

# MICROFILM DIVIDER

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



ROLL NUMBER

DESCRIPTION

2124

2005 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2124

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2124

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 1-12-05

Tape Number	Side A	Side B	Meter #
1		xxx	450-1100
Committee Clerk Signature <i>Lisa VanBerkom</i>			

Minutes: **Chairman Mutch** opened the hearing on SB 2124. All Senators were present.

**SB 2124** relates to the powers of annuity, safe deposit, surety, and trust companies.

**Tim Karsky**, Commissioner of the Department of Financial Institutions, introduced the bill.

See attached testimony.

**Senator Espgaard** : Have you had a problem with someone?

**Tim**: We get calls, periodically, for people that want to form a trust company, because they think when they first read that language that they can form a trust company in jet capitol and then maybe do some type of lending activity out of there, like a bank would do. Our opinion is that is that if a trust company has a farm account or farm assets under management and they decide to sell the land. We pick the authority to where the money goes to lend to sell the land on contract for deed or maybe make a loan out of somebody's trust account, per the instructions of the trust agreement. It was never intended that a trust company could just go out and lend money like a bank or credit union, or savings and loan.

**Senator Espegard :** I have, and you are aware of, a trust company that is trying to get sold, this isn't legislation that particularly puts the death nail on that thing, is it?

**Tim:** No that state trust company is finished now. That's the one that you have been talking about. That has gone through the state supreme court process and is in receivership and is being dissolved. But that particular trust company, every person in the country came in thinking this place had banking powers to lend money and issue credit cards for gambling on the Internet and all types of activity.

**Senator Espegard :** That's probably the reason for the legislation.

**Senator Nething :** You talk about a Supreme Court case and you talk about the outcome, but you don't tell us how that relates to the bill.

**Tim:** We think that the language in the bill right now creates confusion for future people that come in and want to apply for trust company activities. They may not WANT to lend money right away, but later on they do and want to get into that, we feel that that lending aspect is not to be in these trust companies.

**Senator Nething :** I understand that, I want to know what that case did that addressed that issue?

**Tim:** Nodak State Trust Company, there was a trust company that was formed back in the early 1960's and never was activated. Then in the late 1980's, the trust company was sold to some people here in Bismarck, and high profile people got involved. It never got off the ground, had a lot of expenses, ate up the capital, and the former commissioner, Gary Pressler, placed the trust company into conservator ship in 1990. It sat in conservator ship for twelve years. I then received a call about Nodak State Trust Company and the ability to sell this thing. Then we spent two and

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Senate Industry, Business and Labor Committee

Bill/Resolution Number SB 2124

Hearing Date 1-12-05

a half years in litigation and thousands of dollars trying to move that out of conservator ship and now we have it in receivership and it is sold.

**Senator Nething :** This bill, as I understand it, says you can't loan money. What is there in the Nodak State Trust Company Supreme Court decision that addresses that issue?

**Tim:** The 1963 case said that the trust company didn't have banking powers unless they were authorized by the state banking board. The people that were trying to sell Nodak State Trust Company, when they sold it and marketed it, they said they had banking powers when they told people they could make loans and they couldn't.

**Chairman Mutch:** Prior to 1963, it was discovered that trust companies had full authority.

**Tim:** The Secretary of State authorized it back then.

**Senator Espegard :** So, what you are saying is Nodak State is totally done now? There's no value?

**Tim:** Yes, it's done.

**There was no opposition. Hearing was closed. No action was taken.**

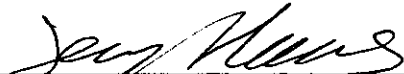
2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2124

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date January 19, 2005

Tape Number	Side A	Side B	Meter #
2	X		5,410-5,690
Committee Clerk Signature 			

Minutes:

Vice-Chairman Klein opened discussion on SB 2124, relating to trust companies. All Senators were present with the exception of Senator Mutch.

**Senator Espegaard moved a Do Pass recommendation on SB 2124. Seconded by Senator Krebsbach.**

**SB 2124 passes unanimously. Senator Espegaard is the carrier of the bill.**

Date: 1-19-05  
Roll Call Vote #: 7

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

Senate Industry, Business and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 2124

Action Taken DO PASS

Motion Made By Espegard Seconded By Krebsbach

Senators	Yes	No	Senators	Yes	No
Senator Mutch, Chairman			Senator Fairfield	X	
Senator Klein, Vice Chairman	X		Senator Heitkamp	X	
Senator Krebsbach	X				
Senator Nething	X				
Senator Espegard	X				

Total (Yes) 6 No 0

Absent 1

Floor Assignment Espegard

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

**REPORT OF STANDING COMMITTEE (410)**  
January 19, 2005 3:05 p.m.

**Module No: SR-12-0729**  
**Carrier: Espegard**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2124: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends DO PASS (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2124 was placed on the Eleventh order on the calendar.**



2005 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2124

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2124

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 2-28-05

Tape Number	Side A	Side B	Meter #
1	x		48.0-end
Committee Clerk Signature <i>Jody Renke</i>			

Minutes:

**Chairman Keiser:** Opened the hearing on SB 2124.

**Tim Karsky, Commissioner, Department of Financial Institutions:** Appeared in support of bill and also provided a written statement (SEE ATTACHED TESTIMONY).

