2011 SENATE FINANCE AND TAXATION

SB 2045

2011 SENATE STANDING COMMITTEE MINUTES

Senate Finance and Taxation Committee
Lewis and Clark Room, State Capitol

SB 2045
1/10/2011
Job Number 12688

☐ Conference Committee

A. Rittmiller

Explanation or reason for introduction of bill/resolution:

Relating to oil impact related infrastructure development grants and oil and gas impact grant fund

Minutes: Written Testimony Attached

Chairman Cook opened SB 2045 relating to oil impact related infrastructure development grants and oil and gas impact grant fund.

Brady Larson, Legislative Council Staff – I served as the committee staff person for the interim public safety and transportation committee. As always I'm here on a neutral basis, I'll just be describing the bill, providing an overview, and I'll answer any questions that committee members may have. It was developed as part of the public safety and transportation committee assigned duty of reviewing highway construction needs and funding. The committee tour transportation infrastructure needs in eastern and western parts of the state, and this bill was developed while the committee was touring western North Dakota needs. The bill creates a new oil and gas infrastructure grant program to provide grants specifically for infrastructure purposes relating to entities affected by oil and gas development and the grants are specific for some certain areas I will discuss here in just a moment. Going in to detail, if we look at the first section, this creates the infrastructure development grant program to be administered by the Land Departments Energy Development Impact Office. Noted on lines 11 through 15, the grants are available to taxing districts such as cities, counties, and school districts to address infrastructure needs relating to water, roads, or housing to support oil and gas development. Each dollar provided through this grant program must be matched by one dollar from the taxing district and one dollar from a private sector participant. No more than $30 million of grants may be given in one year and the board of university and school lands must approve the grant awards. Lines 19 though 22 also require evidence of existing or planned oil and gas activities and verification of matching funds from the taxing district and the private sector participant. Moving on to Section 2, the funding provided for this program which I'll discuss in just a moment, the funding would be transferred to and held in the existing oil and gas impact grant fund. Because this is an existing fund and statute, it is necessary to make changes to statute to provide for the new program. The existing oil and gas impact grant program provides grants to areas affected by energy development. This bill does not make any changes to that existing grant program. Instead this section provides for the new grant

program. So if we look in subsection 1 of this section we can see that the existing oil and gas impact grant program is maintained without any changes. Subsection 2 provides the authority for the new oil and gas grant program. Section 3 provides for a transfer of $100 million from the permanent oil tax trust fund to the oil and gas impact grant fund. This section also provides legislative intent that the grants be distributed from the 2011-2013 through the 2015-2017 biennium's.

Chairman Cook asked for testimony in favor of SB 2045. No one came forward.
Chairman Cook then asked for testimony opposed to SB 2045.

Doug Graupe, Divide County – The reason I rise in opposition is because of Section 1 line 13. It says each dollar of grant funds awarded must be matched by one dollar from the taxing district. Divide County has moved from 12th to number 6 in oil production in North Dakota. We've had huge amounts of impact. Townships don't get any money except from oil impact. Our impact director has been really good in the past giving money to our townships which we really appreciate. Townships in our county, probably the maximum they receive is approximately $10,000. All of that money goes to maintenance. That's without any oil impact. They spend their money, their budget on road maintenance already. If they are asked to match the money that comes from the state they will not have the money to match. For example, some townships have received $15,000 from oil impact. That's over and above the $10,000 that they have in their budget so they have $25,000 to work with. In some townships, that's not enough to keep up. Our county subsidizes the township, we provide gravel to them for less than cost just because they don't have enough money to work with. So I would hope you would change the match line.

Keith Magnusson, North Dakota League of Cities – We are not here opposed to the bill as such, we think the intent is good, but the match requirements are pretty onerous where you have to come up with basically one dollar from the taxing entity and one dollar from private enterprise and our cities especially some of them are pretty tapped out now. They are wondering where they are going to get their match. Are they going to have to raise taxes which nobody wants them to do. There are many projects that they are wondering how they would get private match, there may not be any private entity that really is going to benefit by this. We are concerned about the match requirement.

