

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2178

2007 SENATE FINANCE AND TAXATION

SB 2178

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2178**

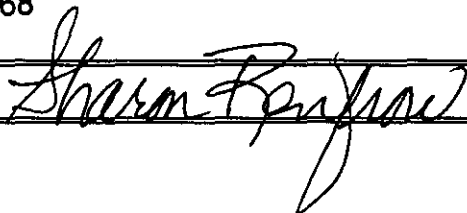
Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: January 31, 2007

Recorder Job Number: # 2468

Committee Clerk Signature



Minutes:

**Sen. Urlacher** called the committee to order and opened the hearing on SB 2178.

**Sen. Bowman** appeared as prime sponsor in support stating this bill does one thing and only one thing and that is it raises the cap on the amount of money that an oil county can get and that has not been raised since 1983. The greatest challenge facing the construction industry today is the rising cost of road construction.

**Sen. O'Connell**: co-sponsor of the bill appeared in support with written testimony. (See attached)

**Lynn Helmes**: Dir. Of Dept. of Resources appeared in support for Sen. Bowman and gave some insight on the impact of the roads in Bowman County, especially Cedar Hills.

**Kenneth Steiner**: Chairman of Bowman County Board of County Commissioners appeared to give additional information regarding the situation of the roads.

**Sen. Triplett**: what amount of resources the county commission puts into the roads from county property taxes.

**Answer**: we just raised our mill levy up about 5 mills again and all dedicated to roads and grades. All oil and gas money is all dedicated to road and grade.

**Dan Brouse** of Bowman County Engineers appeared I support with written testimony and pictures. (See attached) very little money has ever gone into the general fund. That's where the money went; the road and bridge fund has always been spent at the road and bridge level.

**Sen. Triplett**: if we wanted to start paving the roads, what would we need?

**Answer**: we would probably need 50 to 100 million dollars

**Sen. Cook**: in Bowman County you only levy a quarter of a mil, so I'm assuming that any local effort for roads in Bowman County is with your general fund levy, correct? **Yes** Can you tell me what the mil rate is? **5 I believe it is.**

**Sen. Cook**: what's your total mill levy? 68 something for the county.

**Sen. Cook**: on the fiscal note, it indicates that there is only one county that is going to benefit from this and I assume that is Bowman County, is that correct? **Yes**

**Sen. Cook**: this FN is assuming that the 71 million dollar threshold of dollars in for the general fund is reduced to 60 million and where does that assumption come from or is it 10 million coming out of the general fund general. Why does this make the assumption that it's lowering that threshold from 71 to 61, was that the intent of the sponsors?

**Sen. Bowman**: the only intent of this bill is to raise the cap that the oil producing counties could receive if their production is increased and the formula stays the same.

**Jim Arthaud**: Pres. of Missouri Basin Well Services Inc. appeared in support with written testimony. (See attached)

**Ron Ness**: ND Petroleum Council appeared in support with had written calculations. (See attached)

**John Morrison**: Conoco Phillips appeared in support stating they support the effort the efforts of the county.

**Cal Colin** (?): Dir. Of the Bowman County Development Corporation passed out written testimony from Ed Shypkoski and Richard George. (See attached)

**Vicky Steiner**: ND Assoc. of Oil and Gas Producing Counties appeared in support with written testimony. (See attached)

**Sen. Bowman**: one thing that we've left out of this whole formula is the Bakken Plain.

**Sen. Triplett**: why you think it's justifiable that the oil producing counties appear to be making less local effort toward road construction than all of the rest of the counties in ND who also put effort into maintaining roads.

**Sen. Bowman**: we've maxed our total effort out and everything that we can. We've used all of our extra resources that we've accumulated to put into these road projects.

**Jim Arthaud**: if we would be allowed to levy property tax on a pumping of the infrastructure and the mill levy meant anything, then I think that the situation would be totally different.

**Sen. Tollefson**: I think that measure 6 entered into this whole taxable situation in the counties as a result of referrals that created the problem where the counties don't have the ability to tax the oil infrastructure.

**Answer**: that's correct, we don't have the ability to raise our cap which the other counties have the ability to raise our property taxes. We do have the ability to raise our property taxes but then we are taxing people that aren't really responsible for the consequences of the oil and gas industry.

**Kevin Schatz**: Tax Dept. Appeared to explain the assumption on the fiscal note and will get back to the committee as Kathy Strombeck did up the FN.

No opposition. Closed the hearing.

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2178**

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: February 7, 2007

Recorder Job Number: # 3063

Committee Clerk Signature

*Sharon Benjume*

Minutes:

**Sen. Urlacher** called the committee back to order for further discussion and action on SB 2178.

**Sen. Bowman**: presented 2 different amendments and explained them. 0101 and 0102.

0101 makes the county commissioners have to make a decision, the 2<sup>nd</sup> amendment 0201 for the counties that absolutely do not want to raise their mills, this does one thing, it allows them to see 1 million more, no more than that, just an inflationary adjustment.

John Walstad: Legislative Council: appeared to state that the 2 amendments are not compatible and cannot go together.

**Sen. Cook**: made a Motion to move the Amendment 0101, seconded by Sen. Triplett.

Voice vote: 6-0-1. The amendment passed.

**Sen. Oehlke**: made a Motion for **DO PASS as Amended**, seconded by Sen. Horne.

**Sen. Cook**: what we are doing is, the money is coming out of the general fund not out of the oil trust fund.

Roll call vote: 5-2-0 Sen. Oehlke will carry the bill.

**FISCAL NOTE**  
**Requested by Legislative Council**  
04/12/2007

Amendment to:           Engrossed  
                              SB 2178

**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.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				(\$2,000,000)		
Expenditures						
Appropriations						

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

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
			\$2,000,000					

**2A. Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Engr. SB 2178 with Conference Committee Amendments increases the maximum amount of gross production tax revenues counties can receive, provided the county levies a specified number of mills for various road purposes.

**B. Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1 of the bill increases the county "caps" by \$1 million per year. At current production levels, only one county would be affected, and it would receive an additional \$2 million in the 2007-09 biennium, if it increases its road levies.

Section 2 repeals the existing statute relative to the permanent oil tax trust fund when and if the new section to article X of the Constitution as contained in HCR 3045 is adopted by the legislature and the voters of the state.

Section 4 prohibits the changing of the state general fund's biennial oil tax revenue "cap" thereby allowing the negative fiscal effect of this bill to impact the permanent oil tax trust fund.

**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.*

Engr. SB 2178 with Conference Committee Amendments is expected to decrease permanent oil tax trust fund revenues and increase county revenues \$2 million in the 2007-09 biennium.

**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, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

<b>Name:</b>	Kathryn L. Strombeck	<b>Agency:</b>	Office of Tax Commissioner
<b>Phone Number:</b>	328-3402	<b>Date Prepared:</b>	04/12/2007



**FISCAL NOTE**  
**Requested by Legislative Council**  
03/28/2007

Amendment to:           Engrossed  
                                  SB 2178

**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.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>				(\$2,000,000)		
<b>Expenditures</b>						
<b>Appropriations</b>						

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

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
			\$2,000,000					

**2A. Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Engr. SB 2178 with House Amendments increases the maximum amount of gross production tax revenues counties can receive, provided the county levies a specified number of mills for various road purposes.

The provisions to increase county revenues "sunset" after the 2007-09 biennium.

**B. Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1 of the bill increases the county "caps" by \$1 million per year. At current production levels, only one county would be affected, and it would receive an additional \$2 million in the 2007-09 biennium, if it increases its road levies.

Section 2 repeals the existing statute relative to the permanent oil tax trust fund when and if the new section to article X of the Constitution as contained in HCR 3045 is adopted by the legislature and the voters of the state.

Section 3 prohibits the changing of the state general fund's biennial oil tax revenue "cap" thereby allowing the negative fiscal effect of this bill to impact the permanent oil tax trust fund.

**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.*

Engr. SB 2178 with House Amendments is expected to decrease permanent oil tax trust fund revenues and increase county revenues \$2 million in the 2007-09 biennium.

**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, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

<b>Name:</b>	Kathryn L. Strombeck	<b>Agency:</b>	Office of Tax Commissioner
<b>Phone Number:</b>	328-3402	<b>Date Prepared:</b>	03/28/2007

**FISCAL NOTE**  
**Requested by Legislative Council**  
03/14/2007

Amendment to:           Engrossed  
                              SB 2178

**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.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				(\$2,000,000)		
Expenditures						
Appropriations						

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

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
			\$2,000,000					

**2A. Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Engr. SB 2178 with House Amendments increases the maximum amount of gross production tax revenues counties can receive, provided the county levies a specified amount for various road purposes.

**B. Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1 of the bill increases the county "caps" by \$1 million per year. At current production levels, only one county would be affected, and it would receive an additional \$2 million in the 2007-09 biennium, if it increases its road levies.

Section 2 prohibits the changing of the state general fund's biennial oil tax revenue "cap" thereby allowing the negative fiscal effect of this bill to impact the permanent oil tax trust fund.

**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.*

Engr. SB 2178 with House Amendments is expected to decrease permanent oil tax trust fund revenues and increase county revenues \$2 million in the 2007-09 biennium.

**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, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

<b>Name:</b>	Kathryn L. Strombeck	<b>Agency:</b>	Office of Tax Commissioner
<b>Phone Number:</b>	328-3402	<b>Date Prepared:</b>	03/14/2007

**FISCAL NOTE**  
**Requested by Legislative Council**  
02/09/2007

Amendment to: SB 2178

**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.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>			(\$10,000,000)			
<b>Expenditures</b>						
<b>Appropriations</b>						

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

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
			\$10,000,000					

**2A. Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Eng. SB 2178 increases the maximum amount of gross production tax revenues counties can receive, provided the county levies a specified amount for various road purposes.

**B. Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1 of the bill increases the county "caps" by \$5 million per year. At current production levels, only one county would be affected, and it would receive an additional \$10 million in the 2007-09 biennium, if it increases its road levies.

**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.*

Eng. SB 2178 is expected to decrease state general fund revenues and increase county revenues \$10 million in the 2007-09 biennium.

It is assumed that Eng. SB 2178 is a distributional change, and as such will reduce the state general fund biennial cap from \$71 million to \$61 million for the 2007-09 biennium, pursuant to NDCC 57-51.1-07.2. It is assumed that the permanent oil tax trust fund is not affected by this change.

**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.*

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<b>Name:</b>	Kathryn L. Strombeck	<b>Agency:</b>	Office of Tax Commissioner
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Phone Number: 328-3402

Date Prepared: 02/12/2007

**FISCAL NOTE**  
**Requested by Legislative Council**  
01/11/2007

Bill/Resolution No.: SB 2178

**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.*

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

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			\$10,000,000					

**2A. Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

SB 2178 increases the maximum amount of gross production tax revenues counties can receive.

**B. Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1 of the bill increases the county "caps" by \$5 million per year. At current production levels, only one county would be affected, and it would receive an additional \$10 million in the 2007-09 biennium.

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It is assumed that SB 2178 is a distributional change, and as such will reduce the state general fund biennial cap from \$71 million to \$61 million for the 2007-09 biennium, pursuant to NDCC 57-51.1-07.2. It is assumed that the permanent oil tax trust fund is not affected by this change.

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<b>Name:</b>	Kathryn L. Strombeck	<b>Agency:</b>	Office of Tax Commissioner
<b>Phone Number:</b>	328-3402	<b>Date Prepared:</b>	01/29/2007

PROPOSED AMENDMENTS TO SENATE BILL NO. 2178

Page 1, line 1, replace "subsection" with "subsections" and after "2" insert "and 3"

Page 1, line 2, remove "an"

Page 1, line 5, replace "Subsection" with "Subsections" and after "2" insert "and 3"

Page 1, line 6, replace "is" with "are"

Page 1, line 20, remove the overstrike over "~~three~~", remove "~~eight~~", and after "year" insert "; however, a county may receive up to eight million nine hundred thousand dollars under this subdivision for each fiscal year if during that fiscal year the county levies a total of at least ten mills for combined levies for county road and bridge, farm-to-market and federal-aid road, and county road purposes. Any amount received by a county exceeding three million nine hundred thousand dollars under this subdivision is not subject to allocation under subsection 3 but must be credited by the county treasurer sixty percent to the county general fund, ten percent to school districts within the county on the basis of average daily attendance, and thirty percent to incorporated cities of the county based upon population"

Page 1, line 22, remove the overstrike over "~~four~~" and remove "~~nine~~"

Page 1, line 23, after "year" insert "; however, a county may receive up to nine million one hundred thousand dollars under this subdivision for each fiscal year if during that fiscal year the county levies a total of at least ten mills for combined levies for county road and bridge, farm-to-market and federal-aid road, and county road purposes. Any amount received by a county exceeding four million one hundred thousand dollars under this subdivision is not subject to allocation under subsection 3 but must be credited by the county treasurer sixty percent to the county general fund, ten percent to school districts within the county on the basis of average daily attendance, and thirty percent to incorporated cities of the county based upon population"

Page 2, line 2, remove the overstrike over "~~four~~", remove "~~nine~~", and after "year" insert "; however, a county may receive up to nine million six hundred thousand dollars under this subdivision for each fiscal year if during that fiscal year the county levies a total of ten mills or more for combined levies for county road and bridge, farm-to-market and federal-aid road, and county road purposes. Any amount received by a county exceeding four million six hundred thousand dollars under this subdivision is not subject to allocation under subsection 3 but must be credited by the county treasurer sixty percent to the county general fund, ten percent to school districts within the county on the basis of average daily attendance, and thirty percent to incorporated cities of the county based upon population"

Page 2, after line 5, insert:

- "3. Forty-five percent of all revenues as may by the legislative assembly be allocated to any county hereunder must be credited by the county treasurer to the county general fund. Thirty-five percent of all revenues allocated to any county must be apportioned by the county treasurer no less than quarterly to school districts within the county on the average daily

attendance distribution basis, as certified to the county treasurer by the county superintendent of schools. However, no school district may receive in any single academic year an amount under this subsection greater than the county average per student cost multiplied by seventy percent, then multiplied by the number of students in average daily attendance or the number of children of school age in the school census for the county, whichever is greater. Provided, however, that in any county in which the average daily attendance or the school census, whichever is greater, is fewer than four hundred, the county is entitled to one hundred twenty percent of the county average per student cost multiplied by the number of students in average daily attendance or the number of children of school age in the school census for the county, whichever is greater. Once this level has been reached through distributions under this subsection, all excess funds to which the school district would be entitled as part of its thirty-five percent share must be deposited instead in the county general fund. The county superintendent of schools of each oil-producing county shall certify to the county treasurer by July first of each year the amount to which each school district is limited pursuant to this subsection. As used in this subsection, "average daily attendance" means the average daily attendance for the school year immediately preceding the certification by the county superintendent of schools required by this subsection. Twenty percent of all revenues allocated to any county hereunder must be paid no less than quarterly by the state treasurer to the incorporated cities of the county based upon the population of each incorporated city according to the last official decennial federal census. ~~However, no city may receive in any fiscal year an amount under this subsection greater than five hundred dollars per capita.~~ Once this level has been reached through distributions under this subsection, all excess funds to which any city would be entitled except for this limitation must be deposited instead in that county's general fund. Provided, however, that in determining the population of any city in which total employment increases by more than two hundred percent seasonally due to tourism, the population of that city for purposes of determining the per capita limitation in this section must be increased by adding to the population of the city as determined by the last official decennial federal census a number to be determined as follows:

- a. Seasonal employees of state and federal tourist facilities within five miles [8.05 kilometers] of the city must be included by adding the months all such employees were employed during the prior year and dividing by twelve.
- b. Seasonal employees of all private tourist facilities within the city and seasonal employees employed by the city must be included by adding the months all such employees were employed during the prior year and dividing by twelve.
- c. The number of visitors to the tourist attraction within the city or within five miles [8.05 kilometers] of the city which draws the largest number of visitors annually must be included by taking the smaller of either of the following:
  - (1) The total number of visitors to that tourist attraction the prior year divided by three hundred sixty-five; or
  - (2) Four hundred twenty."

Renumber accordingly



PROPOSED AMENDMENTS TO SENATE BILL NO. 2178

Page 1, line 1, replace "subsection" with "subsections" and after "2" insert "and 3"

Page 1, line 2, remove "an"

Page 1, line 5, replace "Subsection" with "Subsections" and after "2" insert "and 3"

Page 1, line 6, replace "is" with "are"

Page 1, line 20, replace "eight" with "four" and after "year" insert "; however, a county may receive up to eight million nine hundred thousand dollars under this subdivision for each fiscal year if during that fiscal year the county levies a total of at least ten mills for combined levies for county road and bridge, farm to market and federal aid road, and county road purposes. Any amount received by a county exceeding four million nine hundred thousand dollars under this subdivision is not subject to allocation under subsection 3 but must be credited by the county treasurer sixty percent to the county general fund, ten percent to school districts within the county on the basis of average daily attendance, and thirty percent to incorporated cities of the county based upon population"

Page 1, line 22, replace "nine" with "five"

Page 1, line 23, after "year" insert "; however, a county may receive up to nine million one hundred thousand dollars under this subdivision for each fiscal year if during that fiscal year the county levies a total of at least ten mills for combined levies for county road and bridge, farm to market and federal aid road, and county road purposes. Any amount received by a county exceeding five million one hundred thousand dollars under this subdivision is not subject to allocation under subsection 3 but must be credited by the county treasurer sixty percent to the county general fund, ten percent to school districts within the county on the basis of average daily attendance, and thirty percent to incorporated cities of the county based upon population"

Page 2, line 2, replace "nine" with "five" and after "year" insert "; however, the county may receive up to nine million six hundred thousand dollars under this subdivision for each fiscal year if during that fiscal year the county levies a total of ten mills or more for combined levies for county road and bridge, farm to market and federal aid road, and county road purposes. Any amount received by a county exceeding five million six hundred thousand dollars under this subdivision is not subject to allocation under subsection 3 but must be credited by the county treasurer sixty percent to the county general fund, ten percent to school districts within the county on the basis of average daily attendance, and thirty percent to incorporated cities of the county based upon population"

Page 2, after line 5, insert:

- "3. Forty-five percent of all revenues as may by the legislative assembly be allocated to any county hereunder must be credited by the county treasurer to the county general fund. Thirty-five percent of all revenues allocated to any county must be apportioned by the county treasurer no less than quarterly to school districts within the county on the average daily attendance distribution basis, as certified to the county treasurer by the

county superintendent of schools. However, no school district may receive in any single academic year an amount under this subsection greater than the county average per student cost multiplied by seventy percent, then multiplied by the number of students in average daily attendance or the number of children of school age in the school census for the county, whichever is greater. Provided, however, that in any county in which the average daily attendance or the school census, whichever is greater, is fewer than four hundred, the county is entitled to one hundred twenty percent of the county average per student cost multiplied by the number of students in average daily attendance or the number of children of school age in the school census for the county, whichever is greater. Once this level has been reached through distributions under this subsection, all excess funds to which the school district would be entitled as part of its thirty-five percent share must be deposited instead in the county general fund. The county superintendent of schools of each oil-producing county shall certify to the county treasurer by July first of each year the amount to which each school district is limited pursuant to this subsection. As used in this subsection, "average daily attendance" means the average daily attendance for the school year immediately preceding the certification by the county superintendent of schools required by this subsection. Twenty percent of all revenues allocated to any county hereunder must be paid no less than quarterly by the state treasurer to the incorporated cities of the county based upon the population of each incorporated city according to the last official decennial federal census. ~~However, no city may receive in any fiscal year an amount under this subsection greater than five hundred dollars per capita.~~ Once this level has been reached through distributions under this subsection, all excess funds to which any city would be entitled except for this limitation must be deposited instead in that county's general fund. Provided, however, that in determining the population of any city in which total employment increases by more than two hundred percent seasonally due to tourism, the population of that city for purposes of determining the per capita limitation in this section must be increased by adding to the population of the city as determined by the last official decennial federal census a number to be determined as follows:

- a. Seasonal employees of state and federal tourist facilities within five miles [8.05 kilometers] of the city must be included by adding the months all such employees were employed during the prior year and dividing by twelve.
- b. Seasonal employees of all private tourist facilities within the city and seasonal employees employed by the city must be included by adding the months all such employees were employed during the prior year and dividing by twelve.
- c. The number of visitors to the tourist attraction within the city or within five miles [8.05 kilometers] of the city which draws the largest number of visitors annually must be included by taking the smaller of either of the following:
  - (1) The total number of visitors to that tourist attraction the prior year divided by three hundred sixty-five; or
  - (2) Four hundred twenty."

