

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2080

2005 SENATE FINANCE AND TAXATION

SB 2080

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2080

Senate Finance and Taxation Committee

☐ Conference Committee

Hearing Date **January 5, 2005**

Tape Number	Side A	Side B	Meter #
#1	X		19.6 - 25.5
Committee Clerk Signature <i>Sharon Renshaw</i>			

Minutes: All members present

SEN. URLACHER called the Committee to order and opened the hearing on SB 2080.

KELLY SCHMIDT, State Treasurer, appeared stating The NDCC states that 63% of the amount in the highway tax distribution fund must be transferred monthly to the state highway fund and 37% must be allocated to the counties and subsection 2 also states that the cities' share is 27% of the counties' share. This is just a house keeping issue and will give clarification of some things that need to be adjusted in order for us to have some more clear indication of the law and whether the cities' share is actually limited to 27% of the counties share. Our office recommends a do pass.

SEN. URLACHER: So this has been a problem as far as interpretation in the past?

KELLY SCHMIDT: What we are doing is just tweaking the law to make sure it is truly the way it was intended.

SEN. WARDNER: Give example of way it was before.

KELLY SCHMIDT: A piece that was given to me from the State Auditor's Office regarding the audit and it just said that based on subsection 2, that the cities' share is 27% of the counties share. The subsection also provides for the allocation between the cities and sets forth a special allocation method for cities located in a county that contains a city with a greater population of 10,000. When this special allocation method is applied literally, the amount allocated to the cities becomes greater than the 27% share that should be set forth.

SEN. COOK: So if we pass this law, is it possible that some cities will get less money.

KELLY: No.

No further testimony so the hearing was closed.

SEN. WARDNER: motioned a DO PASS, seconded by Sen. Every. Voice vote was unanimous in favor of a DO PASS, motion carried. VOTE: 6-0-0. Sen. Wardner will carry the bill.

FISCAL NOTE

Requested by Legislative Council
12/29/2004

Bill/Resolution No.: SB 2080

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						
Expenditures						
Appropriations						

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 fiscal impact of this bill is \$0. The objective is clarification of language relating to the most recently enacted provisions of the Highway Tax distribution.

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:	Lawrence Hopkins	Agency:	State Treasurers Office
Phone Number:	328-4694	Date Prepared:	01/03/2005

Date: 1-5-05
Roll Call Vote #:

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2080

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Wardner Seconded By Every

[illegible]

Total (Yes) 6 No 0

Absent

Floor Assignment Wardrobe

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

REPORT OF STANDING COMMITTEE (410)
January 5, 2005 12:32 p.m.

Module No: SR-02-0092
Carrier: Wardner
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2080: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2080 was placed on the Eleventh order on the calendar.

2005 HOUSE EDUCATION

SB 2080

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2080

House Finance and Taxation Committee

☐ Conference Committee

Hearing Date **February 15, 2005**

Tape Number	Side A	Side B	Meter #
1	X		1
Committee Clerk Signature <i>Janice Stein</i>			

Minutes:

REP. WES BELTER, CHAIRMAN Called the committee hearing to order.

KELLY SCHMIDT, NORTH DAKOTA STATE TREASURER Introduced the bill. See written testimony.

REP. WEILER Can you give me a breakdown of where the money comes from that goes into the highway tax distribution fund?

PAUL WELK, STATE AUDITOR'S OFFICE Answered Rep. Weiler's question. The money that goes in there is motor vehicle registrations, fuels tax, special fuels tax, use taxes and special fuel excise taxes. Of those monies, sixty three percent go to the state highway fund, thirty seven percent goes to the counties, but, of the amount that goes to the counties, twenty seven percent goes to the cities. The conflicting portion that we saw in the law, when we audited, was that the law stated that twenty seven percent was to be the cities' share, but when you look further in that section of code, it has a distribution formula as to how those monies will be distributed to the

cities, so if you follow that distribution formula, literally, it ended up that you were actually allocating more then that twenty seven percent to the cities, so you couldn't do both. You either have to follow the twenty seven percent limit, or follow the distribution formula. It didn't matter to us how it was done, but we pointed out that there was a conflict in the law. This is the route that was chosen to abide by the law. The actual distributions that have been made, have been following the formula.

REP. BELTER It is twenty seven percent of the thirty seven percent, that goes to the cities?

PAUL WELK That is correct.

REP. DROVDAL Does the language in SB 2080 change any distribution among the counties, as far as any revenue they will receive?

PAUL WELK It won't change the way they have been receiving it for years. That twenty seven percent that they are getting, that really hasn't been followed. They have been following the actual distribution formula in that section of the code. This bill will keep it consistent with the way they have been receiving funds for years.

REP. HEADLAND It appears to me, the counties should get their fair share, I would like to see the counties get what they have coming.