Cal Klewin, Economic Development Association of North Dakota – Did not speak but provided written testimony in opposition of SB 2045. (See attached written testimony A)

Chairman Cook asked for neutral testimony for SB 2045.

Jeff Engleson, Director, Energy Development Impact Office – (See attached written testimony B)

No further action was taken.
Chairman Cook closed hearing on SB 2045.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Finance and Taxation Committee
Lewis and Clark Room, State Capitol

SB 2045
1/18/2011
Job Number 13042

☐ Conference Committee

A. Rittmiller

Explanation or reason for introduction of bill/resolution:

Relating to oil impact related infrastructure development grants and oil and gas impact grant fund

Minutes: Committee Work

Chairman Cook opened discussion on SB 2045.

Chairman Cook – This is the one that comes with $100 million to increase in the oil impact grants. It comes with an interesting twist that for each dollar of grant funds it must be matched by one dollar from the taxing district and one dollar from the private sector. We have another bill in the House that we will be seeing, dealing with increasing the impact grants up to $100 million without the twist. I'd say we can kill this bill and wait for the other one to come or that we can sit here and try to put our finger prints on what we think the impact grant fund program should look like at this time with this bill. Either way we will have our opportunity to weigh in on impact grants.

Senator Triplett – No one came forward to support this bill. I think having two bills that are said as different from each other as this one is from the one you described, I think just creates confusion as I think was evident by a number of the people who testified that day. They seemed to think this was the other bill and they were distraught and confused by it.

Senator Dotzenrod – There in one sentence on lines 13, 14, and 15 that says each dollar of grant funds awarded must be matched by one dollar from the taxing district and one dollar from the private sector. It seems to me, in the testimony we heard, that really for many taxing districts makes this unusable.

Vice Chairman Miller motioned to Do Not Pass.

Seconded by **Senator Triplett**

Carried by **Senator Triplett**

Date: 1-18-11
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2045

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☒ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Miller Seconded By Senator Triplett

Senators	Yes	No	Senators	Yes	No
Dwight Cook – Chairman	X		**Jim Dotzenrod**	X	
Joe Miller – Vice Chairman	X		**Connie Triplett**	X	
Randy Burckhard	X				
David Hogue	X				
Dave Oehlke	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Triplett

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

REPORT OF STANDING COMMITTEE

SB 2045: Finance and Taxation Committee (Sen. Cook, Chairman) recommends **DO NOT PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2045 was placed on the Eleventh order on the calendar.

2011 TESTIMONY

SB 2045

A

ECONOMIC DEVELOPMENT ASSOCIATION OF NORTH DAKOTA
EDND
PO BOX 2639 · BISMARCK, NORTH DAKOTA 58502

Testimony of

Economic Development Association of North Dakota

SB 2045

January 10, 2011

Chairman Cook and members of the committee, my name is Cal Klewin. I am representing the Economic Development Association of North Dakota (EDND).

EDND is the voice of the state's economic development community and provides networking for its 80 members, which include development organizations, communities, businesses and state agencies. Our mission is to increase economic opportunities for residents of the state by supporting primary sector growth, professionalism among economic development practitioners and cooperation among development organizations.

Infrastructure - be it roads, water and sewer, or housing – requires a huge undertaking by North Dakota communities to properly plan, develop, and expand. These developments can be overwhelming financially for the taxing district and private sector developer. In the case of North Dakota's oil and gas communities, these needs often arise very suddenly and leaders in impacted communities are faced with satisfying the task of this development as quickly as possible while being finically responsible for the projects.

SB 2045 offers an infrastructure grant program to assist leaders with matching requirements. But, the dollar for dollar match for the taxing district, a developer or private sector, will be financially prohibitive in many of North Dakota's affected oil and gas impacted taxing districts.