Renumber accordingly

Date: 2-7-07Roll Call Vote #: 12007 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 1178Senate Finance & Tax Committee☐ Check here for Conference Committee

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

Action Taken Do Pass As Amended + Refu to Approp'sMotion Made By Sen. Oehlke Seconded By Sen. Triplett

Senators	Yes	No	Senators	Yes	No
Sen. Urlacher	✓		Sen. Anderson	✓	
Sen. Tollefson		✓	Sen. Horne	✓	
Sen. Cook		✓	Sen. Triplett	✓	
Sen. Oehlke	✓				

Total (Yes) 5 No 2Absent 0Floor Assignment Senator Oehlke

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

**REPORT OF STANDING COMMITTEE**

**SB 2178: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2178 was placed on the Sixth order on the calendar.**

Page 1, line 1, replace "subsection" with "subsections" and after "2" insert "and 3"

Page 1, line 2, remove "an"

Page 1, line 5, replace "Subsection" with "Subsections" and after "2" insert "and 3"

Page 1, line 6, replace "is" with "are"

Page 1, line 20, remove the overstrike over "~~three~~", remove "~~eight~~", and after "year" insert "; however, a county may receive up to eight million nine hundred thousand dollars under this subdivision for each fiscal year if during that fiscal year the county levies a total of at least ten mills for combined levies for county road and bridge, farm-to-market and federal-aid road, and county road purposes. Any amount received by a county exceeding three million nine hundred thousand dollars under this subdivision is not subject to allocation under subsection 3 but must be credited by the county treasurer sixty percent to the county general fund, ten percent to school districts within the county on the basis of average daily attendance, and thirty percent to incorporated cities of the county based upon population"

Page 1, line 22, remove the overstrike over "~~four~~" and remove "~~nine~~"

Page 1, line 23, after "year" insert "; however, a county may receive up to nine million one hundred thousand dollars under this subdivision for each fiscal year if during that fiscal year the county levies a total of at least ten mills for combined levies for county road and bridge, farm-to-market and federal-aid road, and county road purposes. Any amount received by a county exceeding four million one hundred thousand dollars under this subdivision is not subject to allocation under subsection 3 but must be credited by the county treasurer sixty percent to the county general fund, ten percent to school districts within the county on the basis of average daily attendance, and thirty percent to incorporated cities of the county based upon population"

Page 2, line 2, remove the overstrike over "~~four~~", remove "~~nine~~", and after "year" insert "; however, a county may receive up to nine million six hundred thousand dollars under this subdivision for each fiscal year if during that fiscal year the county levies a total of ten mills or more for combined levies for county road and bridge, farm-to-market and federal-aid road, and county road purposes. Any amount received by a county exceeding four million six hundred thousand dollars under this subdivision is not subject to allocation under subsection 3 but must be credited by the county treasurer sixty percent to the county general fund, ten percent to school districts within the county on the basis of average daily attendance, and thirty percent to incorporated cities of the county based upon population"

Page 2, after line 5, insert:

- "3. Forty-five percent of all revenues as may by the legislative assembly be allocated to any county hereunder must be credited by the county treasurer to the county general fund. Thirty-five percent of all revenues allocated to any county must be apportioned by the county treasurer no less than quarterly to school districts within the county on the average daily attendance distribution basis, as certified to the county treasurer by the county superintendent of schools. However, no school district may

receive in any single academic year an amount under this subsection greater than the county average per student cost multiplied by seventy percent, then multiplied by the number of students in average daily attendance or the number of children of school age in the school census for the county, whichever is greater. Provided, however, that in any county in which the average daily attendance or the school census, whichever is greater, is fewer than four hundred, the county is entitled to one hundred twenty percent of the county average per student cost multiplied by the number of students in average daily attendance or the number of children of school age in the school census for the county, whichever is greater. Once this level has been reached through distributions under this subsection, all excess funds to which the school district would be entitled as part of its thirty-five percent share must be deposited instead in the county general fund. The county superintendent of schools of each oil-producing county shall certify to the county treasurer by July first of each year the amount to which each school district is limited pursuant to this subsection. As used in this subsection, "average daily attendance" means the average daily attendance for the school year immediately preceding the certification by the county superintendent of schools required by this subsection. Twenty percent of all revenues allocated to any county hereunder must be paid no less than quarterly by the state treasurer to the incorporated cities of the county based upon the population of each incorporated city according to the last official decennial federal census. ~~However, no city may receive in any fiscal year an amount under this subsection greater than five hundred dollars per capita.~~ Once this level has been reached through distributions under this subsection, all excess funds to which any city would be entitled except for this limitation must be deposited instead in that county's general fund. Provided, however, that in determining the population of any city in which total employment increases by more than two hundred percent seasonally due to tourism, the population of that city for purposes of determining the per capita limitation in this section must be increased by adding to the population of the city as determined by the last official decennial federal census a number to be determined as follows:

- a. Seasonal employees of state and federal tourist facilities within five miles [8.05 kilometers] of the city must be included by adding the months all such employees were employed during the prior year and dividing by twelve.
- b. Seasonal employees of all private tourist facilities within the city and seasonal employees employed by the city must be included by adding the months all such employees were employed during the prior year and dividing by twelve.
- c. The number of visitors to the tourist attraction within the city or within five miles [8.05 kilometers] of the city which draws the largest number of visitors annually must be included by taking the smaller of either of the following:
  - (1) The total number of visitors to that tourist attraction the prior year divided by three hundred sixty-five; or
  - (2) Four hundred twenty."

Renumber accordingly

2007 SENATE APPROPRIATIONS

SB 2178

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2178

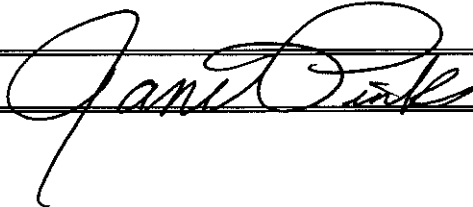
Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: 02/12/07

Recorder Job Number: 3370

Committee Clerk Signature



Minutes:

**Chairman Holmberg** opened the hearing on SB 2178 indicating this was to change the appropriation of oil production tax which goes to the counties.

**Senator Bowman, District 39, Bowman**, introduced SB 2178 to bring to the attention of the state a problem of putting a production cap on legislation. The production cap had been put in place in 1983. When production goes above the cap, the needs are still there but the funding is not.

There were questions about the fiscal note indicating only Bowman County.

**Senator David O'Connell, District 6, Lansford**, testified in support of SB 2178.

**Lynn Helms, Director, Department of Mineral Resources**, testified in a neutral position, indicated the importance of the oil production on Bowman County and its impact, and discussed the large amount of truck traffic in Bowman County.

**Dan Brosz, Bowman County Engineer since 1981**, presented written testimony (1) and testified in support of SB 2178, indicating the stress of the roads, what maintenance costs are, and providing statistics. He indicated the funds received by the county have gone back to road and bridge.

**Vicky Steiner, ND Association of Oil and Gas Producers**, distributed an oil and gas tax distribution chart (2) and testified in support of SB 2178 indicating this is the only source of funding for roads.

**Ron Ness, ND Petroleum Council**, presented testimony on SB 2178 indicating how serious the situation is in Bowman County and the pipeline use.

**Rick Larson, Director, Energy Impact Office**, testifying how the costs have increased over the past biennium and testified in support of SB 2178.

**Senator Mathern** asked what the impact would be if these funds were put into pipeline work instead of roads.

**Cal Klevin, Bowman County**, presented written testimony from Russ Staiger (3) for regional support, and testified in support of SB 2178.

**Chairman Holmberg** closed the hearing on SB 2178.



## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2178


Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: 02-12-07

Recorder Job Number: 3374

Committee Clerk Signature



Minutes:

Chairman Holmberg opened the hearing on SB 2178.

Senator Bowman moved a do pass on SB 2178, Senator Wardner seconded. Discussion followed with Senator Bowman responding to several questions. A roll call vote was taken resulting in 8 yes, 6 no, 0 absent. The motion carried and Senator Elke will carry the bill.

Chairman Holmberg closed the hearing on SB 2178.

Date: 2/12  
Roll Call Vote #: 1

**2007 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 2178**

Senate Appropriations Committee

☐ Check here for Conference Committee

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

Action Taken DP

Motion Made By Bowman Seconded By Wardner

Senators	Yes	No	Senators	Yes	No
Senator Ray Holmberg, Chrm	✓		Senator Aaron Krauter		✓
Senator Bill Bowman, V Chrm	✓		Senator Elroy N. Lindaas		✓
Senator Tony Grindberg, V Chrm	✓		Senator Tim Mathern		✓
Senator Randel Christmann	✓		Senator Larry J. Robinson		✓
Senator Tom Fischer	✓		Senator Tom Seymour		✓
Senator Ralph L. Kilzer	✓		Senator Harvey Tallackson		✓
Senator Karen K. Krebsbach	✓				
Senator Rich Wardner	✓				

Total (Yes) 8 No 6

Absent 0

Floor Assignment EIKE FLT

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

**REPORT OF STANDING COMMITTEE (410)**  
February 12, 2007 2:47 p.m.

**Module No: SR-29-2932**

**Carrier: Oehlke**

**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2178, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)**  
recommends **DO PASS** (8 YEAS, 6 NAYS, 0 ABSENT AND NOT VOTING).  
Engrossed SB 2178 was placed on the Eleventh order on the calendar.

2007 HOUSE FINANCE AND TAXATION

SB 2178

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2178

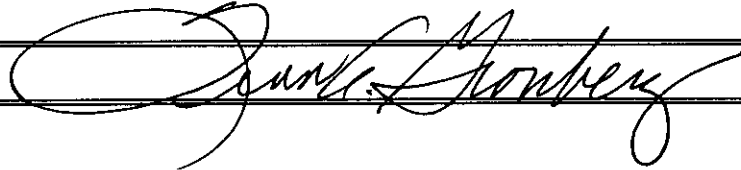
House Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: 2-26-07

Recorder Job Number: 3804

Committee Clerk Signature



Minutes:

**Chairman Belter** called the committee back to order and opened the hearing on SB 2178.

**Senator Bowman:** SB 2178 is here because of a problem that arose out in Bowman County.

It's a good problem, not a bad problem. The problem is that the increase in oil production causes our county to reach the cap as of two years ago. The cap on the oil producing counties was put on in 1983 and it's never been adjusted for inflation since then. Even back in 1983, they talked about an inflationary adjustment and it was never put on. The cost to our county and any other oil producing county, if you buy a road grader today, it's over 300% more today than it was then. Also a payload - 300% more - also a 100 horse tractor. As you start to look at all the costs affected by this, you realize that there is definitely a problem out there and it's not going to get better. As we develop the Bakken, it's not going to be just Bowman County. It's going to be any county that's in the Bakken Formation. I know that there is another bill dealing with formula changes but that is only good for the counties that have not reached the cap. The \$5M that we ask for in this bill, over and above the original bill, we asked for so that the county can have more money for roads. That is the basis for this bill. 60% of the \$5M if you reach that cap would go to your counties for roads. 30% would go to your cities. The city

roads are also affected. We do not have a way to tax the oil fields. The state took that away back in the 50's. We cannot tax the property out there. Other types of plants can be taxed, but not oil. The only way we can do it is through the legislative process. They took it away because they realized the potential growth, and it's been a wonderful thing for the state. But the cost of doing business is the local municipalities that have infrastructure needs that continue to grow. This bill does not affect the original formula, it only affects the \$5M more, and by the way if Bowman County has any new development in the next year, we will have capped the new cap.

**Chairman Belter:** Now, this bill will only affect the capped counties?

**Senator Bowman:** If you are below the cap, there's not bearing on that at all. If you are above the cap, you go into a new cap of \$5M. And that cap is divided with the new formula.

**Senator Belter:** Aren't there only two capped counties now?

**Senator Bowman:** Basically McKenzie, Billings maybe and Bowman County. But here's the catch. Until they raise their mills to at least 10 mills, they get no money.

**Chairman Belter:** These three counties, have they not levied the 10 mills yet?

**Senator Bowman:** No. We put on an additional 4.25 and we have to do it. But I don't know about the other two. That's up to the county commissioners from those counties. If they don't do it, they don't get the money.

**Rep Froseth:** On the fiscal note it says that Section 1 increases the county caps by \$5M per year at current production levels. Only one county would be affected. I don't see anything in here that deals with production levels.

**Senator Bowman:** That's all the formula is based on. As you produce more oil, some goes back to the counties, and after so much it's capped. And this new formula does exactly the

same thing. I put the new cap on strictly for budgeting purposes. You can't go over the cap, so at no time could be go over the \$5M.

**Rep Pinkerton:** I can't see that there's an inflation factor to raise the amount over time.

**Senator Bowman:** That was suggested back in 1983, but the legislature saw fit not to accept it. That would simplify this. Because once you reach the cap you have no more income, but you have continuing expenses.

**Rep Pinkerton:** I don't understand all the tax laws, but if you have an oil well on a piece of property, there isn't an additional property tax on it?

**Senator Bowman:** Not to the county. We can't tax anything that's a part of production.

That's called a production tax that the state put on. And that's what's bringing a huge amount of revenue to the state. There's a lot of new production, and the more new production the more money to the state. The state realized that there would be an impact on schools, on the counties, and the cities. They recognized that there was an expense. They just didn't realize the expense would keep going up. DOT is faced with the same problems we are because of the high price of road construction.

**Rep Pinkerton:** If the mineral rights have been severed from the surface rights, to the people with the surface rights get any payment for damages?

**Senator Bowman:** I can't quote for sure, but they do get damage when they go in and dig the hole and set up the rig. There's from \$4 to \$6000 that the land owner gets for each site.

**Rep Froseth:** Under this bill, what is it 14 oil producing counties? If all 14 counties raised their mill levy to 10 mills, they'd all qualify for an additional \$5M per year.

**Senator Bowman:** Only if their production allows them to go into the next category. You have to have the production to reach the first cap before you get any money in the second cap.

If that happened, it would be the greatest thing that could happen. If they all reached the second cap it would be a lot of fun to be a legislator because there would be close to a billion dollars in the general fund - just from oil. Let's hope the Bakken comes through and we'll have all this money.

**Rep Froelich:** There is conflicting information if you look at Page 3 line4.

**Senator Bowman:** The first 3.9 and 4.1 and 4.3M, depending on the size of the population of your county, that 's the most money they can receive, and at that time that was the formula that they had to give to those counties. That has not changed in this new bill.

**Senator O'Connell:** In a former life I worked in an oil field. We took about 3 acres when we went into a site. Normally when you go into a site there are no roads, so this is where the problem starts. You come into virgin ground and tear up the the area with the equipment.

**Rep Drovdal:** On page 3, subsection3, there's a formula for distributing the money within the county.

**Dan Brose, Bowman County Engineer:** (attachment #1)

**Vicky Steiner, ND Association of Oil and Gas Producing Counties:** (attachment #2)

**Ron Ness, ND Petroleum Council:** Bowman County is currently producing about 50,000 barrels of oil per day. That is roughly 40% of ND's oil production on a daily basis. If you take 50,000 barrels a day times 365 days times \$50 a barrel, on average times.05% which is the gross production tax, which is in place in lieu of property taxes, the industry is paying about 4.75 million dollars a month or about \$45M per year in tax revenues under the gross production tax. That's just from production in Bowman County alone. This bill tries to return more of that money back to Bowman County.



**Rep Pinkerton:** What is the value of a barrel of oil in Bowman, compared to national prices?

**Ness:** Bowman County actually received the biggest discount for their oil because primarily the bulk of the oil produced in Bowman County goes SW into Denver area refineries. When \$50 nationally, Bowman County's was from \$18 to \$20 (upper and mid). Now a lot of the Bowman oil is being trucked north to find it's way to market. That has exasperated the problem, because all of a sudden you may have about 7,000 barrels a day. In order to get that oil to a better market they are trucking that oil from south of Marmoth up to Alexander and it hits the system and goes east to Minnesota and the Chicago area.

**Rep Pinkerton:** (couldn't hear question)

**Ness:** All oil is not created equal. The oil produced in Bowman county is not refined at Mandan because it has different values. It has more acidity to it. That oil has got to go refineries that are built to handle it. It's not as high quality as say McKenzie county. We are currently conducting a study on the quality of oil.

**Rep Drovda:** Because of the bottleneck and the quality of the oil in western ND they receive less per barrel, which brought them below the trigger price of our extraction tax. Do you know if the state ever allowed the actual value to be included in whether the extraction tax applied or not?

**Ness:** The oil tax triggers are not based upon the actual ND receipt price, but upon the intermediate price with a differential of \$2.50.

**Rep Froelich:** What is the capacity of the Andridge Pipeline?

**Ness:** Andridge has added about 15,000 barrels a day over the past six months. They expect to add, by late next fall, 30 to 40,000 barrels additional capacity. That will be a significant help. Mandan Tesoro refines about 60,000 barrels a day and they've been able to run full capacity during the winter months. That has also helped. Is that enough? It all depends on that map on the wall in the back. If the Bakken is successful, we believe that we still need additional pipeline capacity.

**Rep Drovda:** The Ambridge drains oil from the northern part of the state and that's where when they run the truck traffic up 85 they're going to the Ambridge. The line going south, has that increased it's capacity?

**Ness:** The line going south actually goes into Guernsey, Wyoming. It's a feeder area for a number of different pipelines including Canadian oil that is coming through.

**Jim Arthaud, President of Missouri Basin Well Services Inc.:** (attachment #3)

**Rick Larsen, Director of the Energy Development Impact Office:** We get a share of this gas production tax to help subdivisions of government that are impacted by oil and gas development. The costs are going up. There is a scarcity of some of the products - gravel, etc.

