

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2095

2005 SENATE POLITICAL SUBDIVISIONS

SB 2095

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2095

Senate Political Subdivisions Committee

☐ Conference Committee

Hearing Date January 13, 2005

Tape Number	Side A	Side B	Meter #
1	X		3084 - 6004
Committee Clerk Signature <i>Shirley Borg</i>			

Minutes:

**Senator Cook** opened the hearing on SB 2095 relating to notice to county auditors when trust fund property is sold by contract. All committee members (6) present.

**Gary Preszler**, Commission North Dakota State Land Department, testified in support of SB 2095 (See attachment #1)

**Senator Cook** : You mention that the process you follow now is to get the title recorded and then give it to the grantee. Are you required to do that?

**Gary Preszler**: No, it is not required but they do it because many were not recorded in the past. We have done it for the last twenty years.

**Senator Cook**: Does this legislation only apply to land sold under contract for deed?

**Gary Preszler**: Yes

**Senator Triplett:** Do you think your policies are adequately stated in your office, so that when you leave office, the next commissioner will know to follow the routine in terms of always recording at the time of the sale.

**Gary Preszler:** Yes, if it is not specifically in the policies that the board has adopted, it is put in check lists and that check list would be followed.

**Senator Cook:** Should this be in code so that there is assurance it will continue on to the next commissioner.

**Gary Preszler:** I am confident this is not a problem; number 1, I think sales of the land in the future are going to be very limited; number 2, we record the documents; number 3, we are doing the recording at public auctions with the county, so they are aware of it. With today's communication, our records are open so people can find information on the internet.

**Senator Triplett:** Note that the line just prior to the line that is being deleted does state a requirement, so it is already clearly states in the law that it needs to be recorded on the tax rolls, it just doesn't say by who.

**Gary Preszler:** Also it makes it clear that property no longer has an exempt status as far as property taxes, because it is no longer held by the state.

**Senator Dever:** If we remove this language now would this be retroactive to any transactions that might be outstanding?

**Gary Presser:** No, legislation would not be retroactive unless it was specifically put in there that it was retroactive.

**Senator Dever:** Is there other state property that you have no control over, like game and fish, or state parks?

**Gary Preszler:** There are a lot of public agencies that own property We don't manage it for them, however we assist them.

**Senator Hacker:** Couldn't you just look at a plat map and see who the owner is of each piece of property. Every ones name is listed on the plat map.

**Gary Preszler:** That would be my expectation. You can get county atlas's but they are not continually up dated, also they don't provide assurance as to title, they only look at what is recorded.

No further testimony

**Senator Cook** closed the hearing on SB 2095

**Senator Triplett** moved a DO PASS on SB 2095

**Senator Fairfield** seconded the motion.

Roll call vote: 6 Yes 0 No 0 Absent

Carrier: **Senator Triplett**

Date: 1-13-05  
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2095

Senate Political Subdivisions Committee

☐ Check here for Conference Committee

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

Action Taken Do Pass

Motion Made By Senator Triplett Seconded By Senator Fairfield

Senators	Yes	No	Senators	Yes	No
Senator Dwight Cook, Chairman	✓				
Senator Nicholas P. Hacker, VC	✓				
Senator Dick Dever	✓				
Senator Gary A. Lee	✓				
Senator April Fairfield	✓				
Senator Constance Triplett	✓				

Total Yes 6 No 0

Absent 0

Floor Assignment Senator Triplett

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

Sc. Report  
1-13-05

**REPORT OF STANDING COMMITTEE (410)**  
January 13, 2005 1:28 p.m.

**Module No: SR-08-0430**  
**Carrier: Triplett**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2095: Political Subdivisions Committee (Sen. Cook, Chairman) recommends DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2095 was placed on the Eleventh order on the calendar.

2005 HOUSE POLITICAL SUBDIVISIONS

SB 2095



2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2095

House Political Subdivisions Committee

☐ Conference Committee

Hearing Date February 24, 2005

Tape Number	Side A	Side B	Meter #
1	x		2.5 to 14.2
Committee Clerk Signature <i>Laurie B. Zink</i>			

Minutes: **Rep. Devlin, Chairman** opened the hearing on SB 2095, A Bill for an Act to amend and reenact section 15-08-18.1 of the North Dakota Century Code, relating to notice to county auditors when trust fund property is sold by contract.

**Gary D. Preszler**, North Dakota State Land Commissioner appeared to speak in support of this bill which was sponsored the proposed legislation. The reason for the bill was the question of the personal liability of the Land Commissioner in the event he failed to notify a County Auditor of a sale. A copy of his prepared remarks is attached. His added comments were that the Land commissioner should be afforded the same status for liability protection as any other state employee.

**Rep. N. Johnson ( 7.2 )** Do you know when that provision requiring notice and the personal liability was placed on the books?