EDND recommends a **do not pass** on SB 2045

Thank you. I would be happy to answer your questions.

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TESTIMONY OF JEFF ENGLESON
Director, Energy Development Impact Office
North Dakota State Land Department

NEUTRAL ON SENATE BILL NO. 2045

Senate Finance and Taxation Committee
January 10, 2011

PURPOSE

The mission of the Energy Development Impact Office (EDIO) is to provide financial assistance to local units of government that are affected by energy activity in the state. Over the years, the EDIO has helped counties, cities, schools districts and other local units of government (organized townships, fire and ambulance districts, etc.) deal with both the booms and the busts associated with energy development in North Dakota. The EDIO became a part of the Land Department in 1989.

Since 1991, the EDIO has made grants only for impacts related to oil and gas development. Funding for these grants is appropriated by the State Legislature from a portion of the 5% Oil & Gas Gross Production Tax. For the 2009-11 biennium, the amount available to this program is capped at $8.0 million; for the 2007-09 biennium, the cap was $6.0 million.

At the present time, the Director of the EDIO is responsible for making all decisions related to the oil impact grant program. The Board of University and School Lands is the appellate for applicants not satisfied with the decisions made by the director. Over time, very few appeals have been made.

CURRENT PROGRAM

The EDIO is managed under NDCC Chapter 57-62. NDCC 57-62-05 and 57-62-06 provide the following guidance to the EDIO Director:

- Grants should be used "to meet initial impacts affecting basic government services, and directly necessitated" by oil and gas development impact. Basic government services does not mean marriage or guidance counseling, programs to alleviate other sociological impacts or programs to meet secondary impacts.
- The amount of tax an entity is entitled to from real property and from other tax or fund distribution formulas provided by law must be considered when determining grants.

The following award criteria are used when making grants to political subdivisions:

- A grantee must demonstrate the negative impact caused by oil and gas development in the area.
- A grantee must demonstrate its tax effort and financial need.
- The funds granted must be used to alleviate the hardship caused by oil and gas development.

Under current state law, a portion of the gross production taxes collected by the state flow back to counties, cities and school districts. The amount of gross production taxes flowing back to many of these entities increased substantially during the current biennium. However, organized townships, fire and ambulance districts, and many other political subdivisions do not share in any of the gross production taxes collected by the state even though those entities can be greatly impacted by oil and gas development in a given area.

HISTORIC INFORMATION

Historically, the oil impact grant program has been run with minimal rules and policies, which has provided the Director with the flexibility needed to adapt the program over time. The program has been able to adapt to the cycles in the industry, and to shift the focus to those areas and entities that most need immediate financial assistance. The minimal 'red tape' associated with this program has also benefited entities such as volunteer fire departments, first responders, townships and small cities, that are not always familiar with more formal grant writing processes.

The attached tables provide a breakdown of grants requested and awarded over the past 5 biennia by political subdivision type, by county, and by function. These tables contain a lot of information; however, there are a few specific things I'd like to point out:

- The amount of grant requests has increased substantially over the past nine years, from a total of $24.1 million for the 2001-03 biennium to $31.9 million in fiscal year 2010 alone.
- The amount of grants awarded to counties has decreased over the past nine years, while the amount awarded to organized townships has increased. This is partly due to the fact that the amount of tax revenue going to counties has increased substantially in recent years. It is also partly a result of the program recognizing that organized townships have major, direct impacts from oil and gas development, but do not receive any share of the gross production tax revenues collected by the state.
- The amount of grants awarded to political subdivisions in Bowman County has decreased, while the amount of grants awarded to entities in Mountrail and Dunn counties have increased. This is result of the focus of development activity moving from the Cedar Hills area in Bowman County in the late 1990s and early part of last decade to the Bakken play in the Mountrail and Dunn County areas in more recent years.
- The one thing that hasn't really changed much over the years is the fact that the vast majority of the grants awarded (85%-95%) have been for transportation related projects/functions and for fire and ambulance related equipment and services.