**Cal Klen, Director of the Bowman County Development Corporation:** (attachments #4,#5, and #6)

**Ken Steiner, Bowman County Commissioner:** When I became county commissioner (5 years ago) you could build a road for about \$40 to \$50,000 a mile - now its about \$120,000 a mile. Down near Bowman they are still driving through the river. We had talked about it at one

time - but it cost about \$500,000, and now we're talking about \$1M. It will take us about 10 years at 10 mills to raise enough tax to put a crossing in. But in 10 years it will probably cost \$1.5M.

#### OPPOSITION AND NEUTRAL

**Lyn Helms, Department of Mineral Resources:** The industrial commission is not taking a position on this bill. You have a difficult task. Bowman County certainly needs more money and you need to figure out how much you can give them. In 2005-06 Bowman county has seen about 100 new oil wells added each year. We see that extending out through the rest of the decade. Over the two years, moving rigs, hauling salt water, hauling oil away from the wells, means that there has been about 45,000 semi loads traveled over their county and township roads. There is a huge impact and they don't have the ability to tax the infrastructure. That money comes to the state and gets redistributed. Half of Bowman County is covered by oil fields.

**Rep Drovdal:** Doesn't Bowman county have Bakken Formation in it?

**Helms:** There is no Bakken Formation in Bowman County. It doesn't extend beyond I 94.

**Rep Froseth:** The fiscal note here says that \$10M will be taken from the first 71M which goes into the general fund from oil production taxes and does not affect the oil and gas trust fund - what's the reasoning? Please explain it.

**Kathy Strombeck, ND Tax Department:** It's also an issue in HB 1044. It was addressed in that bill by an amendment that circumvented that provision of the law. It is a distributional change and as such that provision of the law starting with the second paragraph there would

indicate that the permanent trust fund is held constant. The general fund would have to take the fiscal impact to this bill. Another option would be to simply strike that section out. Since that section has been in law, these are the only two bills that have had distributional changes.

This is not a percentage change, it is a dollar change, and we're not even sure how that would work. We would have to compute the percentage change after the fact. The OMB director would have to do it the last day of the biennium.

**Rep Drovcal:** If we did as you just suggested, then the fiscal note would reflect \$10M out of the trust fund.

**Strombeck:** Yes, then the fiscal impact would be \$10M out of the trust fund. It is Bowman county that's impacted. If both bills pass, they would also impact Billings and McKenzie counties. That would have to be another 1.6M. It would take the passage of both bills to occur.

**Chairman Belter closed the hearing on SB 2178.**

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2178

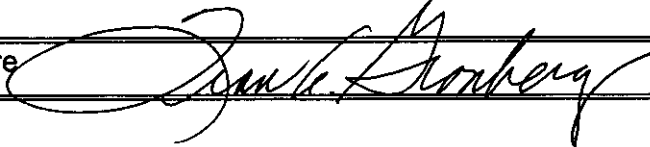
House Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: 3-12-07

Recorder Job Number: 4850

Committee Clerk Signature



Minutes:

**Chairman Belter** asked the committee to come to order

**Rep Drovdal:** (attachment #1 - he goes through the amendment)

This amendment sends the money to the county. It doesn't go through the formula. It has a \$2 fiscal note - \$1M per year.

**Rep Drovdal** moved the amendment

**Rep Brandenburg** seconded the motion

**Motion carried on a voice vote**

**Rep Pinkerton** made a motion for a Do Pass and Rerefer to Appropriations

**Rep Grande** seconded the motion

(yes) 14 (no) 0 (absent) 0

**Carrier: Rep Drovdal**

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2178

Page 1, line 2, after "revenues" insert "; to provide for application"

Page 1, line 3, remove "and" and after "date" insert "; and to provide an expiration date"

Page 1, line 21, replace "eight" with "four"

Page 2, line 3, remove "sixty percent"

Page 2, line 4, remove ", ten percent to school districts within the county on the"

Page 2, remove line 5

Page 2, line 6, remove "the county based upon population"

Page 2, line 9, replace "nine" with "five"

Page 2, line 16, remove "sixty percent" and remove ", ten percent to"

Page 2, remove line 17

Page 2, line 18, remove "and thirty percent to incorporated cities of the county based upon population"

Page 2, line 21, replace "nine" with "five"

Page 2, line 27, remove "sixty percent" and remove the underscored comma

Page 2, remove lines 28 and 29

Page 2, line 30, remove "population"

Page 4, after line 21, insert:

**"SECTION 2. APPLICATION.** Notwithstanding the provisions of section 57-51.1-07.2, the director of the budget may not consider the enactment of this Act to be an amendment of the distribution formula under chapter 57-51 and the director of the budget may not adjust the seventy-one million dollar amount under section 57-51.1-07.2 due to enactment of this Act."

Page 4, line 22, after "**DATE**" insert "**- EXPIRATION DATE**"

Page 4, line 23, after "2007" insert ", and before July 1, 2009, and is thereafter ineffective"

Renumber accordingly

Date: 3-12-07  
Roll Call Vote #: 2178

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO.

House \_\_\_\_\_ Finance & Tax \_\_\_\_\_ Committee

☐ Check here for Conference Committee

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

Action Taken

Do Pass As Amended & Rerefered to Approps.

Motion Made  
By

Rep. Pinkerton

Seconded By

Rep. Grande

Representatives	Yes	No	Representatives	Yes	No
Chairman Belter	✓		Rep. Froelich	✓	
Vice Chairman Drovdal	✓		Rep. Kelsh	✓	
Rep. Brandenburg	✓		Rep. Pinkerton	✓	
Rep. Froseth	✓		Rep. Schmidt	✓	
Rep. Grande	✓		Rep. Vig	✓	
Rep. Headland	✓				
Rep. Owens	✓				
Rep. Weiler	✓				
Rep. Wrangham	✓				

Total (Yes)

14

No

0

Absent

0

Floor

Assignment

Rep. Drovdal

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

**REPORT OF STANDING COMMITTEE**

**SB 2178, as engrossed: Finance and Taxation Committee (Rep. Belter, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE REREFERRED to the Appropriations Committee (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2178 was placed on the Sixth order on the calendar.**

Page 1, line 2, after "revenues" insert "; to provide for application"

Page 1, line 3, remove "and" and after "date" insert "; and to provide an expiration date"

Page 1, line 21, replace "eight" with "four"

Page 2, line 3, remove "sixty percent"

Page 2, line 4, remove ", ten percent to school districts within the county on the"

Page 2, remove line 5

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**"SECTION 2. APPLICATION.** Notwithstanding the provisions of section 57-51.1-07.2, the director of the budget may not consider the enactment of this Act to be an amendment of the distribution formula under chapter 57-51 and the director of the budget may not adjust the seventy-one million dollar amount under section 57-51.1-07.2 due to enactment of this Act."

Page 4, line 22, after "**DATE**" insert "- **EXPIRATION DATE**"

Page 4, line 23, after "2007" insert ", and before July 1, 2009, and is thereafter ineffective"

Renumber accordingly



2007 HOUSE APPROPRIATIONS

SB 2178

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2178

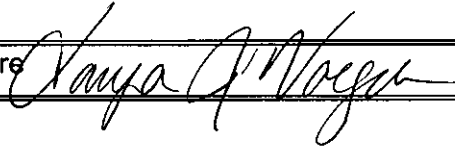
House Appropriations Committee  
Government Operations Division

☐ Check here for Conference Committee

Hearing Date: 3/20/07

Recorder Job Number: 5342

Committee Clerk Signature



Minutes:

2178

Chairman Carlson opened the hearing on Senate bill 2178.

Representative Drovdal explained the bill. 2178.3.20.07 A

**Chairman Carlson:** So this bill the way that is written is only for Bowman County?

**Representative Drovdal:** The way the bill is currently written that is correct. There is a portion of the bill that says that a county has to do certain things before they qualify and Bowman County is the only one that is doing that at this time.

**Chairman Carlson:** This is all out of the Permanent Oil and Gas Trust Fund?

**Representative Drovdal:** That is correct.

**Representative Kroeber:** We had a bill in the House earlier in the year that we had in our subcommittee that was also a million dollars.

**Representative Drovdal:** We had a bill previously that talked about it, 1044 I think is the one you are talking about. That had \$11.8million to fourteen other counties. It didn't affect Bowman County because it did not change the cap it changed the distribution so they got more money.

**Chairman Carlson:** There was originally \$11.8million and \$10million and we assume that they were one in the same but yet they addressed two different issues.

**Representative Drovdal:** One other thing that the committee talked about as we went through this is that in the Governor's proposal in December he had \$422million coming in this biennium. He showed that the counties are getting \$91million back in the Oil Production Tax. The fact of the matter is that they are getting \$53million back.

**Representative Skarphol:** What would it take for other counties to receive funds from this bill?

**Representative Drovdal:** The other counties would have to; the bill requires them to have fifty mills on their road funds.

**Representative Skarphol:** And that would take a vote of the people of that county in order to raise that mill or can the county commission raise it on their own?

**Representative Drovdal:** I don't have the correct answer for that.

Senator Bowman spoke in support of the bill.

**Chairman Carlson:** You kept mentioning the figure \$5million but this bill is only two million?

**Senator Bowman:** The House changed it.

Vicky Steiner, ND Association of Oil and Gas producing counties, spoke in support of the bill.

**Representative Skarphol:** The \$400,000 that you are referring to is in the event that we can generate that money?

**Vicky Steiner:** What I understood the Tax Department was assuming that if the counties  
(23:00) Bad audio

**Chairman Carlson:** The other bill has no effect on Bowman County?

**Vicky Steiner:** That's correct.

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2178

House Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: 3-22-07

Recorder Job Number: 5485

Committee Clerk Signature

*Melby N. Sund for Fran Horbury*

Minutes:

**Chairman Svedjan** opened the hearing on SB 2178 came from Gov't Ops

**Rep Skarphol:** (distributed amendment 0204)

**Rep Skarphol moved the amendment 0204**

**Rep Carlisle seconded the motion**

**Rep Skarphol:** 0204 is the amendment that was adopted in finance and tax. The reason for the amendment is that the provisions reflected after line 21 are done by the finance and tax.

The language below that we added was because if the constitutional amendment that was today approved by the senate and clinched by the senate, is approved by the voters we would have a conflict in state law with regard to how the money would flow in to the general fund.

It's a very complex tax issue.

**Chairman Svedjan:** Could you give us an overview of what the bill does with the amendment.

**Rep Skarphol:** The bill puts in place the potential for an oil producing county to receive an additional payment above what they currently can with regard to the caps that are in place for the distribution of the dollars that they currently get. Under current law, the county can receive,

based on size, a set amount of dollars. What this bill does is increases that threshold of dollars the county can receive by \$1M. The language also says that in order to receive the additional money the county must have a 10 mill road levy. None of the counties in Western ND have that levy. And it would require a 60% vote of the people to put that in place. Bowman County is the only county that has reached the cap on the dollars they receive. Bowman County produces 42% of the oil produced in ND right now and the ability to have money distributed to you is based on the production in your county. In the event that 1044 passes, Billings and McKenzie counties will exceed the cap but they do not have a mill levy in place. If all three counties reach that level and pass the mill levy there could be \$3.6M dollars distributed. It's a complex formula based on the population of the county and the amount of production and there are a number of variables that have to align themselves in order for this to happen. The most significant is the vote of 60% of the people to approve a mill levy.

**Rep Wald:** So if the citizenry should not achieve the 60% vote/threshold as you explained it, they get nothing?

**Rep Skarphol:** They get nothing under this provision of this law. They get money from 1044, but nothing from this law.

**Rep Kempenich:** They would get up to their cap of what it is today, but they wouldn't get anything extra, but nothing extra above today's cap.

**Chairman Svedjan:** Rep Skarphol would you address the flow of the money?

**Rep Kempenich:** There's a flow chart - this is coming off the gross production tax. What it does is that there is a portion flows from the county. The counties currently take it right off the top before it ever comes to the state. Then the state gets relief where they put that on where it

goes to 71M. This bill 2178 and 1044 as amended would take it after the 71M of the state is reached, then this would come into play - they would take it out of the permanent oil trust fund.

**Rep Kempenich:** 1044 doesn't address the cap but it just changes the percentage of what counties could get and mostly it is going to affect 1044 and impact low producing counties. This bill deals with the cap and 1044 deals with the percentages that are received. But both come out after the state receives its 71M.

**Rep Glassheim:** If the constitutional measure passes, how does that interact with these funds?

**Rep Kempenich:** That's one of my questions. It basically affects the language that we have as the permanent oil trust fund. There are other statutes that are addressing the 71M that goes to the general fund.

**Rep Wald:** I think the only affect it would have is that the threshold would go from 71M up to about 100M. This would kick in after we reached that plateau.

**Chairman Svedjan:** I'm not sure that's correct. I don't think that changed the threshold for what goes into the general fund. Does anyone remember the specifics of the constitutional measure - I believe that's been changed not to 100M. My question is does the first \$100M go into the permanent oil tax trust fund and is it locked up?

**Rep Carlson:** The first \$100M goes to the general fund and then the money after that goes to the fund.

**Rep Skarphol:** The repealer on the amendment, Section 2, repeals any reference to the 71M. If the voters pass that constitutional amendment we will have to deal with it this next session.

**Chairman Svedjan:** Let's assume that everything passed, my question is after the first \$100M goes into the general fund, then for what spills over into the permanent oil tax trust fund under

the constitutional measure, does it lock that money up from the start until it grows to a certain point? Or would this bill access some of the early money that goes into the permanent oil tax fund?

**Rep Carlson:** This only applies until July 1 '09 and then it expires. This is a one biennium \$2M payment the way the bill reads - section 3. And 1044 also has a sunset.

**Rep Glassheim:** If the constitutional measure passed, we could not use that source for either of those two bills. We would not have that money available to us.

**Rep Skarphol:** We could change the flow chart. There would be no prohibition against that. We could conceivably change the flow chart to implement a program similar to this before the money flows to the general fund and then flows into the permanent oil tax trust fund. There is a way to do it if we choose to next session.

**Rep Kroeber:** We're talking about the 6.5% oil extraction tax. Oh, you're on the 5% gross yet.

**Voice Vote on the motion to move a Do Pass on Amendment 0204**

**Voice Vote Carries**

**Rep Skarphol moved a Do Pass on SB2178 as Amended**

**Rep Thoreson seconded the Motion**

**Rep Monson:** If I understand correctly, if Bowman County chooses by a vote of 60% to increase their levy to 10 mills, they will an extra \$2M for their roads.

**Rep Wald:** In what election would this be done?

Page 5

House Appropriations Committee

Bill/Resolution No. SB 2178

Hearing Date: 3-22-07

**Rep Skarphol:** That was not addressed in the committee. I'm assuming they could have a special election.

**Rep Nelson:** I'm curious, is it the usual that the counties don't levy 10 mills and they combine road levies?

**Rep Skarphol:** I'm not aware of all counties, just the three we discussed.

**Rep Nelson:** If this was school districts, we wouldn't be giving incentive payments to districts that don't levy taxes, but it looks like we do here. And I know the needs are there - but it's a whole different philosophy with schools.

**Roll Call Vote on the Do Pass as Amended on SB 2178**

**(yes) 24 (no) 0 (absent) 0**

**Carrier: Rep Skarphol**



## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2178

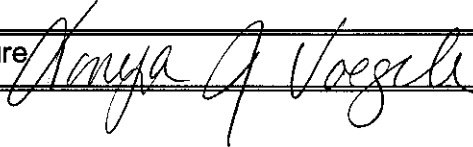
House Appropriations Committee  
Government Operations Division

☐ Check here for Conference Committee

Hearing Date: 3/22/07

Recorder Job Number: 5492

Committee Clerk Signature



Minutes:

Chairman Carlson opened the discussion on Senate Bill 2178.

Representative Kempenich explained the email that was distributed.

**Chairman Carlson:** So with the bills that we have out there, if they all would pass it would be a total impact of \$15.4million.

**Representative Skarphol:** It takes a 60% vote of the residents of a county to pass a mill levy.

**Chairman Carlson:** Is that the 10 mill?

**Representative Skarphol:** They have to have a 10 mill levy to be eligible for any money under 2178.

**Representative Glassheim:** So the \$11.8million if that passes goes?

**Chairman Carlson:** That is an automatic impact is the way I understand it.

**Representative Skarphol:** That goes to like 14 counties or more depending on where development is.

**Representative Kempenich:** The thing is with this bill and 1044, is it is based on what the production is.

**Chairman Carlson:** Does 2178 change the cap then?

**Representative Kempenich:** It raises it.

**Chairman Carlson:** Run this by me one more time. How do the 10 mills tie into this?

**Representative Skarphol:** The statute that we are talking about here in 2178 requires that the county must have a ten mill levy for roads before they are eligible for these dollars. If they don't have a ten mill levy they are not eligible.

**Representative Glassheim:** Are there any counties that are eligible now?

**Representative Skarphol:** Bowman County has a five mill levy and if they want to go to ten they have to have a 60% vote.

**Chairman Carlson:** So this could happen but if the voters say no then our \$2million is not gone either because they didn't match the ten mills.

**Representative Kempenich:** The money will sit in the Oil Trust Fund.

**Chairman Carlson:** Is this General Fund?

**Representative Williams:** The \$2million is coming out of the Oil Trust Fund.

**A motion was made by Representative Skarphol, seconded by Representative Kempenich for a DO PASS recommendation to the Full Committee.**

**Representative Skarphol:** Just to give the committee a little history. 1044 changes the formula in how the counties get money out of the oil tax. There has not been a change in that formula since 1983. They are getting the same amount of money today that they were in 1983. Production costs are slightly higher than they were in 1983. That is why they felt the need to ask for more money. I think that is a very legitimate request. 2178 merely says that if your county is willing to invest some money in roads we are willing to give you a little more.

**Representative Williams:** Mr. Chairman, I would call for the question.

**Chairman Carlson:** Representative Williams calls for the question.

**Representative Thoreson:** Didn't Mr. Walstad have an amendment Mr. Chairman?

**Chairman Carlson:** I do have an amendment that said that if certain things were to happen on certain bills in the Senate that we would need this amendment to clarify it. Mr. Walstad will you explain the amendment.

John Walstad explained amendment 70490.0203.

**Representative Kroeber:** If we passed 2178 there are \$2million that will be used in the next biennium for roads. If we passed the constitutional amendment it won't go into effect until the following biennium. So you are saying that in next biennium this is null and void.

**John Walstad:** That is exactly what will happen. For the biennium that we are just about to begin, this would not have any effect at the general election and that is when 3045 is slated to go on the ballot. General election 2008 the voters would vote on it. If they approve it, I think the effective date is July 1 of the following year but if not it would be January 1 of 2009 and it will not interfere with the provisions that are in the bill before you.

