

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2097

2005 SENATE EDUCATION

SB 2097

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2097

Senate Education Committee

Conference Committee

Hearing Date 1/05/05

Tape Number	Side A	Side B	Meter #
1	xxx		2263-3469
Committee Clerk Signature <i>Patty Wilkens</i>			

Minutes: SB 2097 relates to mineral leasing activities of the Board of University and School Lands.

Senator Layton Freborg, Chairman called the meeting to order on SB 2097.

All Senators were present.

Testimony in support of the Bill:

Gary Preszler : (meter 2267) Commissioner of North Dakota State Land Department,
introduced the bill

See attached: written testimony.

Senator Erbele : You mention 5000 yds. where was that within your own rules or codes, where is that written?

Gary Preszler : Yes that is our own set of rules of the board that they adopted. 5000 yds.

Senator Erbele : So if there is anyone requesting for more than that, how do you deal with that?

Gary Preszler : Public bidding process where we do a notice and that we would have a public auction.

Senator Erbele : Had discussion with Gary Preszler about the minerals of the estate. (meter 2610)

Senator Flakoll : Couldn't the building have significant value. The face stone that is used for the front of buildings or that type of thing. That's 36 truckloads.

Gary Preszler : Yes, but the building stones, that minerals and sometimes if there is fields where stone has been piled and you just want removed, if it has significant value we can do public bidding process too. There is nothing that prevents us from doing a public bidding process.

So we could get a higher value for that.

Senator Flakoll : What do you do in the area of reclamation. I know it is a small amount, but there may be areas that need to be cleaned up. What do you do in the requirements of that.

Gary Preszler : We require in the lease agreements, that they stockpile on the top 12" and they spread it then after the mining is done, and that they re-seed it to native grass or whatever the vegetation was for that area. Also require that they reclaim haul roads. They're going to reclaim it to it's original state.

Senator Flakoll : Ask if he could ask one more ?

Senator Freborg : Asked Gary to come back to the podium.

Senator Flakoll : The university of school lands they get?? The minimum is 45 cents per yd. right? more discussion (meter 3000)

Gary Preszler : Rarely do we find there is a need for fill material, and we have only had one time that we did this. Sometimes we find that somebody's mined the clay without our knowledge or our permission. This is not very common though. more discussion (meter 3075)

Senator Erbele : In the past when school lands have been sold, and now have private ownership of the surface rate, gravel and clay and maintain the mineral rights, do you tend to look to lands you currently own or would you actually go after clays and minerals of private ownership land of the mineral rights?

Gary Preszler : (meter 3220) regarding the resource of trust, we will need to be compensated for that.

Senator Erbele : Is this law compared to the constitution or what are we really saying here?

Gary Preszler : Article 9 -Section 5 pertains to the sale of lands and the reformation of minerals and it is a definitions that they use for minerals where they describe sand, gravel and building stone, clay, that is the similarity to 2097. Trying to make the definition what's predominant within the constitution.

Testimony in opposition of SB 2097

There was no further discussion

Senator Freborg : closed the hearing on SB 2097

Senator G. Lee, Made a motion for a do pass on SB 2097, Seconded By, Senator Taylor.

There being no other discussion roll call vote was taken. vote: 6-0-0, vote was unanimous

Senator Taylor will carry the bill.

The meeting was adjourned.

FISCAL NOTE
Requested by Legislative Council
12/20/2004

Bill/Resolution No.: SB 2097

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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues		\$0		\$0		\$0
Expenditures		\$0		\$0		\$0
Appropriations		\$0		\$0		\$0

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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

The changes are simply process changes and clarifying language. There is no substantive changes to the statute and therefore, no fiscal impact.

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:	Keith Bayley	Agency:	Land Dept.
Phone Number:	328-1912	Date	12/22/2004
		Prepared:	

REPORT OF STANDING COMMITTEE (410)
January 5, 2005 11:47 a.m.

