



Testimony on Senate Bill No. 2100  
By Vance Taylor  
President & General Manager  
North Dakota Mill & Elevator Association  
January 18, 2001

Chairman Krebsbach and Senators:

My name is Vance Taylor, President and General Manager of the North Dakota Mill and Elevator Association. I am appearing today in support of Senate Bill No. 2100.

Current law does not allow the State Mill to make down payments or prepayments on purchases of equipment. Some vendors could decide not to do business with the State Mill or the vendor may increase pricing over what they would have quoted had the Mill had the ability to make a down payment. In the case of a major project, vendors may prioritize shipments of higher value items over construction schedules in order to create large invoices.

Making down payments or prepayments is a common practice when a vendor customizes a product to fit the requirements of a customer. In this case the vendor requests payment for the customization work as it is performed. If the State Mill is unable to do this, the vendor could refuse to quote on the project or increase prices.

Senate Bill 2100 tracks the language in other sections of the law for municipalities and state entities, but only allows the State Mill to make a prepayment or deposit under certain conditions. Senate Bill 2100 also requires that any money retained must be deposited at the Bank of North Dakota. Senate Bill 2100 requires the participation of the Mill Manager and has the condition of Industrial Commission approval of prepayments upon review of provisions and determination that the State's interests are protected.

In reviewing this legislation in preparation for today's hearing, I realized that a portion of the language copied from other parts of the North Dakota Century Code is not applicable to the State Mill. Therefore, I am proposing the attached amendments that would remove those references to "the city auditor" or "the proper officer" found on page two of Senate Bill 2100.

This concludes my presentation. Thank you for your time and consideration. I will be happy to answer any questions.



Testimony on Engrossed Senate Bill No. 2100

By Vance Taylor

President & General Manager

North Dakota Mill & Elevator Association

March 2, 2001

Mr. Chairman and Representatives:

My name is Vance Taylor, President and General Manager of the North Dakota Mill and Elevator Association. I am appearing today in support of Engrossed Senate Bill No. 2100.

Current law does not allow the State Mill to make down payments or prepayments on purchases of equipment. Some vendors could decide not to do business with the State Mill or the vendor may increase pricing over what they would have quoted had the Mill had the ability to make a down payment. In the case of a major project, vendors may prioritize shipments of higher value items over construction schedules in order to create large invoices.

Making down payments or prepayments is a common practice when a vendor customizes a product to fit the requirements of a customer. In this case the vendor requests payment for the customization work as it is performed. If the State Mill is unable to do this, the vendor could refuse to quote on the project or increase prices.

This Bill tracks the language in other sections of the law for municipalities and state entities, but allows the State Mill to make a prepayment or deposit under certain conditions. This Bill also requires that any money retained must be deposited at the Bank of North Dakota. The Bill requires the participation of the Mill Manager and has the condition of Industrial Commission approval of prepayments upon review of provisions and determination that the State's interests are protected.

This concludes my presentation. Thank you for your time and consideration. I will be happy to answer any questions.