**A motion was made by Representative Skarphol, seconded by Representative Kempenich to adopt amendment 70490.0203 to Senate Bill 2178. Motion carried by voice vote.**

**A motion was made by Representative Skarphol, seconded by Representative Kempenich for a DO PASS AS AMENDED recommendation to the full committee. The committee vote was 8 Yeas, 0 Nays and 0 Absent and Not Voting. The bill will be carried by Representative Skarphol.**

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2178

Page 1, line 2, after "revenues" insert "; to repeal section 57-51.1-07.2 of the North Dakota Century Code, relating to the permanent oil tax trust fund; to provide for application"

Page 1, line 3, remove "and" and after "date" insert "; and to provide an expiration date"

Page 1, line 21, replace "eight" with "four"

Page 2, line 3, remove "sixty percent"

Page 2, line 4, remove ", ten percent to school districts within the county on the"

Page 2, remove line 5

Page 2, line 6, remove "the county based upon population"

Page 2, line 9, replace "nine" with "five"

Page 2, line 16, remove "sixty percent" and remove ", ten percent to"

Page 2, remove line 17

Page 2, line 18, remove "and thirty percent to incorporated cities of the county based upon population"

Page 2, line 21, replace "nine" with "five"

Page 2, line 27, remove "sixty percent" and remove the underscored comma

Page 2, remove lines 28 and 29

Page 2, line 80, remove "population"

Page 4, after line 21, insert:

**"SECTION 2. REPEAL.** Section 57-51.1-07.2 of the North Dakota Century Code is repealed.

**SECTION 3. APPLICATION.** Notwithstanding the provisions of section 57-51.1-07.2, the director of the budget may not consider the enactment of this Act to be an amendment of the distribution formula under chapter 57-51 and the director of the budget may not adjust the seventy-one million dollar amount under section 57-51.1-07.2 due to enactment of this Act."

Page 4, line 22, after "**DATE**" insert "**- EXPIRATION DATE**"

Page 4, line 23, after "2007" insert ", and before July 1, 2009, and is thereafter ineffective" and after the period insert "Section 2 of this Act becomes effective on the date that the proposed new section to article X of the Constitution of North Dakota as contained in

House Concurrent Resolution No. 3045, as agreed to by the sixtieth legislative assembly and approved by the electors, becomes effective."

Renumber accordingly

Roll Call Vote #: \_\_\_\_\_

House	Appropriations- Government Operations	Committee
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Legislative Council Amendment Number

Action Taken ~~##~~ Adopt Amendment Voice Vote

Motion Made By Skarphol Seconded By Kempenich

[illegible]

	Yes	No
Total		

Absent

### Floor Assignment

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

Date: 3/22/07

Roll Call Vote #: \_\_\_\_\_

**2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 278**

House \_\_\_\_\_ Appropriations- Government Operations \_\_\_\_\_ Committee

☐ Check here for Conference Committee

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

Action Taken Do Pass As AmendedMotion Made By Skarphol Seconded By Kempenich

Representatives	Yes	No	Representatives	Yes	No
Chairman Al Carlson	✓		Vice Chairman Ron Carlisle	✓	
Rep Keith Kempenich	✓		Rep Bob Skarphol	✓	
Rep Blair Thoreson	✓		Rep Eliot Glassheim	✓	
Rep Joe Kroeber	✓		Rep Clark Williams	✓	

Total Yes \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment Skarphol

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

Date: 3/22/07  
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2178

House Appropriations Full Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 70490-0204

Action Taken Adopt Amendment 0204

Motion Made By Sharphol Seconded By Carlisle

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan					
Vice Chairman Kempenich					
Representative Wald			Representative Aarsvold		
Representative Monson			Representative Gulleon		
Representative Hawken					
Representative Klein					
Representative Martinson					
Representative Carlson			Representative Glassheim		
Representative Carlisle			Representative Kroeber		
Representative Skarphol			Representative Williams		
Representative Thoreson					
Representative Pollert			Representative Ekstrom		
Representative Bellew			Representative Kerzman		
Representative Kreidt			Representative Metcalf		
Representative Nelson					
Representative Wieland					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

*Vote Vets Carries*



Date: 3/22/07  
Roll Call Vote #: 2

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2178

House Appropriations Full Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 70490 0204

Action Taken Do Pass as amended

Motion Made By Skarphol Seconded By Thoreson

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan	✓				
Vice Chairman Kempenich	✓				
Representative Wald	✓		Representative Aarsvold	✓	
Representative Monson	✓		Representative Gulleson	✓	
Representative Hawken	✓				
Representative Klein	✓				
Representative Martinson	✓				
Representative Carlson	✓		Representative Glassheim	✓	
Representative Carlisle	✓		Representative Kroeber	✓	
Representative Skarphol	✓		Representative Williams	✓	
Representative Thoreson	✓				
Representative Pollert	✓		Representative Ekstrom	✓	
Representative Bellew	✓		Representative Kerzman	✓	
Representative Kreidt	✓		Representative Metcalf	✓	
Representative Nelson	✓				
Representative Wieland	✓				

Total (Yes) 24 No 0

Absent 0

Floor Assignment Skarphol

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

**REPORT OF STANDING COMMITTEE**

**SB 2178, as engrossed and amended: Appropriations Committee (Rep. Svedjan, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (24 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2178, as amended, was placed on the Sixth order on the calendar.**

In lieu of the amendments adopted by the House as printed on pages 983 and 984 of the House Journal, Engrossed Senate Bill No. 2178 is amended as follows:

Page 1, line 2, after "revenues" insert "; to repeal section 57-51.1-07.2 of the North Dakota Century Code, relating to the permanent oil tax trust fund; to provide for application"

Page 1, line 3, remove "and" and after "date" insert "; and to provide an expiration date"

Page 1, line 21, replace "eight" with "four"

Page 2, line 3, remove "sixty percent"

Page 2, line 4, remove ", ten percent to school districts within the county on the"

Page 2, remove line 5

Page 2, line 6, remove "the county based upon population"

Page 2, line 9, replace "nine" with "five"

Page 2, line 16, remove "sixty percent" and remove ", ten percent to"

Page 2, remove line 17

Page 2, line 18, remove "and thirty percent to incorporated cities of the county based upon population"

Page 2, line 21, replace "nine" with "five"

Page 2, line 27, remove "sixty percent" and remove the underscored comma

Page 2, remove lines 28 and 29

Page 2, line 30, remove "population"

Page 4, after line 21, insert:

**"SECTION 2. REPEAL.** Section 57-51.1-07.2 of the North Dakota Century Code is repealed.

**SECTION 3. APPLICATION.** Notwithstanding the provisions of section 57-51.1-07.2, the director of the budget may not consider the enactment of this Act to be an amendment of the distribution formula under chapter 57-51 and the director of the budget may not adjust the seventy-one million dollar amount under section 57-51.1-07.2 due to enactment of this Act."

Page 4, line 22, after "**DATE**" insert "**- EXPIRATION DATE**"

Page 4, line 23, after "2007" insert ", and before July 1, 2009, and is thereafter ineffective" and after the period insert "Section 2 of this Act becomes effective on the date that the proposed new section to article X of the Constitution of North Dakota as contained in

House Concurrent Resolution No. 3045, as agreed to by the sixtieth legislative assembly and approved by the electors, becomes effective."

Renumber accordingly

2007 SENATE FINANCE AND TAXATION

CONFERENCE COMMITTEE

SB 2178

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2178**

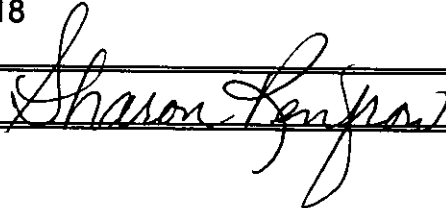
Senate Finance and Taxation Committee

☒ Check here for Conference Committee

Hearing Date: April 9, 2007

Recorder Job Number: # 5818

Committee Clerk Signature



Minutes:

**Sen. Oehlke**: called the Conference Committee to order and asked the House to explain the amendments that the House put on.

**Rep. Skarphol**: the only change that we made to this bill on House Appropriations was due to the fact that Mr. Walstad at Legislative Council informed us that there was a glitch with regard to the statute effect of the Constitutional amendment with regard to the permanent oil tax trust fund and yet the voters approved that constitutional amendment in the 2008 election, it would create a conflict with the statute so its just in the law. So the amendment that we added in fact is a contingent type situation where if the constitutional amendment passes then it repeals the section of law that refers to the limitations or the caps or the formula for distribution of the general fund dollars of the approved 71 million. So the tax repealed and then the constitutional amendment takes affect and then we have to address it again in the 2009 session. It's a contingent type situation in which if that constitutional amendment passes then it repeals a section of law.

**Sen. Urlacher**: so what your saying is we'll be in conflict with valid proposal?

**Rep. Skarphol**: if the ballot proposal passes then it would be in conflict because of the 100 million dollar reference with the 71 million dollar reference in the statute and all this does is eliminate that conflict.

**Rep. Glassheim**: so even with the changes if the measure passes and this passes, how do they work together?

**Rep. Skarphol**: this addresses, if this didn't pass then we're kind of back to where we probably have to do it on OMB in the event of the constitutional measure passes. This is just an attempt on this bill to address the conflict that would be created by the voter's passage of 3045.

**Rep. Glassheim**: but what would the dollars how would the dollars flow with both of them passing? With this and the constitutional measure

**Rep. Skarphol**: what would change when the constitutional measure becomes affective, because of the constitutional amendment the dollars flow would change in theory, now probably after the 2009 session. If the constitutional amendment passes this has to be in place, if this were not in place then there would be an issue of conflict if this were not to pass. The statute would be in conflict with the constitution, this would correct it. As long as this bill passes and gets signed by the Governor then we're fine with this. Mr. Walstad is the one that recognized this.

**Rep. Oehlke**: you're talking essentially about the last page of the bill? I noticed it repeals section 57-51.1-02.2 which has to do with allocations of monies in oil extraction development funds which would eliminate the item in question is, there's a section called permanent oil and tax trust fund deposits interest adjustment of distribution formula, so that on page 4 line 16 of the bill repeals the section that reads all revenue deposited in the general fund derived from

taxes imposed on oil and gas under chapter such and such which exceeds 71 million dollars must be transferred to the State Treasurer. So that's the section then that would be.

**Rep. Skarphol**: now section 2 in the bill as we amended it repealed that section but then if you look in section 4, the last sentence in section 4 it says section 2 of this act becomes affective on the date that the proposed new section to article 10 of the constitution is contained in and now is concurrent resolution 3045 becomes effective. So that repeal only takes place if the constitutional amendment passes. As far as the affective dates I believe that wasn't something that we discussed I think that was also something that John felt had to be done so that we could address it in 09 but we could certainly ask him to address that if you'd prefer. That was something that we just never discussed in our committee at all, it was just part of the amendment is just what we do with 2004.

**Sen. Oehlke**: on page 1 line 23 it was changed to 4 million instead of 8 then on page 2 line 9 was changed to 5.

**Rep. Skarphol**: that wasn't done in appropriations, must have been done in Finance and Tax.

**Sen. Triplett**: that's not how we sent it over to you, we sent a much more simple formula with a reference.

**Rep. Skarphol**: Finance and Tax had to have changed the formula, when you sent it out of the Senate do you recall what the funding level was at?

**Sen. Oehlke**: it was going to be able to give the counties the potential of another 3 million, well if their oil production was such that they could get up to a total of 4 with what they already have. Depends on the population.

**Rep. Skarphol**: our Finance and Tax reduced that to 1 I think. Drillings I think could conceivably have gotten 1.6 if 1044 passed and they raised the mill levy. We really should have had somebody from House Finance and Tax here.

**Rep. Glassheim:** I think it was to lower the total dollars was the main purpose.

**Sen. Urlacher:** I don't see the sunset being necessary unless it relates to the outcome of the election and the amount is definitely the need for it I tell ya. All we have to do is count the trucks on a county road and they'll tell you a story. So I don't know why they are going with it.

**Rep. Skarphol:** I think the sediment in the House was that 1044 was going to distribute 11.8 million to all the counties and that Bowman county would be primary the beneficiary of this and if we were to put 11.4 million out there then we weren't willing to go anymore on this one.

**Sen. Triplett:** once we cut the fiscal impact at 1044 in half our Senate Appropriations did that by pushing the beginning date back in here, so the next biennium the fiscal impact on that one is cut in half and with that change Bowman is already at the cap and they are getting zero out of that bill.

**Rep. Skarphol:** I understand that, I guess what I'm saying is that it appears like to me that probably this bill and 1044 needs to be considered kind of jointly to see where the final result is going to be because I don't think that there's a sediment in the House to vote for the full amount, now there be sediment in the House to go back to a little higher level here with if 1044 stays where its at is my prediction.

**Sen. Triplett:** even at the half because 1044 has been slashed in half?

**Rep. Skarphol:** right, if that one stays there, there may be some sediment toward being willing to increase this and if that one is going to go back to the full amount then I would say this one is going to stay where it's at from the House's perspective. So I would say that we're going to have to meet again and in the mean time we could check on the effective date and Mr. Walstad and see if there was a reason that he felt it had to be in here. That reason very well may be that because of the pending the constitutional amendment that we need to address it anyway and I'll have to ask him.



**Sen. Triplett**: those two should have been rolled into one bill at some point and it would have been clearer I think.

**Rep. Skarphol**: well yes and no, this is a very complex piece of legislation in a bill all by itself.

**Sen. Oehlke**: anything else we can accomplish right now?

**Rep. Skarphol**: I think for the moment I need to get together with John Walstad again and we can have him come down. Maybe we can have Wes Belter come in as well.

Adjourned the Conference Committee

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2178**

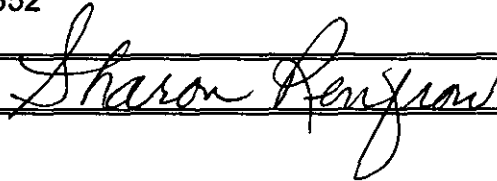
Senate Finance and Taxation Committee

☒ Check here for Conference Committee

Hearing Date: April 10, 2007

Recorder Job Number: # 5852

Committee Clerk Signature



Minutes:

**Sen. Oehlke**: called the conference committee to order and asked the clerk to take the roll.

All members present: Sen. Oehlke, Sen. Urlacher, Sen. Triplett, Rep. Skarphol, Rep. Belter and Rep. Glassheim.

**Rep. Skarphol**: I'd prefer that Mr. Walstad explain the amendments that we made in House Appropriations.

**John Walstad**: of Legislative Council explained version 0400 in bill form with the house amendments rolled into it. The first section of the bill is completely unaffected by the constitutional measure. The Appropriations committee on the House side adopted an amendment that kind of came up at the 11<sup>th</sup> hour, somebody talked Rep. Carlson into offering it to the committee and then I came to explain what it was doing then trouble ensued but the amendment was adopted. What the amendment does we have a statutory provision and it is the section b repealed in section 2 here, its 57-51.107.2, it is the statutory provision for the permanent oil tax trust fund, any amount more than 71 million dollars for the biennium from the oil extraction tax gets diverted instead into the permanent oil tax trust fund, that's basically what the section does. It is really not a permanent oil tax trust fund because the legislature can take the money from there just as it could take money from the general fund and so a

measure was introduced this session to create a constitutional amendment that establishes a permanent oil tax trust fund has the same name has basically the same mechanism except the number if I remember right is 100 million dollars and at 100 million dollars the revenue pours over into the permanent oil tax trust fund and then there is a super majority vote requirement from both chambers to spend money out of that constitutional trust fund. The constitutional measure would become effective after approval by the voters and if that happens we would have a constitutional measure saying 100 millions and a statutory provision saying 71 million dollars and so what section 2 does with the language in the effective date clause if the voters approve the constitutional measure the statutory provision is repealed it's a contingent repeal only if the voters approve that constitutional measure, if the voters don't approve the statutory provision stays in place. So that's all it does, it prevents having a situation where we've got a constitutional thing saying 100 and a statutory thing saying 71.

Section 3 that was added for a different reason that relates to section one of this bill, when section 1 was drafted adjusting the allocation to counties increasing basically by a million dollars under the cap that they are subject to from tax revenue. The fiscal note came down from the Tax Dept. saying in the statutory provision for the permanent oil tax trust fund there is some language that says the 71 million dollar amount will be adjusted by the director of the budget if the director of the budget perceives that the Legislature has changed allocation of the tax and the 71 million number would be adjusted downward if the adjustments are being made by the statute. The reason for this is the constitutional things says general fund gets 71 million anything above pours over, the legislature could play games with that by allocating money to something other than the general fund and then there would never be a pour over provision.

So the provision is in there that if the allocation is somehow changed that number gets adjusted accordingly so that 71 million is still the number and if something else happens to it

like a million bucks goes to different counties under this bill that 71 million number gets adjusted downward. The Tax Dept. said in the fiscal note this bill by making these changes would trigger that adjustment to that number and therefore it would impact the general fund and it would be a reduced general fund revenue in addition to the added money going to these counties. So the fiscal note came down with a lot bigger number than anybody anticipated it was going to be. The application section was written saying we don't care what that statute says, director of the budget don't consider this change in this bill to be a revision of the formula so that the 71 million stays 71 million and it doesn't get adjusted. It was just to eliminate that extra fiscal hit.

**Sen. Triplett**: did that also apply then if the constitutional amendment is passed, would it also like not adjust the 100 million?

**John Walstad**: no, it wouldn't apply to the constitutional measure and the legislature only has power to do this with regard to a statutory provision, the legislature couldn't do this with regard to the constitutional provision. Now there is in this bill a bit of a problem and it is in section 4, we have the first sentence is an effective date and sunset and it says this act sunset 2009 and then I wrote another sentence and tacked it on in the amendments saying section 2 becomes effective when the voters approve the constitutional measure. When I did that, I should have written the first sentence to say that section one of the act sunsets not the entire act. We can't sunset a repeal, once it's repealed it's gone you can't bring it back to life.

**Sen. Triplett**: then we need another amendment.

**John Walstad**: I'm afraid I need to fix that yes.

**Sen. Oehlke**: there apparently is no appeal to sunsetting a repeal.

**John Walstad**: all of those things that I just discussed confusing as they might be are really a side wipe to what the bill set out to do so, if there are any other questions I can try to make them worse.

**Sen. Triplett**: do you have proposed amendments for us to fix this is it just a little one word thing where we stick in one of the facts or something?

**John Walstad**: that's all we need to do and I haven't written anything that would do that. I was in discussion with some members of this conference committee and there may be some other amendments forthcoming so I can pick that up when we get to that point.

**Sen. Urlacher**: well the bill the part of the bill of the sunset bothers me because the problems aren't gonna go away so I was thinking through that and possibly proposing an amendment that flowed with the inflationary factor flowing with the production of oil. You take when a county reaches its cap if there was a 5% inflationary factor that would move up because the production of oil in that county to reach that cap has generated a lot of income to the state and as long as that production is at that high level is gonna be this continuous impact, which ever county it is. When the oil production in that county drops, why that factor would drop off when it reaches the cap cuz those oil wells as they get older they drop off in production and now we look at Bowman County in particular with 40% of the production coming out of that county. But we also have to look the Bakken Formation, when that production comes up we'll have the same problem as Bowman County, the \_\_\_ tax would be there. So looking ahead if we could solve the problem of the future I think we need to put an inflationary factor on after it reaches the cap because I think it will always flow with the production oil, it will always flow with the revenue to the state. Do you follow me?