Module No: SR-02-0089
Carrier: Taylor
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2097: Education Committee (Sen. Freborg, Chairman) recommends DO PASS
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2097 was placed on the
Eleventh order on the calendar.

2005 HOUSE NATURAL RESOURCES

SB 2097

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2097

House Natural Resources Committee

Conference Committee

Hearing Date February 24, 2005

Tape Number	Side A	Side B	Meter #
1	x		929-1527
Committee Clerk Signature <i>Karen Bonnet</i>			

Minutes:

Chr. Jon O. Nelson: I'll open the hearing on SB 2097 and ask the clerk to read the title.

Absent: Porter, Drovdal, and DeKrey.

Mike Brand, ND State Land Dept.: (Written testimony attached) The bill makes the language exactly the same as that in the constitution, and making sure that we do have the legislative authority to work one to one on a fair market value basis with contractors for these short term projects such as roads.

Chr. Nelson: Are there any questions?

Rep. Darrell D. Nottestad: What about your terminology of building "stone" as underlined in the bill?

Brand: We have never actually used that. I'm not certain what that would be.

Nottestad: In certain parts of the eastern part of the state, lands that are heavily infested with rock and boulders are being mined. They go down about six feet and bring them to the surface.

Page 2

House Natural Resources Committee

Bill/Resolution Number SB 2097

Hearing Date February 24, 2005

The land is reclaimed afterward. In most cases it's pasture land. Has there ever been a question to use state school land for that type of an operation? And if not, maybe it is something that you need to be thinking about.

Brand: Yes, there have been requests and we have granted them in the past for riprap.

Nottestad: I wondered if they could equate that rock as building stone.

Brand: It could. Also, sometimes they mine it just to crush it because they like the stones because they get that angular gravel out of it.

Vice Chr. Todd Porter: Are there further questions? Seeing none, thank you for your testimony. Is there further supporting testimony? Seeing none, is there any opposition to SB 2097? Seeing none, we will close the hearing on SB 2097.

Rep. George J. Keiser: I move a do pass on SB 2097.

Rep. Dennis Johnson: Second.

Vice Chr. Porter: There has been a motion by Rep. Keiser for a do pass on SB 2097, and a second by Rep. Johnson. Discussion? Seeing none, the clerk will call the roll:

Do Pass, Vote:

11-Yeas; 0-Nays; 3-Absent; CARRIER: Keiser

Date: 2/24/05
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2097

House NATURAL RESOURCES Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken : No Pass

Motion Made By : Keiser Seconded By : Johnson

Representatives	Yes	No	Representatives	Yes	No
Chairman - Rep. Jon O. Nelson	<u>Ab</u>		Rep. Lyle Hanson	<u>✓</u>	
Vice Chairman - Todd Porter	<u>✓</u>		Rep. Bob Hunsakor	<u>✓</u>	
Rep. Dawn Marie Charging	<u>✓</u>		Rep. Scot Kelsh	<u>✓</u>	
Rep. Donald L. Clark	<u>✓</u>		Rep. Dorvan Solberg	<u>✓</u>	
Rep. Duane DeKrey	<u>Ab</u>				
Rep. David Drovdal	<u>Ab</u>				
Rep. Dennis Johnson	<u>✓</u>				
Rep. George J. Keiser	<u>✓</u>				
Rep. Mike Norland	<u>✓</u>				
Rep. Darrell D. Nottestad	<u>✓</u>				

Total (Yes) 11 No 0

Absent 3 - Nelson, DeKrey, Drovdal

Floor Assignment Keiser

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

REPORT OF STANDING COMMITTEE (410)
February 24, 2005 2:19 p.m.

Module No: HR-34-3620
Carrier: Kelser
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2097: Natural Resources Committee (Rep. Nelson, Chairman) recommends DO PASS
(11 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). SB 2097 was placed on the
Fourteenth order on the calendar.