PAUL WELK From our perspective, we didn't care one way or another, there was no way to be in compliance with the entire law, because those sections were in conflict. The previous state treasurer went this route, to be consistent with the way they had been distributing those funds for several years. They decided to get rid of the twenty seven percent language and just stick with the formula.

REP. BRANDENBURG There is a highway fund and a highway distribution fund. One fund, goes directly into DOT, and the other goes into the state aid distribution, what is this bill doing, is it changing anything or shifting money?

PAUL WELK Nothing would change as to how the distributions are made. When the language was changed some years ago, they introduced a conflict by putting the twenty seven percent in there and then later writing a formula that would not result in that twenty seven percent. It was just poorly written, this will just clarify it.

REP. WEILER Asked for the different funds again.

With no further testimony, the committee hearing was closed.

COMMITTEE ACTION Meter #18

REP. BRANDENBURG Made a motion for a **DO PASS**.

REP. OWENS Second the motion. **MOTION CARRIED**

11 YES 0 NO 3 ABSENT

REP. GRANDE Was given the floor assignment.

Date: **2-15-05**
Roll Call Vote #: **1**

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. **SB 2080**

House FINANCE & TAXATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep. Brandenburg Seconded By Rep. Owens

Representatives	Yes	No	Representatives	Yes	No
BELTER, WES, CHAIRMAN	✓				
DROVDAL, DAVID, V-CHAIR	✓				
BRANDENBURG, MICHAEL	✓				
CONRAD, KARI	✓				
FROELICH, ROD	A				
GRANDE, BETTE	✓				
HEADLAND, CRAIG	✓				
IVERSON, RONALD	✓				
KELSH, SCOT	✓				
NICHOLAS, EUGENE	A				
OWENS, MARK	✓				
SCHMIDT, ARLO	✓				
WEILER, DAVE	A				
WRANGHAM, DWIGHT	✓				

Total (Yes) 11 No 0

Absent 3

Floor Assignment Rep. Grande

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

REPORT OF STANDING COMMITTEE (410)
February 15, 2005 11:28 a.m.

Module No: HR-30-2933
Carrier: Grande
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2080: Finance and Taxation Committee (Rep. Belter, Chairman) recommends DO PASS (11 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). SB 2080 was placed on the Fourteenth order on the calendar.

2005 TESTIMONY

SB 2080

Kelly Schmidt.

SB 2080

AMBIGUITY REGARDING HIGHWAY TAX DISTRIBUTION

The law regarding the distribution of monies in the highway tax distribution fund is not clear.

Section 54-27-19 of the North Dakota Century Code (NDCC) states that sixty-three percent of the amount in the highway tax distribution fund must be transferred monthly to the state highway fund and thirty-seven percent must be allocated to the counties. Subsection 2 of section 54-27-19 states that the cities' share is twenty-seven percent of the counties' share. This subsection also provides for the allocation between the cities and sets forth a special allocation method for cities located in a county that contains a city with a population greater than 10,000. When this special allocation method is applied literally, the amount allocated to the cities becomes greater than the twenty-seven percent share that was set forth to be the cities' share.

Audit Recommendation and Agency Response

Recommendation:

We recommend the State Treasurer's Office propose legislation to amend NDCC section 54-27-19 to clarify whether the cities' share is actually limited to twenty-seven percent of the counties' share.

Office of State Treasurer Response:

This law is ambiguous and needs clarification. However, the Supreme Court has provided guidance to use when interpreting an ambiguous statute. Under this guidance, if a statute contains conflicting requirements, the conflict is to be resolved in favor of the most recently enacted provision. In this instance, the 27 percent figure was enacted in 1967 (1967 ND session law cl, 304, §7) and the special allocation was enacted as an amendment to NDCC §54-27-19 more recently.

While the highway tax distributions were made properly under this guidance, the statute is ambiguous. Letters will go out to the Association of Counties and the League of Cities requesting their views as to a solution to propose to the legislature.

Testimony of Kelly L. Schmidt
ND State Treasurer

IN SUPPORT OF SENATE BILL 2080

House Finance and Tax Committee
February 15, 2005

This law relates to the distribution of monies in the highway tax distribution fund. This law is not clear.

The ND Century Code states that sixty-three percent of the amount in the highway tax distribution fund must be transferred monthly to the state highway fund and thirty-seven percent must be allocated to the counties.

Subsection 2 of this code states that the cities share is twenty-seven percent of the counties share. This subsection also provides for the allocation between the cities and sets forth a special allocation method for cities located in a county that contains a city with a population greater than 10,000. When this special allocation method is applied literally, the amount allocated to the cities becomes greater than the twenty-seven percent share that was set forth to be the cities share.

This bill is needed to clarify whether the cities share is actually limited to twenty-seven percent of the counties share.

I ask the committee to grant favorable consideration and give SB 2080 a "do pass" recommendation.