**Rep. Skarphol**: the reason for the sunset, is that because we are going to have to address this particular formula next session if the constitutional amendment passes?

**John Walstad**: the constitutional measure and this allocation to counties aren't really directly connected. The sunset there I think was put in because I think some people were not entirely sure that the million dollar plus was the right number and I think they thought lets do this 2 years and look at it again and see if the numbers are right.

**Rep. Skarphol**: being we had to have section 3 directing that the outline be was not to adjust the 71 million if the constitutional amendment passes, would they have to by statute affect the 100 million? Is there a requirement that they reduce the 100 million because of this allocation?

**John**: I don't recall if that's in the constitutional measure or not.

**Rep. Skarphol**: so we may to address this next session in order to ensure that this formula can work without that 100 million figure.

**John**: you might be right, it might be necessary to revisit the allocation.

**Sen. Urlacher**: I guess my statement follows what we thought the cap didn't have any affect that we could get by with out the cap and not affect the bill.

**John**: that was my thought when we were visiting this morning, I need to look at that constitutional measure and make sure that is not impacted by this statutory change because obviously that has a significant impact on whether the statutory change be reviewed in 2 years or established in a way that can carry on into the future and deal with impact as it arises as you were describing.

**Sen. Triplett**: this is the question that I probably should have asked at the very beginning when we were first talking about this bill and the other one that affects this section but can somebody tell me where it originated that we are giving these numbers out based on the population of the counties? We're talking about road building and roads for everybody to use and roads for the oil companies to use particular to produce a product that the entire state

where, what's the origin of that giving money by population of the counties seems like its irrelevant this divider this decider.

**Sen. Urlacher:** I don't know just when that was established, there is 3 categories of population I think it is related in population related to roads, usage I guess as why that is established that's been in place for a number of years.

**Sen. Triplett:** I'm sure it has I was just wondering why it makes sense that's all.

**John:** that formula came into being back when I just was just a baby code reviser in the mid 80's and it was a interim committee study that I helped with those numbers were plugged in as you say population impact what the connection. I think that those numbers were made to match up with what was deemed to be appropriate allocation among counties based on the production that was going on at the time. I know that Billings County was a concern, Billings had a very low population not a lot of roads and a significant amount of production and I think that was the reason for that lowest category, now that category applies to Bowman County which at the time was even on the radar as far as how those things were being laid out so. Times have changed categories are still the same but they're based on production from 20 years ago and what was deemed to be appropriate levels of allocation among the counties at that time.

**Sen. Urlacher:** what I see is the history says what happened back in 81 doesn't apply or doesn't fit anymore, we know that an oil field wasn't established back then now we have an oil field now we got impact and it seems like it congregates in one area unless we fix it why its just going to continue, its going to accelerate and now we're getting into any number of fields through out the state and with Bakken being as large as it is we are going to have an on going problem. And it's my thought you could connect it to the production and let it flow with that production which goes up and down or you could solve the high production end and you could

also solve it when it's low. I don't know what the numbers should be but it would be and I'm sure as we do things around here we adjust as we go, if there out of whack readjust. So I think coming up with a number that would fix the problem it wouldn't continue one, makes sense to me. We got the cap in there if it drops to a certain, \_\_ 5% or whatever number is in there and maintain its cap. If it goes over that we as a State realize many more millions of dollars and we share a portion of it through that.\

**Rep. Skarphol**: Sen. Urlacher I agree with you to a certain extent and I guess my thought in listening to you was that yes I agree with some of what your saying but at the same time if we want to do something that's going to address the problem fully then maybe we should also incorporate a provision that lets some of this money flow to the oil impact fund so that Rick Larson, the person in the Land Dept. can look at what's developing what's out there before the production is having a problem. In other words, new development in a county that hasn't had development can have as big an impact as ongoing development in a county that's been developed so ya, there are both sides of that coin it really should be addressed if we want to make it long term.

**Sen. Urlacher**: now an adjoining county to a producing county probably has considerably and that's what your getting at but then we have the impact office that addresses that and when a county is getting over the cap and getting the 5% you might say and the adjoining county isn't in that category, that impact office would be looking at the impact on that adjoining county and realizing that they will be coming into the producing county which you transfer that impact fund from the impact office to that county that doesn't have that production. So we have a back up on that side to address what you're saying to do the impact office. That's my theory.

**Rep. Skarphol**: part of what I'm getting at Senator is the fact that with the Bakken developing the way it is and the way its proliferating across Western North Dakota is not just the adjoining



county, there is new counties completely new counties for example Mountrail County in the Powers Lake area hasn't had production, now they are getting pounded, their roads are getting pounded by the new development and their not going to have any benefit from the formula your referring to until such time they get significant production, that's why I'm saying that a portion of whatever you think should automatically \_\_\_ based on inflation should probably also flow to that impact office so they have more money to address those folks that are being newly adversely affecting.

**Sen. Urlacher**: that's probably right and if that production is up through out the state whatever it is; those revenues are addressing a problem within the industry that creates some.

**Rep. Glassheim**: I worry about last minute unattended consequences of last minute changes of a few people of the room, I wonder if this doesn't need a study. I don't like to just put things off but the 2 years would give us a chance your almost proposing a significant change in the formula and with different parties I wonder if it doesn't need a full study before trying to make a change.

**Sen. Urlacher**: I don't really see it as a over all job but we have the impact now not 2 years from now and then we implement it at a later time and it drags out farther we don't get the job done we intended to do.

**Rep. Glassheim**: there will be some monies flowing that address our current problem in the bill as it is now, aren't there.

**Sen. Urlacher**: I wouldn't disturb that portion of the bill.

**Sen. Triplett**: Rep. Glassheim are you suggesting a pending a study resolution onto this or are you just suggesting that the sunset clause by itself will result in sort of a push for a study.

**Rep. Glassheim**: if we want to study it then we ought to add on a study part and it would tie in with the sunset clause also because presumably we would come back next time with more information and proposal for a change if it's needed.

**Sen. Oehlke**: I suspect that if the sunset remains on we'll have plenty of people studying it.

**Rep. Skarphol**: Sen. Urlacher, were you proposing that you'd like to get some language put together to address the issue that you were talking about.

**Sen. Urlacher**: that was my intent but this morning I just visited with John and we didn't have enough time to make that draft but I would like to put a draft together for review and see where it goes.

**Rep. Skarphol**: is that kind of your only issue then with regard to what we need to do with this?

**Sen. Urlacher**: I don't know I guess the sunset if it's before we get feed back whether that's a requirement or not, a concern.

**Rep. Skarphol**: I guess I kind of agree with Rep. Glassheim to a certain extent, I don't think it would hurt to put a study request on this particular piece of legislation with regard to looking back at what's transpired with regard to population issues just because we do something doesn't necessarily mean it makes sense whether its today or 25 years ago. I don't a bad idea would be to have a study that would take a look at the various types of issues the inflationary issue the population issue the how do we address the wide spread development issue and there's a number of things that could be addressed in a study with regard to the oil taxes and how they are distributed and whether they are distributed equitably.

**Sen. Urlacher**: are you suggesting not amending em to this at all and just putting it to a study?

**Rep. Skarphol**: no, I don't mind listening to your amendment, I'm just saying maybe in addition to your amendment we should consider study language, I know Mr. Walstad can come up with a language we need to address pertinent issues.

**Sen. Urlacher**: well I say one thing about it we think we can't deal with it in a short period of time; I think we'll have 2 weeks.

**Rep. Belter**: I was going to say that I would be rather concerned about making any significant changes to the formula by a conference committee because I think this is an issue of great importance to the whole area that's impacted by the oil development and I guess I would just be very skeptical about doing anything that would make major changes here without a complete legislative hearing or a study type approach to it.

**Sen. Urlacher**: I don't mean to go through this hastily but we know there's a problem that exists and we know there will be a future problem and looking for some way of addressing, we're looking at a state not a county, and my thoughts are on the state. If we can't fix it on a short term, fine, we'll go into a study and do it but we've emphasis on fixing the problem whether short term or not.

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2178**

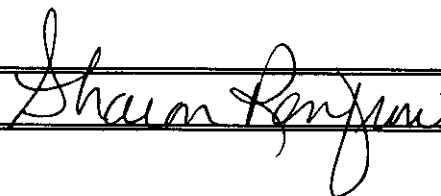
Senate Finance and Taxation Committee

☒ Check here for Conference Committee

Hearing Date: April 11, 2007

Recorder Job Number: # 5889

Committee Clerk Signature



Minutes:

**Sen. Oehlke**: called the conference committee to order and asked the clerk to call the roll. All members present: Sen. Oehlke, Sen. Urlacher, Sen. Triplett, Rep. Skarphol, Rep. Belter and Rep. Glassheim.

**Sen. Oehlke**: handed out an amendment that was drafted by Urlacher (0205 version) for the committees review.

**John Walstad**: Legislative Council appeared to explain the 0205 version amendment. In the 0205 version there are some changes up at the top the significant thing is just about at the bottom there, there's a new paragraph, page 3 line 3. This was the thing that was discussed yesterday that allows counties in each of those categories of population and caps an increase of 5% from the amount of the limitation for that county from the previous year if in the previous year they hit the cap. As long as they keep hitting the cap they get 5% on top of previous year's numbers, so that could be a compounding thing if they cap out year after year. First year hit the cap that's the number, second year 105% of that is the cap, then if at some point they do not hit the cap this provision no longer applies to them the original cap is reinstated for them and the caps in the draft would remain the way they are where its 3,900,000 but it goes up to 4,900,000 if they levy 10 mills for road purposes.

**Rep. Skarphol**: just so I can understand this, lets just use a hypothetical situation, a county reaches a cap and they get x amount of dollars for the next 5 years they exceed that cap like you are saying here and they go 105 and then 110, 115, 125 and then they drop below, do they go back to the 100? Yes     Okay, then a second scenario you have that county that exists and all of a sudden you have a new county that gets an in ordinary amount of production and reaches the cap 3 years after the original count, then they are going to be at the same 4.9 the first year, do you see where we could have 2 different amounts of funding going based on how it had \_\_\_\_.

**John**: yes, there could be more than 2, every county could have its own cap.

**Rep. Belter**: the original bill only really applied to Bowman County.

**John**: I believe that's right, that Bowman was the one affected and I believe McKenzie was just getting right to the cap numbers.

**Sen. Urlacher**: but McKenzie didn't levy the 10%, you would have to levy that 10% before it would fit into that category.

**John**: that's correct and I think Bowman is the same thing.

**Rep. Skarphol**: I think Bowman is levying at 5.

**Sen. Triplett**: I think what we heard from Sen. Bowman who is also Commissioner Bowman he thinks there is a commitment on the part of the folks in Bowman County to increase it to 10% whereas we think there is not a commitment in McKenzie County to do that, but that could change too with different commissioners or attitude.

**Sen. Urlacher**: when that 5% kicks in you made reference to the next time the 10%, 15% but it would really be, the 5% would kick in and then only a portion of that 5% would increase, would it not? The next time around, it's not a full 5% each time it's compounded isn't it?

**John:** it would be a compounding 5 but not 10, it would be a 5% increase the first year this applies and then that would become the base number and then 5% on top of that and then 5% on top of that and the numbers would go up. It would be 10 and some fraction.

**Rep. Glassheim:** basically it would be 250 to 300,000 a year it would go up, give or take.

**Sen. Oehlke:** everybody should turn the page because there's a study on the back side of this; maybe it's going to help us not be as concerned about what's going to happen to this in 5 yrs, 10 yrs or something.

**John:** that was the other thing that the committee requested that this be a topic for a legislative council study, now in drafting the study language I tried to be restrictive, I did not sense that the committee wanted to open up all areas of oil and gas taxes as in lets look at the triggers and lets look at exemptions and all the tax formula I sense that we're limiting this focused to the allocations that go to political subdivisions under those taxes and so the study is drafted to apply to only that aspect.

**Sen. Oehlke:** the very last paragraph then does that correct the concerns you had about 3045 cuz I think you said you had to do some rewording on that.

**John:** I looked at 3045 and we don't have a problem there, 3045 does not have the language in it that the statutory provision has where the director of the budget adjusts the threshold number for the allocations, that's not in the constitutional measure so 100 million will be subject to a consumer price index adjuster but there will be no authority for the director of the budget to look at legislation and say naw, formula changed I'm changing the number, that isn't going to happen under constitutional provision.

**Sen. Urlacher:** so there is no reason for a sunset no sunset clause on here?

**John:** the sunsets gone

**Rep. Belter**: the 205 amendment that's laying before us is that's an amendment to which version?

**Sen. Oehlke**: the 200 version which is the way it came over from the Senate.

**Rep. Skarphol**: that in the study language you going to have to help me here on the 3<sup>rd</sup> line, the way it reads from the 2<sup>nd</sup> to the 3<sup>rd</sup> line, the Legislative Council shall consider studying allocation of oil and gas revenues to or for the benefit of, okay now I get it.

**John**: and the reason I used the phrase for the benefit of, that is the oil impact fund. That money is not allocated directly to political subdivisions but goes into an impact fund which is distributed to political subdivisions to offset impacts, well you were talking about that yesterday I assumed that's also part of the things to look at. Time out, I want to make sure about the sunset thing, no the sunset is gone.

**Rep. Skarphol**: with regard to the bill as it come over and got amended in the House and is in its current situation Bowman County would be the only county currently eligible but if 1044 were to pass with full funding as opposed to how it is in the Senate right now, then the potential exists if McKenzie County and Billings County could conceivably exceed the cap and be in line to receive some money, the fiscal note that we had in the House as its potential could exist to go to 1.6 million additional on top of the \_\_\_\_\_. And quite frankly Sen. Urlacher I'm not sure the House would approve an amendment that would increase the fiscal note on this particular piece of legislation, the House would prefer 1044 from my perspective at least now the other committee members can express theirs as well. But I think the House' opinion was that we'd like to see a broader distribution in favor of a more limited distribution, we're willing to go along with some and that's what we did with 2178 but I'm not sure that we're willing to and I'd have to discuss it but I'm sure there'd be some degree of hesitancy with this inflator on.

**Sen. Urlacher**: I was looking at a long term fix in regard I wouldn't want to endanger what we're dealing with by adding to it.

**Rep. Skarphol**: I think you have a very legitimate point and I think it deserves a larger hearing than just here.

**Sen. Urlacher**: that's where the study portion comes in to accomplish that end because there is many factors.

**Rep. Belter**: I guess that from my perspective we have 1044 which we had approved in the House to fully fund at 11.6 million and now you mention another.

**Rep. Skarphol**: a delayed bill.

**Rep. Belter**: yes, my thought was we would fully fund that and that this was a bill just dealing with Bowman County that we would look at their special needs for a 2 yr time period and which I'm certainly comfortable with what we did in 2078 and as far as making any putting escalators and formula changes and all those things I guess I would be a little reluctant to do that and if we're going to do this do a study of this which I think we should do I guess I'm would prefer just keeping the, well your on 1044 with me too and I would hope that we could get that one fully funded.

**Sen. Urlacher**: that might not happen I don't know yet.

**Rep. Skarphol**: but if 1044 moves forward as it is in the Senate version and the 2<sup>nd</sup> half of the biennium kicks in there is not I don't believe I think you removed the sunset clause if I'm correct on 1044 to where it would continue on into the future and in that event Billings County and Bowman or McKenzie will bump up against that cap and if exceeded and if those voters in those counties choose to pass a 10 mill levy they would be eligible under this particular legislation for some reimbursement, so the fiscal note could conceivably rise on this one not necessarily in the 07-09 planning but it could certainly start to plan significantly in 09-11. And I



agree with you Senator about the need for a look at the inflationary thing, I do because most of this was set up long enough ago the construction costs have significantly on county roads.

**Sen. Urlacher:** well I don't know what percentage it should be but it should be 5% or if there should be a flat rate or should it be connected to any other factor. My first priority is taking care of Billings County and I was also looking at the future of other counties that will wind up with the same problem as the Bakken Formation and all of those \_\_\_, now they aren't there yet and the monies won't relate to it until it is there but the revenue to the State at that point and time will be substantial so there is an opening for that period of time to address the problem. But its fine, I think we do need to study it to do the proper job but it is an idea brought forth for consideration if we can consider it now or we can consider it later, that's the way it is.

**Rep. Glassheim:** I was reviewing my file last night and two concerns arose I'm not an expert on any of this but and one of them was the Forest Service giving 6 million dollars to McKenzie and Billings Counties, I don't know if that's new money or not but its significant amount if its new money, it almost seemed like it but I'm not sure and the second is in the Bowman County testimony it looked like for 5 years they needed 15 to 20 million dollars to take care of their roads, well that's 3 to 4 million and you got that, even without this, I mean that's what you can get. I mean you cap is at 3 to 4 million I'm certainly willing to do what we had in the original one but I don't know with the needs I've had to make some permanent changes I mean based on the figures that Bowman County provided. I may be way off.

**Sen. Urlacher:** \_\_\_ in Bowman County has just changed totally and the revenue that's arrived in the State from it is totally different as well so what we're dealing with such a different situation.

**Rep. Glassheim**: no no this is the projections for 2007 to 2011 and they had a total number of roads and they have their cost of reconstruction of resurfacing and maintenance per mile and they have the miles it's a 5 year plan and they need 3 to 4 million a year for the next 5 years.

**Rep. Skarphol**: are there provisions in the law for a study of oil taxes in any other place? Typically does the interim Finance and Tax Committee look at oil or is it only considered if there's a direct study?

**Sen. Urlacher**: only if it's direct and this is narrowed down.

**Sen. Oehlke**: the impression I'm getting is we like the study idea and I have a question for Mr. Walstad and that would be relative to the House bill which is not the 200 version it's the 400 version, I'm trying to remember if you said that that needed some correction because of the wording on the effective date, so that would still need some I mean if all we did was the legislative study and corrected that and left everything else the same, we'd still need to do some changes on that wording on the end of \_\_\_\_.

**John Walstad**: that is correct, the effective date said that the act is affective and that would not be the case with that repealer of the statutory permanent oil and tax trust fund language so just a little tweak in the effective date language which you can see in the 05 that that little tweak has been done in those last two changes on page 4 line 22 and page 4 line 23 changes. Now Mr. Chairman I'm sorry to interrupt but Rep. Glassheim made the point with regard to the Bowman County projected costs and how that compares with the allocation to Bowman County and I just want to point out what the statutory allocation formula provides. That amount does the amount within the cap goes to Bowman County true but when Bowman county receives that money, Bowman County takes 45% of that amount puts it in the county general fund takes 35% of it portions it to school districts and the remainder goes to city. So if you're looking at

the cap number compared to their estimated costs you've got to remember the county only gets to keep 45% of the money.

**Sen. Oehlke**: and that's the total for impact on the county in which we're talking about roads but there's probably other impacts as well, like social services, and so on.