**Representative Keiser:** Does this mean they can loan money?

**Tim Karsky:** If your original trust payment. lets say your estate is set up you have some money in there and your provided that you want to make your estate grow by lending money to certain sections, and your individual trust agreement can do it, but the trust company itself could not answer and advertise to lend money to private individuals like a bank or credit union or savings and loan.

**Marilyn Foss, General Counsel, North Dakota Bankers Association:** Appeared in support of the bill but did not offer and written testimony. This bill will make it clear that trust companies are not in the business of lending money.

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House Industry, Business and Labor Committee  
Bill/Resolution Number SB 2124  
Hearing Date 2-28-05

**Representative Ekstrom:** I move a **DO PASS** on SB 2124.

**Representative Thorpe:** I **SECOND** the **DO PASS** motion on SB 2124.

Motion carried **VOTE: 14-YES 0-NO 0-Absent.**

**Representative Boe** will carry the bill on the floor.

Hearing adjourned.

Roll Call Vote #: 1 Date: 2-28-05

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2124

House INDUSTRY, BUSINESS AND LABOR Committee

☐ Check here for Conference Committee

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

Action Taken Do Pass

Motion Made By Rep. Ekstrom Seconded By Rep. Thorpe

Representatives	Yes	No	Representatives	Yes	No
G. Keiser-Chairman	X		Rep. B. Amerman	X	
N. Johnson-Vice Chairman	X		Rep. T. Boe	X	
Rep. D. Clark	X		Rep. M. Ekstrom	X	
Rep. D. Dietrich	X		Rep. E. Thorpe	X	
Rep. M. Dosch	X				
Rep. G. Froseth	X				
Rep. J. Kasper	X				
Rep. D. Nottestad	X				
Rep. D. Ruby	X				
Rep. D. Vigesaa	X				

Total (Yes) 14 No 0

Absent -0-

Floor Assignment Rep. Boe

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

**REPORT OF STANDING COMMITTEE (410)**  
February 28, 2005 11:35 a.m.

**Module No: HR-36-3754**  
**Carrier: Boe**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2124: Industry, Business and Labor Committee (Rep. Kelser, Chairman) recommends DO PASS (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2124 was placed on the Fourteenth order on the calendar.**

2005 TESTIMONY

SB 2124

1-12-05

## TESTIMONY FOR SENATE BILL NO. 2124

Senate Industry, Business, and Labor Committee

Testimony of Timothy J. Karsky, Commissioner, Department of Financial Institutions, in support of Engrossed Senate Bill No. 2124.

Chairman Mutch and members of the Senate Industry, Business, and Labor Committee, I am Timothy Karsky, Commissioner of the Department of Financial Institutions. I am here to testify in support of Senate Bill No. 2124.

Mr. Chairman and members of the Committee, Senate Bill No. 2124 pertains to Section 6-05-08 of the North Dakota Century Code regarding corporate powers for trust companies.

The Department has always interpreted this Section of law that trust companies do not have the authority to loan money unless it is within the parameters of the original trust agreement. The Department believes that the amendment will remove any confusion regarding this power in the future.

The Department had a trust company which was placed in conservatorship, known as NoDak State Trust Company. There was a considerable amount of litigation regarding whether or not individual trust companies had banking powers which included the ability to lend money. There has been a Supreme Court case that has decided this issue in 1963 and recently the Department was successful in

the outcome of the NoDak State Trust Company in the North Dakota Supreme Court.

Mr. Chairman and members of the Committee, I would urge your support of Senate Bill No. 2124.

Thank you.



2-28-05

TESTIMONY FOR SENATE BILL NO. 2124

House Industry, Business, and Labor Committee

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The Department had a trust company which was placed in conservatorship, known as NoDak State Trust Company. There was a considerable amount of litigation regarding whether or not individual trust companies had banking powers which included the ability to lend money. There has been a Supreme Court case that has decided this issue in 1963 and again in 2004. I believe that this

amendment will remove any future confusion regarding trust powers and will hopefully eliminate any future litigation on this matter. Mr. Chairman and members of the Committee, I would urge your support of Senate Bill No. 2124.

Thank you.