**Gary Preszler:** No -- I always intended to look back to see exactly but I do know that it was before the 1943 Revised Code --- maybe all the way back to statehood.

**Rep. Koppelman ( 7.4 )** Has any States Attorney sued -- used this provision?

**Gary Preszler** --- I doubt it.

**Rep. Koppelman** wouldn't the State be responsible if an employee didn't perform a fiduciary responsibility?

**Gary Preszler** There would be some State responsibility but this statute quite specific -- not for himself but for future Commissioners.

**Rep. Koppelman** I imagine errors and omissions premiums would be huge.

**Rep.Devlin, Chairman** This wouldn't really change anything as to the procedure or practice to record in the counties?

**Gary Preszler** No it won't change a thing as far as that goes.

**Rep. Herbal, Vice Chairman** Is there a procedure for putting State land up for sale?

**Garcy Preszler** -- yes there is a board Policy established in 1981. An enlarged explanation of how the policy was applied followed.

There being no further testimony neither for nor against **Rep.Devlin, Chairman** closed the hearing on SB 2095 ( 13.0 ).

**Rep. Herbal, Vice Chairman** moved a 'Do Pass' motion for SB 2095. **Rep. Maragos** seconded the motion. On a roll call vote the motion carried **11 ayes 0 nays 1 absent**. **Rep. Pietsch** was designated to carry SB 2095 on the floor. End of record ( 14.2 ).

Date: Feb. 24, 2005  
Roll Call Vote:

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2095

House POLITICAL SUBDIVISIONS Committee

☐ Check here for Conference Committee

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

Action Taken

Do Pass

Motion Made By

Rep. Herbel

Seconded By

Rep. Maragos

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

Total (Yes) 11 No 0

Absent 1

Floor Assignment

Rep. Pietsch

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

**REPORT OF STANDING COMMITTEE (410)**  
February 24, 2005 11:46 a.m.

**Module No: HR-34-3560**  
**Carrier: Pietsch**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

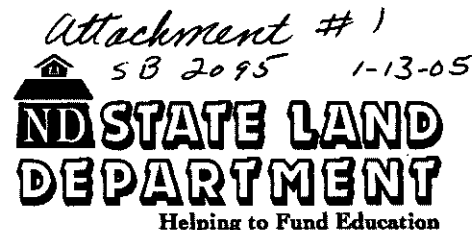
**SB 2095: Political Subdivisions Committee (Rep. Devlin, Chairman) recommends DO PASS (11 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2095 was placed on the Eleventh order on the calendar.**

2005 TESTIMONY

SB 2095

1707 North 9th Street  
PO Box 5523  
Bismarck, ND 58506-5523  
Phone: (701) 328-2800  
Fax: (701) 328-3650

[www.land.state.nd.us](http://www.land.state.nd.us)  
[www.discovernd.com](http://www.discovernd.com)



Gary D. Preszler, Commissioner

**TESTIMONY OF GARY D. PRESZLER  
COMMISSIONER  
North Dakota State Land Department**

**IN SUPPORT OF SENATE BILL NO. 2095**

**Senate Political Subdivision Committee  
January 13, 2005**

At the time of statehood the Federal Government granted, under the Enabling Act, sections 16 and 36 in each township for the support of the common schools. Under separate acts, additional lands were granted for support of various colleges, universities, the capitol, and other public institutions. The grant lands are exempt from assessment of property taxes.

It is my understanding that counties are concerned that once exempt property is sold they want to place the property on the tax rolls, and therefore the law (Section 15-08-18.1) makes the Commissioner potentially personally liable for failure to notify the County of the contract sale.

The Constitution allows for the sale of grant lands under a contract that can exceed 20 years, although the Board has limited the maximum term for 20 years for recent contract sales. Currently, the Land Department has only three remaining unpaid contracts. All of these contracts were issued over 20 years ago, but still have balances remaining due to restructuring of the contract when payments fell into arrears. Under the current law the Commissioner's personal liability could extend out for the entire contract term, which can exceed 20 years.

The Board of University and School Lands has a Land Retention/sale Policy that was first adopted in 1981, and since that time sale of any grant lands has been minimal.

For many years the Land Department merely gave a grantee the Deed, Patent, or Contract and expected them to have the documents recorded in the County Recorder's office. Oftentimes these documents did not get recorded. The Department, however, likely still provided some direct notification to the County. Relying on grantees to record the documents has been remedied over the past 20 years as the Department's current practice is to record the document and then provide it to the grantee. As a result, the Counties can be assured that they will be notified of a contract sale.

State employees are not immune from personal liability for any action which is considered gross negligence. The current and prospective Commissioners should also just be held to that same standard, but should not be personally responsible if a grantee did not record the document.

I ask the committee to grant favorable consideration and give SB2095 a "do pass" recommendation.