Rep. Skarphol: my question is really for Mr. Walstad, if we wish to make a Motion here that would not include the inflator we could move the amendment 05 with the removal of the language on page 3 line 3, that would give us the study the needed changes in section and leave in tact the way the House sent it out with those exceptions, the study and not changing it.

**John Walstad**: that's correct the only thing that would need to be eliminated is that page 3 line 3 paragraph and then it would be the House version with the fix on the effective date and with the legislative council study.

**Rep Skarphol**: well in the interest of maybe getting done with our meeting I would make the **Motion that the House recede from their Amendments and the conference committee adopt as to 0205 with the exclusion of the language on page 3 line 3, second by Sen. Triplett.**

**Rep. Skarphol**: what we would in essence be doing is leaving the bill in the form it left the House with the exception of we are adding the legislative council study and we're making the change in the language to remain to the constitutional amendment and removing the sunset clause and we'd be removing the 5% reference on page 3 line 3.

**Sen. Urlacher**: now in the study there's nothing that addresses the 5% or study in or would that come automatic or does it need to be more specific instead? The 5% we are talking about would it be part of the study? Anything indicating that it will be part of the study?

**John Walstad**: the 5% number not necessarily but the allocations for every county under the taxes would be the whole study, that would be what the committee is looking at and I would

assume that that would require gathering information on the populations, projections on where populations are going projections on where oil development is accruing and where the revenue is going to be derived, road construction costs, changes over the last 20 years that kind of thing, so I think the whole thing would have to be on the table that's the heart of what this language tells the committee to do. Now I might point out it's not a mandatory study, its one that goes on the legislative councils plate and they can prioritize or not as they see fit.

**Sen. Urlacher**: could we make it a mandatory study?

**John**: very easy, the only change necessary in the study language that section 4 legislative council study the second line the first two words are considered studying, if those are gone and the word study is put in their place then its mandatory, that's all it takes.

**Sen. Oehlke**: it probably wouldn't be a bad idea to make something like this mandatory; I can sure see that it's going to cause some consternation down the road if we don't figure something out.

**Rep. Belter**: I would made a Motion to further Amend that we make it a Mandatory Study, second by Sen. Urlacher.

**Sen. Oehlke**: all in favor of that Motion say aye? Voice Vote: 6-0-0

**Sen. Oehlke**: now we have the original motion by Rep. Skarphol and seconded by Sen. Triplett and it was to recede from their amendment and then to add back on this new amendment, clerk call the roll.

Roll Call Vote: 6-0-0

April 10, 2007

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2178

That the House recede from its amendments as printed on pages 1136 and 1137 of the Senate Journal and pages 1192 and 1193 of the House Journal and that Engrossed Senate Bill No. 2178 be amended as follows:

Page 1, line 2, after "revenues" insert "; to repeal section 57-51.1-07.2 of the North Dakota Century Code, relating to the permanent oil tax trust fund; to provide for a legislative council study; to provide for application"

Page 1, line 21, replace "eight" with "four"

Page 2, line 3, remove "sixty percent"

Page 2, line 4, remove ", ten percent to school districts within the county on the"

Page 2, remove line 5

Page 2, line 6, remove "the county based upon population"

Page 2, line 9, replace "nine" with "five"

Page 2, line 16, remove "sixty percent" and remove ", ten percent to"

Page 2, remove line 17

Page 2, line 18, remove "and thirty percent to incorporated cities of the county based upon population"

Page 2, line 21, replace "nine" with "five"

Page 2, line 27, remove "sixty percent" and remove the underscored comma

Page 2, remove lines 28 and 29

Page 2, line 30, remove "population"

Page 3, line 3, after the period insert "However, the applicable limitation on annual revenue for a county under subdivisions a through c is increased by five percent of the amount in dollars of the limitation for that county from the previous annual revenue allocation if the previous annual revenue allocation for that county equaled the limitation for that county."

Page 4, after line 21, insert:

**"SECTION 2. REPEAL.** Section 57-51.1-07.2 of the North Dakota Century Code is repealed.

**SECTION 3. APPLICATION.** Notwithstanding the provisions of section 57-51.1-07.2, the director of the budget may not consider the enactment of this Act to be an amendment of the distribution formula under chapter 57-51 and the director of the budget may not adjust the seventy-one million dollar amount under section 57-51.1-07.2 due to enactment of this Act.

**SECTION 4. LEGISLATIVE COUNCIL STUDY.** The legislative council shall consider studying, during the 2007-08 interim, allocation of oil and gas tax revenues to or for the benefit of political subdivisions with emphasis on determining whether allocations sufficiently address oil and gas development infrastructure impact to political subdivisions and the legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-first legislative assembly."

Page 4, line 22, replace "This" with "Sections 1 and 3 of this" and replace "is" with "are"

Page 4, line 23, after the period insert "Section 2 of this Act becomes effective on the date that the proposed new section to article X of the Constitution of North Dakota as contained in House Concurrent Resolution No. 3045, as agreed to by the sixtieth legislative assembly and approved by the electors, becomes effective."

Renumber accordingly

# REPORT OF CONFERENCE COMMITTEE (ACCEDE/RECEDE)

Bill Number SB 2178 (, as (re)engrossed):

Date: 4-11-07

Your Conference Committee Sen. Fin & Tax

For the Senate:

For the House:

S. Oehike	<sup>4/9</sup> P	<sup>4/10</sup> P	<sup>4/11</sup> P	<sup>4/11</sup> Y	R. Skarphol	<sup>4/10</sup> P	<sup>4/10</sup> P	<sup>4/11</sup> P	<sup>4/11</sup> Y
S. Urlacher	P	P	P	Y	R. Carlisle, Butler	P	P	P	Y
S. Triplett	P	P	P	Y	R. Glassheim	P	P	P	Y

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)

the (Senate/House) amendments on (SJ/HJ) page(s) 1136 -- 1137

\_\_\_\_\_ and place \_\_\_\_\_ on the Seventh order.

\_\_\_\_\_ adopt (further) amendments as follows, and place \_\_\_\_\_ on the Seventh order:

having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) \_\_\_\_\_ was placed on the Seventh order of business on the calendar.

DATE: 4-11-07

HOUSE CARRIER: Rep. Skarphol

SENATE CARRIER: Sen. Oehike

LC NO.	of amendment
LC NO.	of engrossment
Emergency clause added or deleted	
Statement of purpose of amendment	

MOTION MADE BY: Rep. Skarphol

SECONDED BY: Sen. Triplett

VOTE COUNT: 6 YES 0 NO 0 ABSENT

**REPORT OF CONFERENCE COMMITTEE**

**SB 2178, as engrossed:** Your conference committee (Sens. Oehlke, Urlacher, Triplett and Reps. Skarphol, Belter, Glassheim) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 1136-1137, adopt amendments as follows, and place SB 2178 on the Seventh order:

That the House recede from its amendments as printed on pages 1136 and 1137 of the Senate Journal and pages 1192 and 1193 of the House Journal and that Engrossed Senate Bill No. 2178 be amended as follows:

Page 1, line 2, after "revenues" insert "; to repeal section 57-51.1-07.2 of the North Dakota Century Code, relating to the permanent oil tax trust fund; to provide for a legislative council study; to provide for application"

Page 1, line 21, replace "eight" with "four"

Page 2, line 3, remove "sixty percent"

Page 2, line 4, remove ", ten percent to school districts within the county on the"

Page 2, remove line 5

Page 2, line 6, remove "the county based upon population"

Page 2, line 9, replace "nine" with "five"

Page 2, line 16, remove "sixty percent" and remove ", ten percent to"

Page 2, remove line 17

Page 2, line 18, remove "and thirty percent to incorporated cities of the county based upon population"

Page 2, line 21, replace "nine" with "five"

Page 2, line 27, remove "sixty percent" and remove the underscored comma

Page 2, remove lines 28 and 29

Page 2, line 30, remove "population"

Page 4, after line 21, insert:

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**SECTION 3. LEGISLATIVE COUNCIL STUDY.** The legislative council shall study, during the 2007-08 interim, allocation of oil and gas tax revenues to or for the benefit of political subdivisions with emphasis on determining whether allocations sufficiently address oil and gas development infrastructure impact to political subdivisions. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-first legislative assembly.

**SECTION 4. APPLICATION.** Notwithstanding the provisions of section 57-51.1-07.2, the director of the budget may not consider the enactment of this Act to be an amendment of the distribution formula under chapter 57-51 and the director of



the budget may not adjust the seventy-one million dollar amount under section 57-51.1-07.2 due to enactment of this Act."

Page 4, line 22, replace "This" with "Sections 1 and 4 of this" and replace "is" with "are"

Page 4, line 23, after the period insert "Section 2 of this Act becomes effective on the date that the proposed new section to article X of the Constitution of North Dakota as contained in House Concurrent Resolution No. 3045, as agreed to by the sixtieth legislative assembly and approved by the electors, becomes effective."

Renumber accordingly

Engrossed SB 2178 was placed on the Seventh order of business on the calendar.

2007 TESTIMONY

SB 2178

# **SB 2178 Summary**

**Senator David P. O'Connell**

**Changes the amount of money counties can be appropriated in relation to oil and gas gross production tax revenues.**

- **Counties having a population of 3,000 or less shall receive no more than 8-million nine hundred thousand (\$8,900,000) dollars for each fiscal year.**
- **Counites having a population over 3,000 but less than 6,000 shall receive no more than 9-million one hundred thousand (\$9,100,000) for each fiscal year.**

# TESTIMONY FOR SENATE BILL 2178

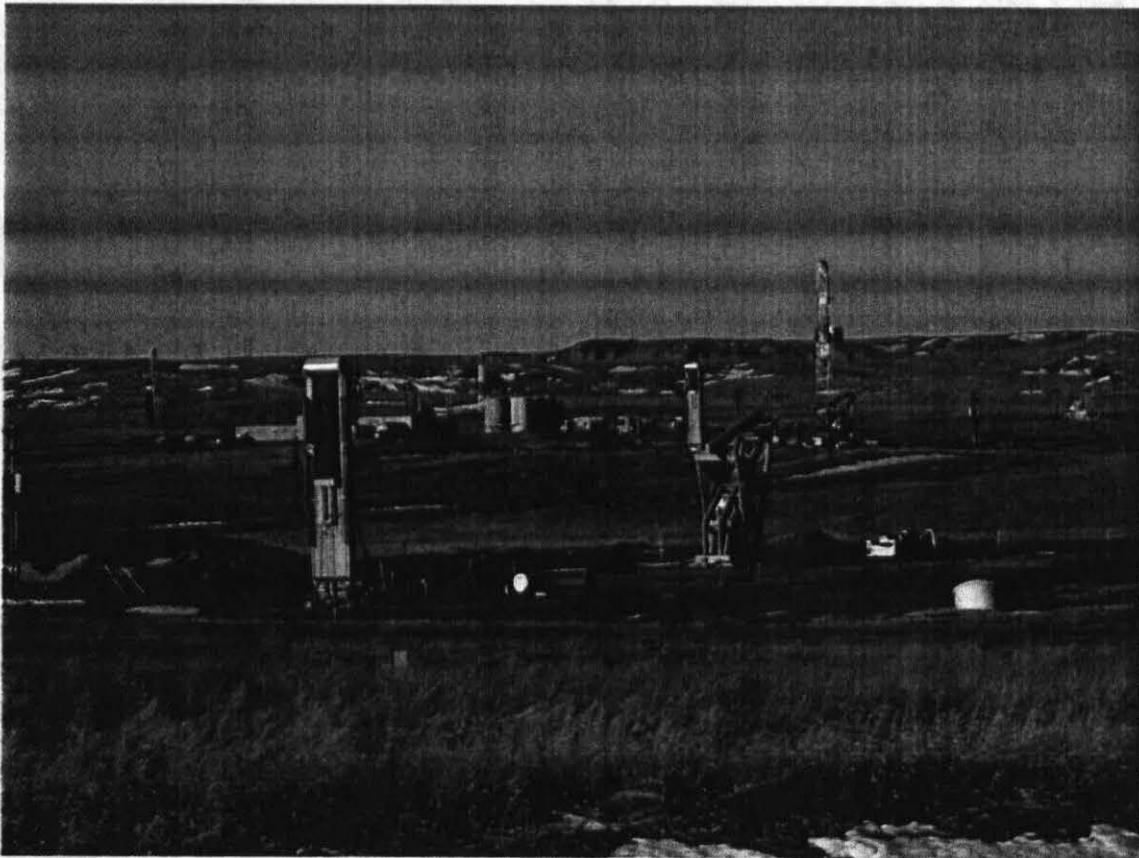
*Same  
given to  
House  
with exception  
of  
last 3 1/2  
pages*

**AMEND SUBSECTION 2 OF SECTION 57-51-12**

**PREPARED FOR:**

**SENATE FINANCE AND TAXATION COMMITTEE**

**SENATOR HERBERT URLACHER, CHAIRMAN**



**PREPARED BY:**

**BOWMAN COUNTY COMMISSIONERS**

*Same  
given to  
Senate approp*

**COUNTY OF BOWMAN  
BOARD OF COUNTY COMMISSIONERS**

Post Office Box 439  
104 First Street NW

Bowman, ND 58623  
701-523-3130

Senate Finance and Tax Committee  
Sen. Herbert Urlacher, Chairman

The Bowman County Commission would like to thank you for this opportunity to provide some information as to the importance of oil and gas production taxes to Bowman County. Tax revenues that come to the County have been of great assistance to the citizens of Bowman County, especially the past few years.

Horizontal drilling technology has greatly changed the oil and gas activity in the Bowman County area. It has opened up the largest oil field in the lower 48 states in the past 25 years. It has also enhanced production in old vertical wells that are at or are near the end of their life cycle.

We Commissioners feel it is our responsibility to provide safe and cost effective roads. Safe roads are needed for the people living in Bowman County as well as the people working in the oil field. Providing safe and cost efficient roads has become a challenge in Bowman County. The oilfield is large and covers over 150 miles of county roads. The cost to reconstruct, repair and maintain these roads has almost doubled the past three to four years.

We would like to present the following for your information to express the need to increase the cap on the portion of tax money that comes back to Bowman County. Your support is urgently needed.

Thank you for your favorable consideration.

Bowman County Commission

Kenneth Steiner, Chairman

Pine Abrahamson

Bill Bowman

## **BOWMAN COUNTY OILFIELDS**

### **CEDAR HILLS-RED RIVER B UNIT**

- **WELLS COMPLETED** 450
- **WELLS TO BE DRILLED** 70-100
- **RIGS PRESENTLY WORKING** 3
- **PIPELINES** 1200+ MILES
- **WATER & AIR PLANTS** 10

### **OUTSIDE CEDAR HILLS**

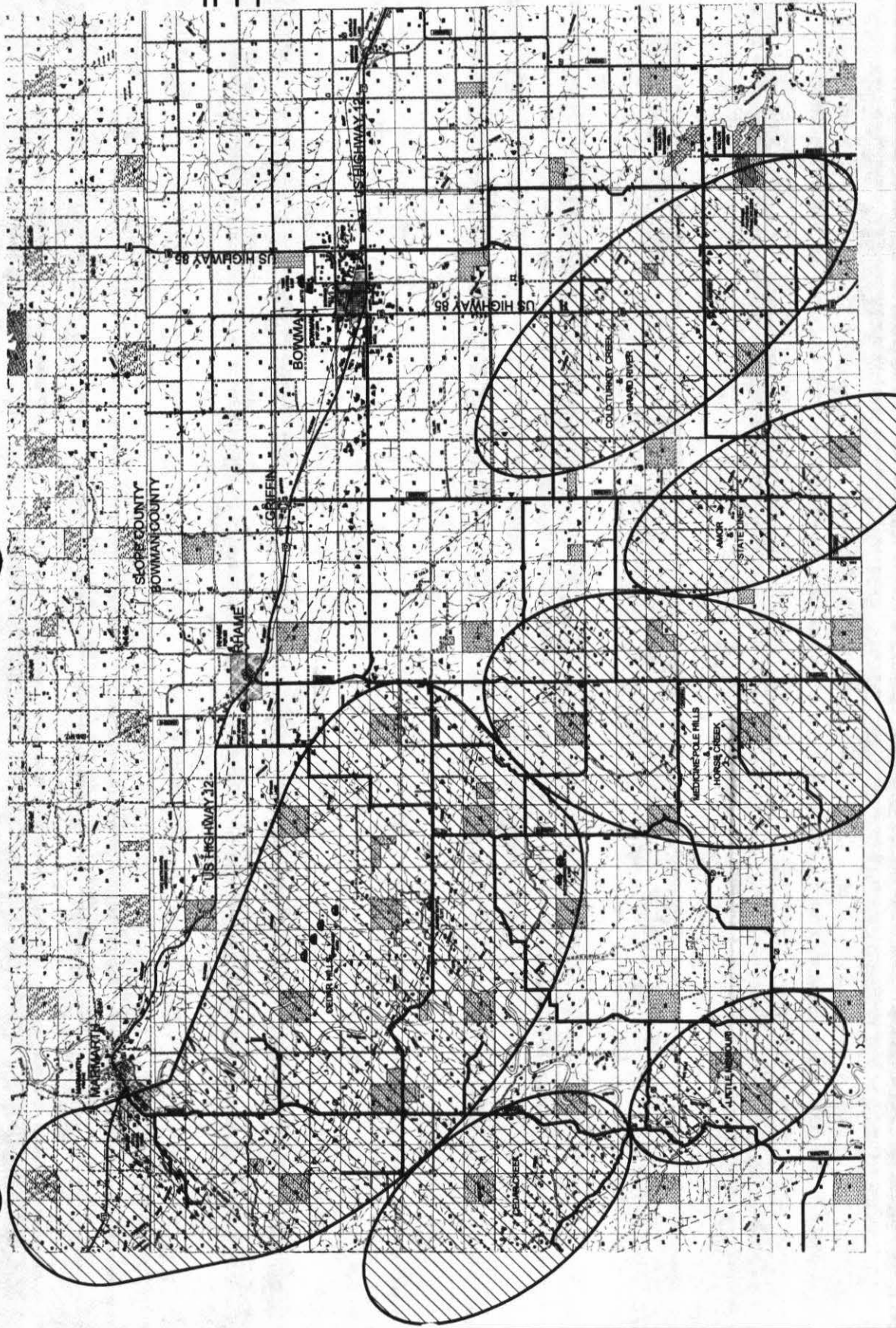
- **WELLS COMPLETED** 250
- **WELLS TO BE DRILLED** N/A
- **RIGS PRESENTLY WORKING** 2
- **PIPELINES** 600+ MILES

### **GAS PRODUCTION**

- **EXISTING GAS PLANTS** 2
- **BADLANDS GAS PLANT** 1
- **NEW SHALLOW WELLS FROM 2004 TO 2006** 100+



- LEGEND
- US HIGHWAY
  - COUNTY MAJOR ROAD
  - COUNTY MINOR ROAD
  - COUNTY MINOR ROAD
  - TOWNSHIP ROAD



## **BOWMAN COUNTY ROAD SYSTEM**

### **OIL & GAS IMPACTS**

- MILES OF COUNTY MAJOR COLLECTOR ROADS IMPACTED 92
- MILES OF COUNTY MINOR COLLECTOR ROADS IMPACTED 63
- MILES OF TOWNSHIP ROADS IMPACTED 100

