2011 SENATE FINANCE AND TAXATION

SB 2047

2011 SENATE STANDING COMMITTEE MINUTES

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

SB 2047
1/17/2011
Job Number 13048

☐ Conference Committee

A. Rittmiller

Explanation or reason for introduction of bill/resolution:

Reporting of information on allocations of oil and gas related revenues and allocation of revenues from the leasing of federal flood control lands

Minutes: Written Testimony Attached

Chairman Cook opened the hearing on SB 2047.

John Walstad, Legislative Council – I'm neither for nor against this bill. I worked with the interim tax committee and that is where this bill originated. This bill deals with federal flood control mineral leasing. This is something that really hadn't been on anyone's radar for years and years but it hit the radar screens in a big way in 2009. Federal law provides that the land acquired by the federal government for the flood control projects, 75% of the revenue that the feds collect will go back to the states. The federal law just says it goes back to benefit public schools and public roads of the county in which the property is situated. We as a state, are allowed to determine how that money is allocated and the state did that back in 1979. Appendix B (attachment A) on this memo is current law. It sets up a distribution, half of the money goes to school districts that have lost land to that acquisition by the feds, a quarter to the county for road purposes, and a quarter among organized townships that have lost land. Beginning in 2009, these huge checks started showing up. Appendix C is a print out from the treasures website of the payments through July 2010. As you can see just thumbing through there, there are some counties that get a relatively small amount of revenue however if you look down the list, pretty soon you come to some pretty big numbers. If you look at the last attachment, this spreadsheet was provided by the Mountrail County Treasurer. There are 2 spreadsheets here, one for February 2009 to December 2009 and the other January 2010 up to July 2010. During that 17 months if you look near the top there's Liberty Township. Liberty Township in 2009 got almost $2.5 million. In 2010 just through July, Liberty Township got $1.75 million. Over $4 million to a township which lost about 1.1 million acres. A lot of the township is in the lake. What's left of the township got $4 million. When the interim committee started looking at the way the money gets distributed, the committee decided this isn't right. The legislature is limited by federal law, the money has to go to the county at least. But, it does not have to go to the township that lost the land, or impacted school districts. Basically what it does is strikes out most of that 1979 allocation and just leaves the first sentence in place. That the amounts received are paid to the county for which the compensation is provided. Now, that doesn't

explain what the counties should do when it receives the money. I think the committee anticipated some work will be necessary to figure out exactly what happens to that pot of money once the treasurer turns it over to the county. The committee plugged in a reporting section in the bill draft providing that the treasurer is to report to the chairman of the legislative management each month on what is distributed and it's not just this federal leasing money. Its oil and gas gross production tax allocations, this federal allocation, and any other oil and gas related allocations made to political subdivisions.

Chairman Cook – I think the key word or phrase is in existing state law is 'the money must be distributed in proportion to the area of these federal lands'. When we reference federal law does that not require the county receiving the money to somehow figure out how to distribute it to the school districts and the townships as they deem fit?

John Walstad, Legislative Council – That is correct, that would be my reading. That this puts a load on the county to decide how to properly allocate the funding.

Vice Chairman Miller – Could the township give the money to a county?

Chairman Cook – I believe that question was raised during the interim and if I'm not mistaken, representatives of the township answered that question in the infirmative.

Senator Dotzenrod – I wanted to ask about this payment that comes from the federal government. They are paying in proportion to the land area that the United States acquired under this 33USE701. That was land that got flooded. So this is a payment as of that area, is in proportion to all the other federal lands. So on other federal lands that isn't in this category, it's owned by the federal government, it's in North Dakota and there's oil being drilled on it, is that revenue 100% going to the federal government with nothing coming back to the state?

John Walstad, Legislative Council – I'm not sure I understood the last part.

Senator Dotzenrod – If the federal government owns land in western North Dakota that isn't in this category, it is not in this flooded area, but it's owned by the federal government and they have issued leases and there is drilling going on, it's my understanding that revenue would flow to the federal government 100% with nothing coming back to the state. Is that correct?

Chairman Cook – There's other federal money that comes back to the state of North Dakota for federal lands that are not part of flood control money.

John Walstad, Legislative Council – And this deals just with that flood control.

Senator Dotzenrod – Those other dollars then, for leases and activity on federally owned land, that comes back to the state. Is there a place where the state says where that money has to go? Does it have to go in the common school trust fund, or does it go in to a special place? I imagine it wouldn't just become part of the general fund.

Chairman Cook – The federal law talks about in apportionment, it's talking about the money we sent the county is in proportion to how much land the county lost. And we can't change that.

John Walstad, Legislative Council – When the royalty money starts flowing, when the oil is being pumped on this property, these payments will look small.

Chairman Cook asked for testimony in support of SB 2047.