As these tables show, the flexibility of the EDIO program has allowed the Director to try to balance the needs of the various political subdivisions at any given point in time with the resources available.

PROPOSED CHANGES

As currently proposed, SB 2045:

- Creates a new section under chapter 57-62 that relates specifically to "infrastructure development grants" and appropriates $100 million out of the permanent oil tax trust fund for such purposes through 2017.
- Provides that such grants shall be for infrastructure needs relating to water, roads or housing to support oil or gas development.
- Provides that any grant made under this program must be matched dollar for dollar with money from both the taxing district and the private sector.
- Provides that the EDIO Director shall make recommendations to the Land Board concerning these grants and that the Land Board will approve the grants.

As you may already know, Governor Dalrymple's budget increases funding for this program from its current $8.0 million per year to $100.0 million per year. The Land Department's budget bill, HB 1013, contains the Governor's proposed changes to the EDIO. HB 1013 moves authority to make grants from the EDIO Director to the Land Board, creates an oil and gas impact advisory committee, and makes other changes to the program. There are also at least two other bills related to the EDIO; they are SB 2033 and SB 2140.

The EDIO takes a neutral position on all of the proposed changes included in SB 2045.

It is my expectation that over the next four months, various ideas and proposals will be discussed and debated before a final bill is approved that includes both increased funding and a change in structure for the EDIO. We look forward to being a part of helping western North Dakota deal with the challenges of oil and gas development.

I would like to make a couple of personal observations about this bill and how the proposed changes could impact the way that the EDIO oil impact grant program is administered:

- The EDIO has historically focused on "filling in the gaps" for those entities that receive no funding or inadequate funding under the gross production tax distribution formula. If the amount of funding for this program increases substantially, the EDIO will become an integral part of planning and financing infrastructure projects in western North Dakota.

- The Director of the Energy Development Impact Office is currently a part-time position which utilizes approximately 25-30% of one FTE position. I am the current Board-appointed Director. I am also the Land Department's Investment Director and the Deputy Commissioner. The EDIO program is also served by department support staff in processing grant applications and reimbursement requests. Including the director and support staff, approximately 60% of one FTE is currently allocated to the EDIO. It is my belief that any expansion of this program will also require additional resources to implement those changes.

With those comments, I end my testimony, and will try to answer any questions you may have.

ENERGY DEVELOPMENT IMPACT OFFICE

Grant Requests/Awards By Political Subdivision and County

2001-03 Biennium Through Fiscal Year 2010

(all dollar amounts shown are in millions)

Breakdown By Political Subdivision Class

Class	2001-03 Biennium			2003-05 Biennium			2005-07 Biennium			2007-09 Biennium			Fiscal Year 2010		
	Requested	Awarded	%	Requested	Awarded	%	Requested	Awarded	%	Requested	Awarded	%	Requested	Awarded	%
County	$ 8.929	$ 1.978	39.0%	$ 9.092	$ 1.388	28.3%	$ 44.353	$ 1.191	24.0%	$ 26.614	$ 0.940	16.1%	$ 11.038	$ 0.350	8.8%
School	2.164	0.352	6.9%	3.394	0.376	7.7%	3.499	0.255	5.1%	1.555	0.158	2.7%	1.194	0.145	3.6%
City	7.942	0.868	17.1%	12.018	0.850	17.3%	12.508	0.674	13.6%	16.857	1.042	17.8%	9.167	0.679	17.0%
Park District	0.077	-	0.0%	0.244	-	0.0%	0.351	-	0.0%	0.203	-	0.0%	0.080	-	0.0%
Airport Auth.	0.249	0.029	0.6%	0.502	0.038	0.8%	0.337	0.042	0.8%	0.650	0.005	0.1%	0.390	-	0.0%
Township	2.559	1.271	25.0%	3.652	1.503	30.7%	8.117	2.239	45.0%	13.712	2.835	48.6%	7.707	2.080	52.0%
Fire/Ambul.	2.141	0.577	11.4%	2.804	0.745	15.2%	3.616	0.570	11.5%	4.587	0.861	14.7%	2.315	0.746	18.6%
TOTAL	$ 24.061	$ 5.075	100%	$ 31.706	$ 4.900	100%	$ 72.781	$ 4.971	100%	$ 64.178	$ 5.840	100%	$ 31.891	$ 4.000	100%