### **BOWMAN COUNTY ROADS & BRIDGE EXPENSE**

- AVERAGE PER YEAR 1991-1995 \$660,000
- AVERAGE PER YEAR 1996-2003 \$1,310,000
- 48 MILES OF NEW & RECONSTRUCTED \$8 MILLION
- AVERAGE PER YEAR 2004-2005 \$2,380,000
- ROAD EXPENSE IN 2006 \$3,340,000
- ROAD NEEDS FOR 2007 TO 2011 \$15 – 20 MILLION



## OTHER ENTITIES

### TOWNSHIPS

- NO ACCESS TO OIL PRODUCTION TAXES
- BOWMAN COUNTY TO TOWNSHIPS \$820,000

### LAW ENFORCEMENT & EMERGENCY SERVICES

- SHERIFF DEPARTMENT
- AMBULANCE
- FIRE DEPARTMENTS



LOOP ROAD – SPRING



LOOP ROAD – SPRING



GRIFFIN-RHAME CUT ACROSS



GRIFFIN-RHAME CUT ACROSS



LANGBERG ROAD

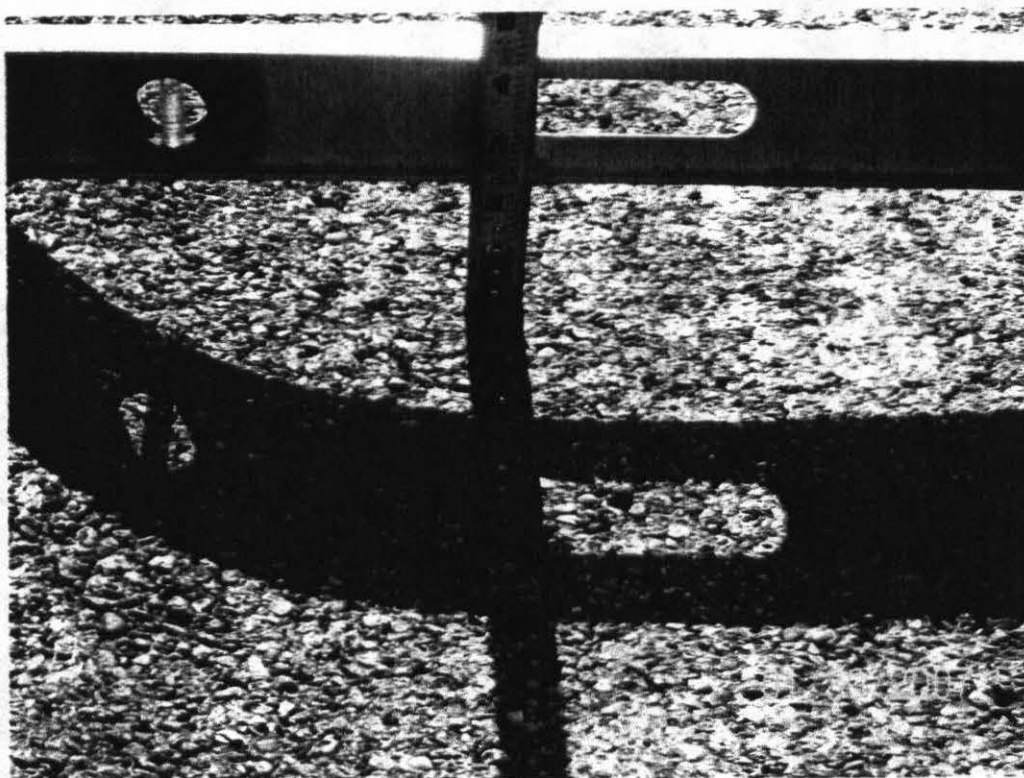


LANGBERG ROAD





RHAME ROAD



RHAME ROAD

From  
2-26-07  
To House

## BOWMAN COUNTY ROAD SYSTEM

also from  
House Appropriations  
Committee

### OIL & GAS IMPACTS

- MILES OF COUNTY MAJOR COLLECTOR ROADS IMPACTED 92
- MILES OF COUNTY MINOR COLLECTOR ROADS IMPACTED 63
- MILES OF TOWNSHIP ROADS IMPACTED 100

### BOWMAN COUNTY ROADS & BRIDGE EXPENSE

- AVERAGE PER YEAR 1991-1995 \$660,000
- AVERAGE PER YEAR 1996-2003 \$1,310,000
- AVERAGE PER YEAR 2004-2005 \$2,380,000
- ROAD EXPENSE IN 2006 \$3,340,000

### COSTS OF BUILDING AND MAINTAINING ROADS

- RECONSTRUCTION \$150,000/ MILE
- RESURFACING \$60,000 / MILE
- MAINTANCE \$30,000 / MILE

### NEEDS THE NEXT FIVE YEARS

- RECONSTRUCTION 65 MILES
- RESURFACING 35 MILES
- MAINTANCE 55 MILES
- ROAD NEEDS FOR 2007 TO 2011 \$15 - 20 MILLION

from  
2-26-07



DIALHOUSE ROAD



DIALHOUSE ROAD

from  
2-26-07



TOWNSHIP ROAD



TOWNSHIP ROAD



Senate Bill No. 2178  
Senate Finance and Taxation Committee and Chairman Urlacher  
January 31, 2007, 8:30 a.m.  
Testimony of James Arthaud

*Same given to House*

Chairman Urlacher, members of the Senate Finance and Taxation Committee:

My name is Jim Arthaud and I am President of Missouri Basin Well Services Inc, which is based out of Belfield North Dakota. I am here to testify in support of Senate Bill No. 2178.

Missouri Basin is a trucking company that is engaged in the business of hauling liquids in bulk for the oil and gas industry i.e., crude oil and salt water. We are here in support of Senate Bill No. 2178 because of the importance of good infrastructure in our western counties.

In the year of 2005, we had approximately 40 trucks and traveled 2,910,368 miles with 916,766 of those miles on county roads. In the year of 2006, with approximately 60 trucks we traveled 4,704,475 miles with 1,159,184 of those miles on county roads. In 2006, we hauled 5,069 loads of crude oil out of Bowman County. Most of these loads weighed 105,500 pounds. If you take that times 5,069, that equals 532,245,000 pounds hauled over Bowman County roads. We have approximately 100 drivers, which I am responsible for having coming home safely every night to their families. That burden is placed upon the county infrastructure to help deliver them safely and to ensure the public safety.

We are only one of numerous trucking companies' that travel these roads. As you can see, just from our company, the increase of traffic that counties have been burdened with is tremendous. With that Missouri Basin would encourage a do pass on Senate Bill No. 2178.

Bowman County

$$\begin{array}{r} 50,000 \text{ ~~barrel~~ barrels oil per day} \\ \times \$50 \text{ per barrel} \\ \hline \end{array}$$

$\times 30$  days Month

$\times .05$  Gross Production Tax

$$\begin{array}{r} \$3.75 \text{ per } \text{day} \text{ Month} \\ \hline \end{array}$$

$\times 365$  days

$\$45+$  Million to State per year  
in Tax revenue

By Ron Ness

**Points to Consider Regarding  
Bowman County's Request to Raise the  
Cap on Production Tax Allocation  
From \$4.1 million to \$9 million**

The oil and gas industry uses an annual cost escalation factor provided by a petroleum accounting association (Council of Petroleum Accounting Societies, or COPAS) for escalation of certain billed operating costs for oil and gas wells. Applying these factors yearly from 1986 (the first year following 1985) through 2006 to the \$4.1 million amount effectively doubles it (see Attachment 1).

The COPAS adjustment is based on oil and gas industry labor costs. Total drilling costs have increased even faster. The total cost to Luff Exploration Company (and its partners) for drilling new horizontal wells and horizontally re-entering existing wells in Bowman County, ND and the adjacent Harding County, SD effectively doubled in an even shorter time period (see Attachments 2, 3 and 4).

- \* It is ironic that Bowman County, which likely provides for 1/3 of North Dakota's oil production tax proceeds, faces budget difficulties associated with the allocation ceiling, and yet this county has to deal with the heavy industrial traffic impact on its road system, due to the very drilling operations that provide the higher tax revenues enjoyed by the state.

Certain counties in Wyoming are similar (sparsely populated, yet providing very high level of production (and associated production / ad valorem tax revenues). Sublette County is a good example. It does not appear that Sublette County, Wyoming faces a non-escalating cap of returned severance tax like Bowman County, ND. It might be worth visiting with the contact person shown on the attached PDF file.

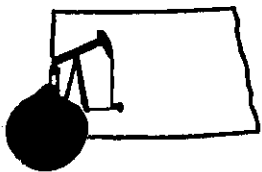
Richard D. George, P.E.  
Manager of Engineering  
Luff Exploration Company

January 30, 2007

**COPAS ADJUSTMENT FACTORS**

Example taking a \$4.1 million value in 1985 dollars  
and escalating it to 2006 equivalent value using the  
annual COPAS escalation factor that represents  
labor cost increases in the oil and gas industry

Year	Annual Factor	Annual Adjust	
1985			\$4,100,000
1986	4.4%	104.4%	\$4,280,400
1987	4.5%	104.5%	\$4,473,018
1988	-1.4%	98.6%	\$4,410,398
1989	3.3%	103.3%	\$4,555,939
1990	8.1%	108.1%	\$4,924,870
1991	7.2%	107.2%	\$5,279,568
1992	1.5%	101.5%	\$5,358,781
1993	-1.1%	98.9%	\$5,288,815
1994	4.8%	104.8%	\$5,554,208
1995	4.4%	104.4%	\$5,798,581
1996	4.1%	104.1%	\$6,038,333
1997	2.0%	102.0%	\$6,157,080
1998	10.3%	110.3%	\$6,791,237
1999	5.8%	105.8%	\$7,185,129
2000	-0.5%	99.5%	\$7,148,203
2001	6.0%	106.0%	\$7,578,155
2002	-1.8%	98.1%	\$7,434,170
2003	-3.1%	96.9%	\$7,203,711
2004	2.3%	102.3%	\$7,389,398
2005	3.5%	103.5%	\$7,627,325
2006	5.1%	105.1%	\$8,016,319



# *North Dakota Association of Oil & Gas Producing Counties*

## **EXECUTIVE COMMITTEE**

Brad Bekkedahl  
President  
Williston

Anthony Duletski  
Vice President  
Bowman PSD

Diane Affeldt  
Garrison

Roger Chinn  
Past President  
McKenzie County

Verdean Kvaum  
Bottineau County

Loren Mathson  
South Heart PSD

Ken Radenz  
Burke County

Wayne Stanley  
Stanley PSD

Greg Sund  
Dickinson

Reinhard Hauck  
Secretary/Treasurer  
Manning

## **Senate Bill 2178 Senate Finance and Tax Committee January 31, 2007 Support of SB 2178**

Good Morning, Mr. Chairman Urlacher and Members of the Senate Finance and Tax Committee. My name is Vicky Steiner. I represent the ND Association of Oil and Gas Producing Counties. I live in Dickinson.

There are 135 county, city and school members in the oil and gas counties.

The oil and gas producing counties recognize that it's time that the caps are adjusted.

I have a map of how the two oil taxes work and how the money moves into the various accounts. Bowman Supt. Tony Duletski and Senator Rich Wardner both have worked on this drawing. It shows how the 5% tax is paid and where the cap comes in.

The counties and state have a partnership in seeing that the energy development finds success. Please support SB2178. The money in this fiscal note supports a growing oil industry and an industry that's vital in the financial support of state programs.

Thank you for your time and I'd answer any questions the committee might have.

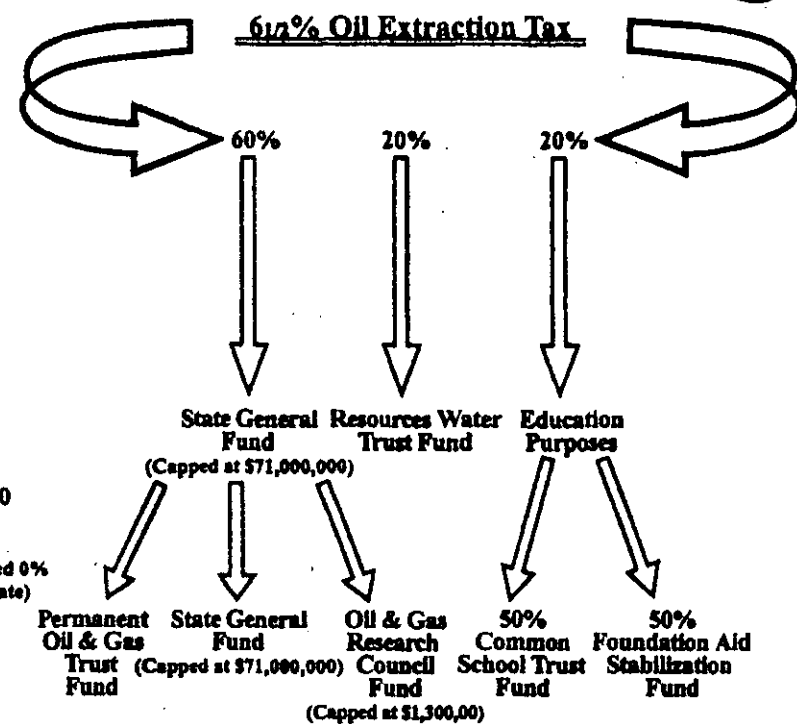
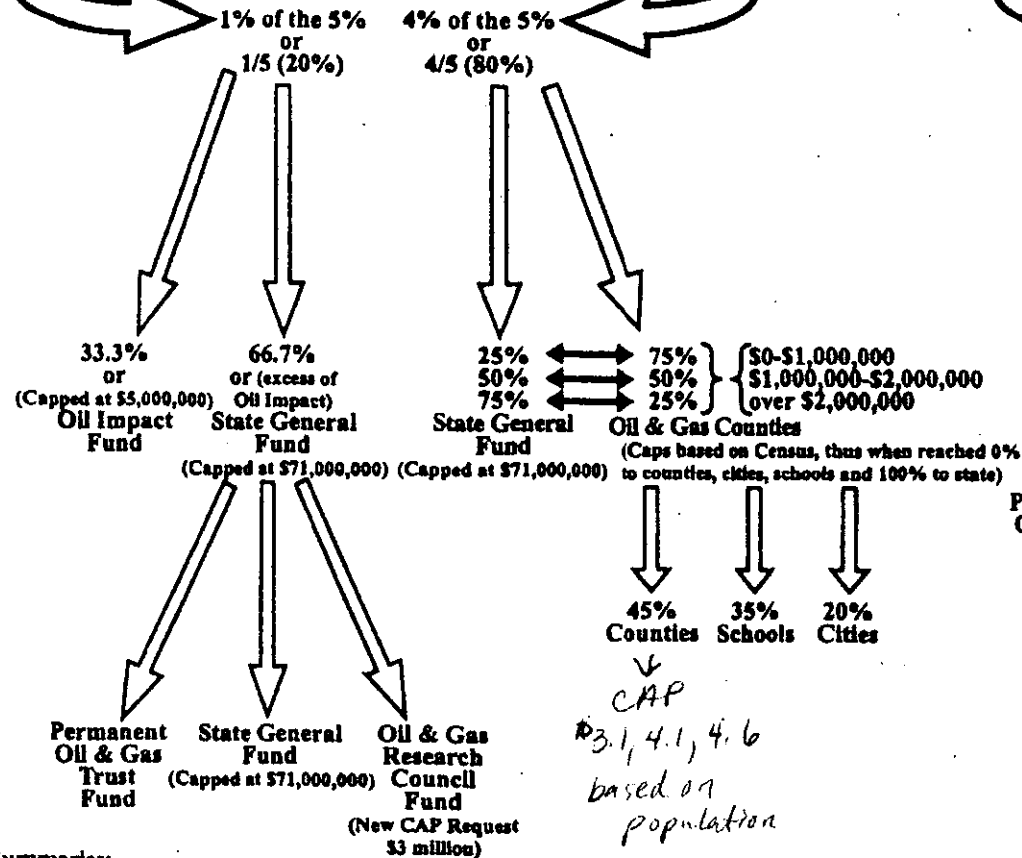
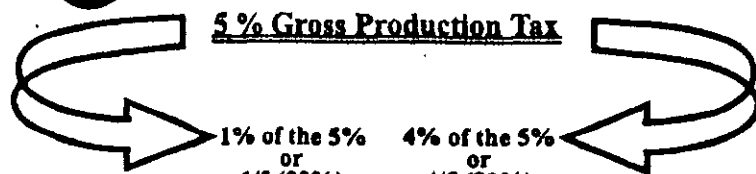
**VICKY STEINER - EXECUTIVE DIRECTOR**

859 Senior Ave. - Dickinson, ND 58602-1333 - Phone: (701) 483-TEAM (8326) - Fax: (701) 483-8328 - Cellular: (701) 290-1339  
E-mail: [vsteiner@ndsupernet.com](mailto:vsteiner@ndsupernet.com) - Web: [www.ndoilgas.govoffice.com](http://www.ndoilgas.govoffice.com)

**Linda Svihovec - Permit Operator**

P.O. Box 504 - Watford City, ND 58854 - Phone: 701-444-3457 (work) - Phone: 701-444-4061 (home) - Fax: 701-444-4113 - Email: [lsvihov@4eyes.net](mailto:lsvihov@4eyes.net)

## Current Oil Tax Distribution



### Title Summaries:

- Oil Impact Fund** - Such fund via grant application assists local political subdivisions in dealing with issues arising from oil and energy development and/or activities.
- State General Fund** - Such fund assists with projects and programs (educational, DOT, governmental, human services, agricultural, etc) across the entire state of ND.
- Oil & Gas Counties - Counties** - Such fund assists counties impacted by the production of oil and gas. Entitlement is based on a percentage and population basis.
- Oil & Gas Counties - Schools** - Such fund assists counties impacted by the production of oil and gas. Entitlement is based on a percentage and census basis.
- Oil & Gas Counties - Cities** - Such fund assists counties impacted by the production of oil and gas. Entitlement is based on a percentage and population basis.
- Resources Water Trust Fund** - Such fund assists with construction of water-related projects, including rural water systems and programs for energy conservation.
- Education Purposes - Common School Trust Fund** - Proceeds are deposited with DPI and interest from such fund is distributed to schools via tuition appointment payments.
- Education Purposes - Foundation Aid Stabilization Fund** - Interest monies transferred to state general fund. Principle balance may be used for revenue shortage to state general fund.
- Permanent Oil & Gas Fund** - Such fund assists with projects and programs (educational, DOT, governmental, human services, agricultural, etc) across the entire state of ND.
- Oil & Gas Research Council Fund** - Such fund assists to accumulate and disseminate information concerning the petroleum industry to foster the best interests of the public and industry.