2005 TESTIMONY

SB 2097

**TESTIMONY OF GARY PRESZLER
Commissioner
North Dakota State Land Department**

IN SUPPORT OF SENATE BILL NO. 2097

**Senate Education Committee
January 5, 2005**

Chairman Freborg, members of the Senate Education Committee, I am Gary Preszler, Commissioner of the Board of University and School Lands.

Senate Bill No. 2097 makes the language in Section 15-05-18 consistent with the State Constitution and ensures that leases of clay and fill material can be managed by the Board of University and School Lands in the same manner that the Board manages the leasing of other "surface minerals".

Section 15-05-18 was passed during the 1987 legislative session to correct a long-standing problem that required counties, townships, cities and other State agencies to go to public auction to lease small quantities of construction aggregate (sand and gravel) from the Board of University and School Lands. In addition, seasonal projects by private construction firms often had to bypass State sand and gravel deposits because of the cumbersome bidding process for small amounts of material. The need for small mining projects is usually dependent on local road projects and it is to the advantage of the trust funds to work directly with the contractor who is doing the road project. In other words, the demand for material is because of a local project and that demand disappears once the project is done. This section has worked well for its intended purpose of allowing the trust funds to generate revenue from leasing for short-term needs for smaller amounts of material. For long-term needs and for larger amounts, the Board still follows a bidding process to obtain the highest return.

A negotiated price based on prevailing local market rates is the method currently used for leasing of small quantities of aggregate, which would also be the method used for clay and fill material if SB2097 is enacted.

Clay and fill material are also frequently needed for short-term projects such as road building and for dikes. By making this change to Section 15-05-18, it would clarify the legislature's intent with regard to all "surface minerals" used for construction projects and allow the Board to use a single procedure for "surface minerals". Changes to this section would not affect sub-surface minerals (oil and gas or coal).

I ask the committee to grant favorable consideration and give SB2097 a "do pass" recommendation.

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

www.land.state.nd.us
www.discovernd.com



Gary D. Prezler, Commissioner

**TESTIMONY OF MIKE BRAND
Director of Surface Management
North Dakota State Land Department**

IN SUPPORT OF SENATE BILL NO. 2097

**House Natural Resources Committee
February 24, 2005**

Chairman Nelson, members of the House Natural Resources Committee, I am Mike Brand, Director of Surface Management for the State Land Department.

Senate Bill No. ²⁰⁹⁷~~1110~~ makes the language in Section 15-05-18 consistent with the State constitution and ensures that leases of clay and fill material can be managed by the Board of University and School Lands in the same manner that they manage the leasing of other "surface minerals" such as sand, gravel and scoria.

Section 15-05-18 was passed during the 1987 legislative session to correct a long standing problem that required counties, townships, cities and other State agencies to go to public auction to lease small quantities of construction aggregate (sand and gravel) from the Board of University and School Lands. In addition, seasonal projects by private construction firms often had to bypass State sand and gravel deposits because of the cumbersome bidding process for small amounts of material. The need for small mining projects is usually dependent on local road projects and it is to the advantage of the trust funds to work directly with the contractor who is doing the road project. In other words, the demand for material is because of a local project and that demand disappears once the project is done. This section has worked well for its intended purpose of allowing the trust funds to generate revenue from leasing for short term needs for smaller amounts of material. For long term needs and for larger amounts, the Board still follows a bidding process to obtain the highest return.

A negotiated price based on prevailing local market rates is the method currently used for leasing of small quantities of aggregate, which would also be the method used for clay and fill material if SB2097 is enacted.

Clay and fill material are also frequently needed for short term projects such as road building and for dikes. By making this change to Section 15-05-18, it would clarify the legislature's intent with regard to all "surface minerals" used for construction projects and allow the Board to use a single procedure for "surface minerals". Changes to this section would not affect sub-surface minerals (oil and gas or coal).

I ask the committee to grant favorable consideration and give SB2097 a "do pass" recommendation.