Breakdown By County

County	2001-03 Biennium			2003-05 Biennium			2005-07 Biennium			2007-09 Biennium			Fiscal Year 2010		
	Requested	Awarded	%	Requested	Awarded	%	Requested	Awarded	%	Requested	Awarded	%	Requested	Awarded	%
Billings	$ -	$ -	0.0%	$ 0.081	$ 0.005	0.1%	$ 0.073	$ 0.005	0.1%	$ 0.007	$ -	0.0%	$ -	$ -	0.0%
Bottineau	1.741	0.433	8.5%	1.365	0.491	10.0%	1.481	0.415	8.3%	1.712	0.302	5.2%	0.934	0.299	7.5%
Bowman	6.125	1.056	20.8%	7.004	0.610	12.4%	8.710	0.390	7.8%	12.202	0.294	5.0%	3.806	0.185	4.6%
Burke	0.837	0.396	7.8%	0.932	0.400	8.2%	1.683	0.493	9.9%	1.840	0.439	7.5%	1.057	0.352	8.8%
Divide	0.507	0.250	4.9%	0.610	0.296	6.0%	1.630	0.505	10.1%	4.156	0.447	7.7%	1.120	0.377	9.4%
Dunn	0.683	0.202	4.0%	0.753	0.234	4.8%	2.742	0.251	5.0%	8.290	0.890	15.2%	2.746	0.367	9.2%
G. Valley	0.716	0.278	5.5%	1.221	0.366	7.5%	1.789	0.370	7.4%	1.469	0.211	3.6%	0.929	0.105	2.6%
Hettinger	-	-	0.0%	0.005	-	0.0%	-	-	0.0%	-	-	0.0%	-	-	0.0%
McHenry	0.067	0.035	0.7%	0.070	0.050	1.0%	0.070	0.040	0.8%	0.060	-	0.0%	0.030	-	0.0%
McKenzie	1.513	0.201	4.0%	1.545	0.215	4.4%	3.141	0.184	3.7%	1.140	0.190	3.2%	0.909	0.106	2.7%
McLean	0.005	0.003	0.1%	0.010	0.007	0.1%	0.005	0.002	0.0%	0.006	0.001	0.0%	0.013	0.008	0.2%
Mercer	0.012	-	0.0%	0.032	0.012	0.2%	0.035	0.009	0.2%	0.053	0.032	0.5%	1.443	0.033	0.8%
Mountrail	0.892	0.276	5.4%	1.143	0.295	6.0%	3.769	0.641	12.9%	15.290	1.644	28.2%	7.013	1.050	26.3%
Renville	1.694	0.398	7.8%	1.920	0.441	9.0%	1.676	0.402	8.1%	2.292	0.349	6.0%	1.779	0.258	6.4%
Slope	0.517	0.183	3.6%	0.646	0.151	3.1%	0.826	0.154	3.1%	1.245	0.101	1.7%	0.814	0.055	1.4%
Stark	2.618	0.432	8.5%	3.270	0.385	7.9%	4.272	0.239	4.8%	2.999	0.155	2.7%	1.926	0.205	5.1%
Ward	0.064	0.030	0.6%	0.185	0.048	1.0%	0.180	0.042	0.8%	0.363	0.050	0.9%	0.245	0.060	1.5%
Williams	6.072	0.904	17.8%	10.914	0.896	18.3%	40.700	0.831	16.7%	11.054	0.737	12.6%	7.127	0.540	13.5%
TOTAL	$ 24.061	$ 5.075	100%	$ 31.706	$ 4.900	100%	$ 72.781	$ 4.971	100%	$ 64.178	$ 5.840	100%	$ 31.891	$ 4.000	100%