2-26-01  
9 AM

#2



SB 2178 A

# North Dakota Association of Oil & Gas Producing Counties

## EXECUTIVE COMMITTEE

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Vice President  
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Dickinson

Reinhard Hauck  
Secretary/Treasurer  
Manning

Support for SB 2178  
House Finance and Tax Committee  
Chairman Wes Belter  
February 26, 2007  
10:30 AM

Good morning Chairman Belter and members of the Finance and Tax committee.

My name is Vicky Steiner. I represent the North Dakota Association of Oil and Gas Producing Counties. There are 110 county, city and school members in this Association.

I live in Dickinson. Thank you for your support of HB 1044 and the additional \$11.8 million to 14 counties. It passed unanimously in the house.

SB 2178 asks a similar but different question. With a larger oil producing county, should the state set a limit and if so, what is that limit?

The history of the caps goes back to the 80s oil boom.

In 1981, Billings County was producing large amounts of oil with McKenzie County on the horizon. There were no caps in place and in fiscal year 1981, Billings County's gross county total which included all the political subdivisions city and schools was \$6 million. At that point, the legislature said "Let's look at this issue".

They put a caps in place and it impacted Billings County and McKenzie counties. In 1982, the cap meant Billings County could receive \$3.2 million and \$3.8 in 1983.

Then in the 1983 session, the caps were adjusted again where they have remained untouched at \$3.9 for the smallest counties, \$4.1 million and \$4.6 million for the largest counties. Billings County hit their cap level as set by the legislature in 1982, '83, '84, '85. McKenzie County also hit a cap level in 1982, '83, '84, '85.

We support this bill as a fair and equitable adjustment to the problems that are occurring today in Bowman County. Quite frankly, the taxpayers of Bowman County did not create those serious road conditions and they are at the mercy of this committee for an adjustment in a formula that they cannot adjust locally.

Bowman County makes a compelling argument that their ability to purchase gravel and maintain roads has been impacted by inflation and by energy development which puts competitive pressure on their local economy.

VICKY STEINER - EXECUTIVE DIRECTOR

859 Senior Ave. - Dickinson, ND 58602-1333 - Phone: (701) 483-TEAM (8326) - Fax: (701) 483-8328 - Cellular: (701) 290-1339  
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Manning

Inflation would move the \$4.1 million to about \$8.2 or \$16.4 for the biennium. The fiscal note on this bill gave some legislators sticker shock but look at Bowman County's total contribution. Out of \$38 million, Bowman County received \$4.1 million and the state brought \$32 million.

Bowman County produces nearly half of the state's oil revenues. Their total 5% gross production taxes paid were \$38 million. Of that, Bowman County received \$4.1 million the last two years at the cap level. The state received last year in 2006 \$32 million. I submit that an adjustment is long overdue.

Thank you and I stand for questions.

**VICKY STEINER - EXECUTIVE DIRECTOR**

859 Senior Ave. - Dickinson, ND 58602-1333 - Phone: (701) 483-TEAM (8326) - Fax: (701) 483-8328 - Cellular: (701) 290-1339  
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**2003 Session.** An oil and gas research council was created and an oil and gas research fund was established with a continuing appropriation provided. A temporary exemption from gross production tax was provided for gas produced from shallow gas wells with an expiration date of June 30, 2007. The two-year inactive well exemption was amended to clarify the definition of a two-year inactive well and to provide an 18 month provision to qualify the well for an exemption to be consistent with

other oil extraction tax exemptions. The work-over well exemption was amended to remove the requirement that a notice of intention must be filed before a work-over project is commenced to qualify for an exemption.

**2005 Session.** The legislature provided for a sales and use tax exemption for carbon dioxide used for the enhanced recovery of oil or natural gas.

## Oil and Gas Taxes Distribution Formula Changes

### Gross Production Tax

Amount		State		Counties					Maximum County		
		General Fund	Oil & Gas Impact Grant Fund	Total County %	Cities	School Districts	Road and Bridge Fund	General Fund	County Population 3,000 Under 3,000	3,000 to 6,000	Over 6,000
1957 Session	First 1/5: .....	100%									
	Remaining 4/5:										
	1st \$200,000 .....	25%		75%	} 15%	45%	40%	CAPS			
	2nd \$200,000 .....	50%		50%							
	3rd \$400,000 .....	75%		25%							
1981 Session	First 1/5: .....	100% <sup>(1)</sup>									
	Remaining 4/5:										
	1st \$ Million .....	25%		75%	} 20%	35%	45%				
	2nd \$ Million .....	50%		50%							
	Over \$2 Million .....	75%		25%							
1983 Session											
1989 Session	First 1/5:	66 2/3% <sup>(1)</sup>	33 1/3% <sup>(2)</sup>								

<sup>(1)</sup> For the 1981-83 biennium only, the legislature provided that up to \$32 million of the 1/5 State General Fund share be distributed to the Highway Tax Distribution Fund and to township road and bridge funds.

<sup>(2)</sup> Up to a maximum of \$5 million per biennium. The remainder is deposited in the State General Fund.

<sup>(3)</sup> Total oil collections to the State general fund are capped at \$71 million per biennium. All revenue in excess of \$71 million is transferred at the end of each biennium to the Permanent Oil Trust Fund.

### Oil Extraction Tax

	State General Fund	Education Funds	Water Pipeline & Trust Fund
1980 Measure #6	45%	45%	10%
1981 Session	30%	60%	10%
1983 Session	90%	10%	
1995 Session:			
FY 1996 and 1997	60%	20%	20%
After FY 1997	70%	20%	10%
1997 Session:			
After FY 1997	60% <sup>(1)</sup>	20%	20%

<sup>(1)</sup> Total oil collections to the State general fund are capped at \$71 million per biennium. All revenue in excess of \$71 million is transferred at the end of each biennium to the Permanent Oil Trust Fund.

SB 2178 A  
#4 2-26-07

Cal  
Klein?

To the members of the House of Representatives;

I am writing in behalf of the good people of Bowman County and in support of Senate bill 2178.

As General Manager for Stallion Oilfield Services in North Dakota, I wish to express our company's desire to voice support for Senate bill 2178. We provide transport services for oilfield service equipment on the roads of Bowman County. We haul large, heavy, equipment. We pay fuel and use taxes. We provide jobs in Bowman County. And most importantly we see the potential for a lot of growth in our type of activity in Bowman, as well as other counties in the area.

Without adequate funding for road maintenance, road improvements, and new infrastructure the current roads, bridges, etc. will deteriorate at an exponential rate. That translates into much higher costs down the road instead of doing it right, now.

The citizens of Bowman County deserve some relief from the state, as they do not share in the oil revenues. If they did perhaps they could address the issue financially themselves. But without that resource they rely on you for their needs. I hope this doesn't sound too corny, but there is a quote from a famous T.V. character that goes like this..."Sometimes the needs of the one outweigh the needs of the many." I think that applies in this situation.

Thank you for considering our request and we urge to vote in favor of Senate bill 2178.

*Gary Wright*

*General Manager, North Dakota*

*P.O. Box 1597*

*Dickinson, ND 58602*

*701-483-7100; General Office-Dickinson*

*701-774-3824; Williston Office*

*701-523-3333; Bowman Office*

*FAX 701-483-7108 (Dickinson)*

*Cell 701-590-0456*

*gwright@sofs.cc*

SB 2178 A

#5 2-26-07

Cal  
Klein

January 30, 2007

To Whom it May Concern

My name is Ed Shypkoski. I am District Manager for pipeline operations for Plains Pipeline, LP, a Houston TX headquartered company. Plains is engaged in transporting, marketing, storage and terminals of crude oil, as well as refined products, LPG, and natural gas throughout the United States and Canada. We transport crude oil both by pipeline and trucks.

A portion of our assets are in Bowman Co, ND, where we have been indirectly and directly involved with transporting crude oil produced in Bowman County to various crude oil markets and refineries in the United States for the past 37 years.

As you may be aware, Bowman County currently produces roughly 50% of all crude oil produced in North Dakota. Production in the county had increased sharply in the mid 1990's and has steadily increased with the development of the Cedar Hills field to the point where it is at today. There is no question that Bowman County is a major contributor to the state revenue stream.

With the increase in oil production in the county, there became a demand to increase the infrastructure of crude oil pipeline capacity, pump capacity, power demand, tank storage capacity, manpower, vehicles, and equipment to handle the increased workload.

More trucks were needed to transport crude oil, produced water, drilling rig services, production personnel, and service rigs, not to mention smaller vehicles driven by sales and daily operations personnel, and local community residents.

Also, sustained and increased oil production in adjacent counties in South Dakota and Montana, have also impacted Bowman County due to services that routinely cross through from each state. For instance, trucks will pick up crude oil in South Dakota and cross through Bowman County enroute to a truck unloading terminal in ND or MT. Same with service vehicles of all types as listed previously.

Even though Bowman County has done an exceptional job in keeping up with maintenance of roads and key infrastructures in the county, the developing and ongoing energy business has certainly taxed the resources available to keep up with growth in this area. Road maintenance is a key driver due to the heavy equipment that uses the county roads on a daily basis. A crude oil transport loaded with crude oil, for example, will weight 105,500 lbs. Loaded crude trucks, as well as water trucks, rig movers, and other service vehicles weighing the same are a regular sight in the area, running nearly 24 hrs a day, 365 days a year. This not only impacts existing roads and bridges, but also creates the need for wider, all weather roads, and areas that need new roads and bridges. Another maintenance item is snow removal which is a priority when needed so that no wells are shut in and production can be maintained.

Of course, to be able to accomplish this, Bowman County would need additional funding. I believe Bowman County certainly deserves a return of a portion of the revenue it creates to keep up with the development of the energy infrastructure and the impact it has on county resources.

Thank You

Ed Shypkoski  
District Manager  
Plains Pipeline, LP  
PO Box 708  
Belfield, ND 58622  
701-575-4349 Ext 19

SB 2178 A

#6 2-26-07

9AM

Good morning gentlemen:

As you are aware the business of economic growth is a very broad field and sometimes you have to wonder how some of the pieces connect together.

With this thought in mind I would appreciate your support for the SB 2178 and HB 1044.

My reasons for asking your support are as follows:

- 1) The Tesoro Refinery in Mandan depends on North Dakota crude for much of its refining process.
- 2) North Dakota has benefited greatly over the years from the taxes collected out of the energy industry and we truly do need to assist the local units of government affected by the exploration and development of the oil patch.
- 3) The local units of government, both city and county feel, the direct impact of oil patch growth but apparently are limited in their ability to provide the needed infrastructure maintenance particularly the roads and bridges in the affected counties. This becomes even more difficult when the oil tax revenue that affected cities and counties receive are based on formulas developed nearly 25 years ago. In that time the cost of everything needed to build and maintain roads and bridges specifically, have doubled, tripled and quadrupled.
- 4) As I stated above, the tax revenue which North Dakota receives from the oil patch has been an important part of our State's economy. At the same time, the economic benefit of having the Tesoro Refinery in our community is equally significant. We do need to support the continued flow of crude product to Tesoro and what ever that reasonably means.
- 5) I do expect with improved technology occurring in the oil exploration industry we will see even more drilling in western North Dakota, which means more revenue for the State of North Dakota. It also means more cost to the local units of government to maintain the required infrastructure.

A personal note I would like to add is that over the recent years I have traveled in the southwest corner of the state I find the road system particularly in Bowman County in horrible shape. Quite frankly I am not sure how the County does manage to keep up with the pounding those roads take from the heavy trucks and other equipment that are using them continually, all day, every day. I have to believe that the cost of maintenance has to be a major burden for the areas affected by the oil exploration and development industry. Your support is needed.

Your collective support for SB 2178 and HB 1044 is more than support for the oil patch. It is also support and protection for a major revenue source of the State and Bismarck-Mandan as refining activity continues and hopefully grows at the Tesoro Refinery.

Thank you for you consideration.

Russell Staiger  
President/CEO  
Bismarck-Mandan Development Association  
400 East Broadway, Suite 417  
PO Box 2615  
Bismarck, ND 58502  
Phone: 701-222-5530  
Fax: 701-222-3843

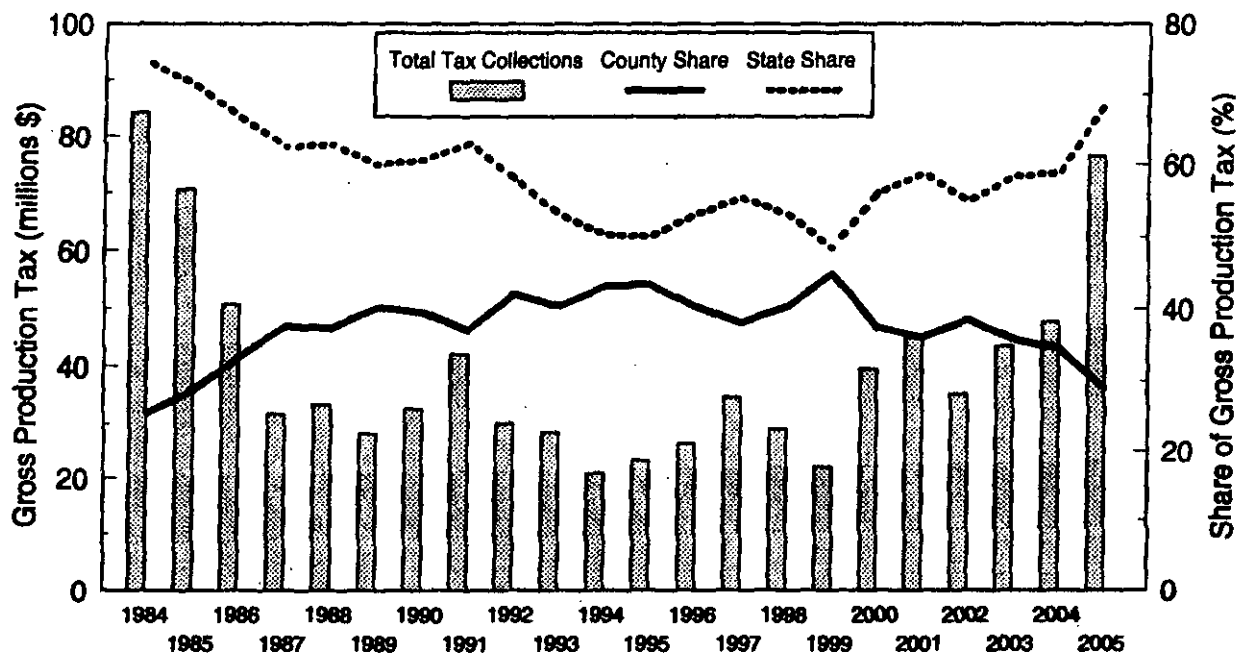


Figure 1. Total Gross Production Tax, Counties and State Share in Percentage Terms, Fiscal Years 1984 through 2005

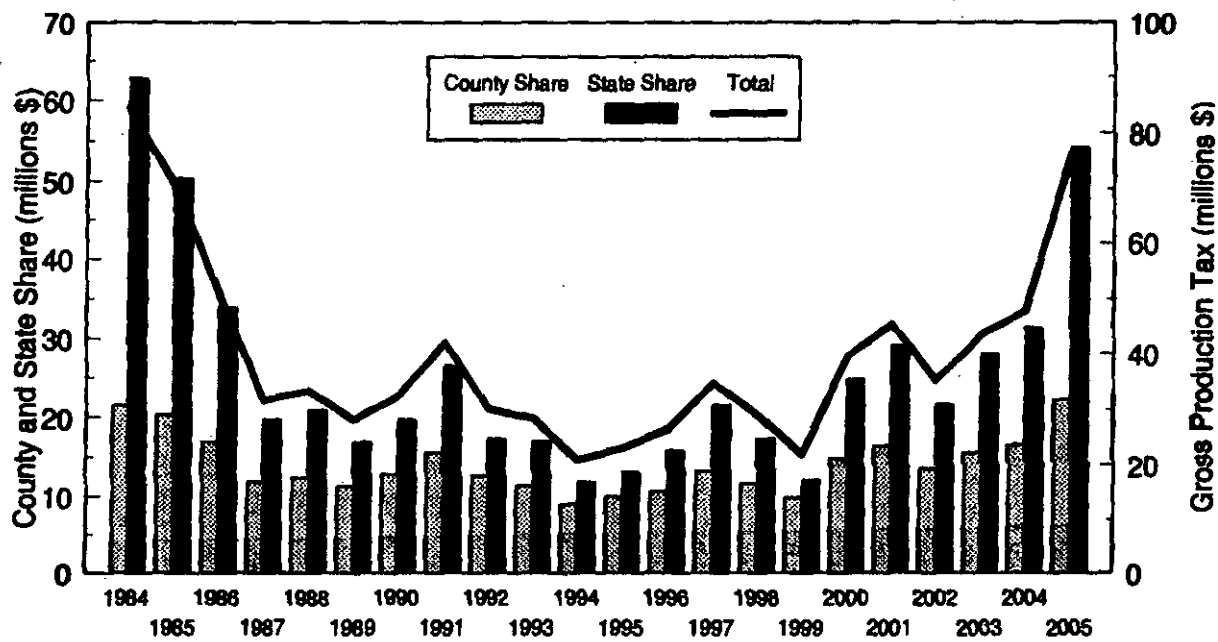


Figure 2. Total Gross Production Tax, Counties and State Share in Dollar Terms, Fiscal Years 1984 through 2005

**Kempenich, Keith A.**

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**From:** Drovdal, David O.  
**Sent:** Wednesday, March 21, 2007 2:52 PM  
**To:** Kempenich, Keith A.  
**Subject:** FW: SB 2178 and HB 1044

-----Original Message-----

**From:** Strombeck, Kathy L.  
**Sent:** Wednesday, March 21, 2007 8:33 AM  
**To:** Drovdal, David O.  
**Subject:** SB 2178 and HB 1044

Good Morning Rep. Drovdal;

Based on recent history, HB 1044 will increase the GPT allocation to Billings County from approx. \$7.055 million to \$7.8 million, their current law cap. Similarly, HB 1044 will increase the GPT allocation to McKenzie County from approx. \$7.817 million to \$8.2 million, their current law cap.

Without regard to the existence of HB 1044, the cap increase provided in SB 2178 affects only Bowman County, the only county that caps in recent history and in the current law forecast.

If HB 1044 does pass, causing Billings and McKenzie to reach their current law caps, the increase in caps provided in SB 2178 will allow Billings to receive an estimated additional \$600,000, and McKenzie to receive an estimated additional \$1 million for the biennium. This additional revenue does not cause either county to reach their "new cap" provided in SB 2178, however. Only Bowman will likely reach the new cap. Also, all counties will have minimum road levies to comply with, if those provisions stay in the bill.

If only HB 1044 passes, the total fiscal impact is -\$11.8 million for the biennium.  
If only SB 2178 passes, the total fiscal impact is -\$2 million for the biennium.  
If both HB 1044 and SB 2178 passes, the total fiscal impact is -\$15.4 million for the biennium (11.8 + 2 + 1.6)

Apparently this is causing confusion. Let me know how I can assist in clarifying the situation. Please call or e-mail and we can meet if you wish.

Kathy

Kathryn L. Strombeck  
Research Analyst  
Office of Tax Commissioner  
701.328.3402  
kstrombeck@nd.gov