ENERGY DEVELOPMENT IMPACT OFFICE
Grant Awards By Function
Fiscal Year 2002 Through Fiscal Year 2010

Function	2001-03 Biennium FY 2002	2001-03 Biennium FY 2003	2003-05 Biennium FY 2004	2003-05 Biennium FY 2005	2005-07 Biennium FY 2006	2005-07 Biennium FY 2007	2007-09 Biennium FY 2008	2007-09 Biennium FY 2009	FY 2010
Law Enforcement	$ 2,400	$ 21,000	$ 22,000	$ 15,000	$ 45,000	$ 5,500	$ 10,000	$ -	$ -
Education	152,000	200,000	181,000	197,000	110,000	105,000	83,500	65,000	145,000
Health	89,500	105,350	121,000	120,500	59,000	35,100	78,500	127,500	253,500
Transportation	1,694,100	1,936,250	1,601,000	1,669,600	1,869,000	1,949,400	2,274,000	1,998,500	2,698,500
Recreation	7,000	1,000	4,000	-	-	-	-	-	-
Fire Protection	260,000	419,900	384,000	401,600	369,500	338,500	521,000	564,000	903,000
Housing	-	-	-	-	-	-	-	-	-
Planning	-	3,500	-	-	-	12,000	-	-	-
Potable Water	4,000	40,000	40,000	10,000	32,000	18,000	-	45,000	-
Sewage Treatment	-	10,000	26,000		-	-	-	-	-
Water and Sewer	5,000	5,000	51,000	10,300	15,000	7,000	25,000	40,000	-
Local Administration	1,000	58,000	-	26,000	500	500	5,000	-	-
Other	60,000	-	20,000	-	-	-	3,000	-	-
TOTAL	$2,275,000	$2,800,000	$2,450,000	$2,450,000	$2,500,000	$2,471,000	$3,000,000	$2,840,000	$ 4,000,000
		$5,075,000		$4,900,000		$4,971,000		$5,840,000	$ 4,000,000

Function	2001-03 Biennium FY 2002	2001-03 Biennium FY 2003	2003-05 Biennium FY 2004	2003-05 Biennium FY 2005	2005-07 Biennium FY 2006	2005-07 Biennium FY 2007	2007-09 Biennium FY 2008	2007-09 Biennium FY 2009	FY 2010
Law Enforcement	0.1%	0.8%	0.9%	0.6%	1.8%	0.2%	0.3%	0.0%	0.0%
Education	6.7%	7.1%	7.4%	8.0%	4.4%	4.2%	2.8%	2.3%	3.6%
Health	3.9%	3.8%	4.9%	4.9%	2.4%	1.4%	2.6%	4.5%	6.3%
Transportation	74.5%	69.2%	65.3%	68.1%	74.8%	78.9%	75.8%	70.4%	67.5%
Recreation	0.3%	0.0%	0.2%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Fire Protection	11.4%	15.0%	15.7%	16.4%	14.8%	13.7%	17.4%	19.9%	22.6%
Housing	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Planning	0.0%	0.1%	0.0%	0.0%	0.0%	0.5%	0.0%	0.0%	0.0%
Potable Water	0.2%	1.4%	1.6%	0.4%	1.3%	0.7%	0.0%	1.6%	0.0%
Sewage Treatment	0.0%	0.4%	1.1%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Water and Sewer	0.2%	0.2%	2.1%	0.4%	0.6%	0.3%	0.8%	1.4%	0.0%
Local Administration	0.0%	2.1%	0.0%	1.1%	0.0%	0.0%	0.2%	0.0%	0.0%
Other	2.6%	0.0%	0.8%	0.0%	0.0%	0.0%	0.1%	0.0%	0.0%
TOTAL	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%