Carlee McLeod, State Treasurer's Office – Senator Dotzenrod, to your other question, if you remember the hand out I gave you last week that had the mineral royalties in the top and it had that half state share, that goes in to the general fund and it's used for foundation aide purposes.

Carlie McLeod, Deputy State Treasurer – (See attached testimony A and A1 in support of an amendment)

No further action was taken.
Chairman Cook closed the hearing on SB 2047.

2011 SENATE STANDING COMMITTEE MINUTES

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

SB 2047
1/18/2011
Job Number 13048

☐ Conference Committee

A. Rittmiller

Explanation or reason for introduction of bill/resolution:

Reporting of information on allocations of oil and gas related revenues and allocation of revenues from the leasing of federal flood control lands

Minutes: Committee Work

Chairman Cook opened discussion on SB 2047.

Chairman Cook – This explains how the non flood control monies that come to the state from the federal government are distributed. I see this is set by North Dakota Century Code. The distribution to the counties, bullet point number 5, we increased from 10% to 50% for every year after 2004. Does that mean the legislature has the flexibility to adjust that number?

Carlee McLeod, State Treasurer's Office – Yes Mr. Chairman, you do.

Chairman Cook – Do we have the freedom to put all of it in to the general fund for use for the purpose of state aide to school districts.

Carlee McLeod, State Treasurer's Office – I believe that you do. I have not looked at all the federal requirements. I've only gone off century code. Every year we have to report to the feds to explain how we distribute that, which leads me to believe every state does it differently, but I can look at the federal code as well.

Chairman Cook – I'm not advocating that we make any change, but I do think we need to know what flexibility we have. Then we also have a combined report that shows all of the oil money going to counties.

Chairman Cook closed discussion on SB 2047.

2011 SENATE STANDING COMMITTEE MINUTES

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

SB 2047
2/16/2011
Job Number 14613

☐ Conference Committee

A. Bitthiller

Explanation or reason for introduction of bill/resolution:

Reporting of information on allocations of oil and gas related revenues and allocation of revenues from the leasing of federal flood control lands

Minutes: Committee Work

Chairman Cook opened discussion on SB 2047.

John Walstad, Legislative Council explained the proposed amendments.

Senator Triplett – Is it clear in here that the money would be held in trust for the county by county or only that it goes into the impact fund to be then distributed across the oil impacted counties?

John Walstad, Legislative Council – It would not be allocated to the county from which the revenue came specifically. It might end up that's how the grants would be made, but grant eligibility would extend to any counties but it's not any oil impacted county it's any county that has lost land along the reservoir to this federal flood control acquisition.

Senator Triplett – My concern is that we are following federal law. Isn't there a requirement that the money be returned to the county that has lost land? Are we following federal statute?

John Walstad, Legislative Council – The federal statute says, to the county or counties that have lost land.

Chairman Cook – By looking at this statute, I don't believe it has to be proportional. I believe it tells us that it cannot go to counties that didn't lose land, but I don't believe it has to be proportional. I think we brought the issue of proportional in back in the 70's when we passed current state law that decided how that money was going to be divided up.

Discussion on federal law followed.

Chairman Cook closed discussion on SB 2047.

2011 SENATE STANDING COMMITTEE MINUTES

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

SB 2047
2/16/2011
Job Number 14637

☐ Conference Committee

A. Bittmiller

Explanation or reason for introduction of bill/resolution:

Reporting of information on allocations of oil and gas related revenues and allocation of revenues from the leasing of federal flood control lands

Minutes: Committee Work

Chairman Cook opened discussion on SB 2047.

John Walstad, Legislative Council went through the language he added to the amendments.

Chairman Cook – What we want to make sure is that there is a benefit for them and Senator Triplett made the point this morning that I thought was an excellent point that even fixing a road in an adjoining county that comes to the county, offers benefit to that county.

Senator Hogue – I agree with what you are saying. I would like the impact board to have maximum flexibility with these funds because I truly believe that what we've seen so far is just the tip of the iceberg. Some can't spend all of the money they have already received. So to say it's going to be in rough proportion to what land they lost, I think just the opposite might be true. You want to give this board the flexibility so it doesn't have to be proportional especially when you have political subdivisions that just cannot spend the money despite trying. That's what this bill I thought was trying to address, is the fact that we have a historical allocation which doesn't make any sense in light of the vast sums of revenue that they are now getting.

Chairman Cook – What if we just referenced the federal code?

Senator Triplett – I think that might not be a bad idea. Do we have any estimate from the Tax Department or Treasurers Office or anyone else about what really the possibilities are of these lands that were submerged? Do we have within an order of magnitude, any idea of what might be coming their way?

John Walstad, Legislative Council – Not that I've heard.

Senator Oehlke – What if instead of "approximate proportion" we said "in the approximate need" and then instead of "in each eligible county" where the word each became "all eligible counties"?

Senator Triplett – I would be happy if after the word "county" on the third line of that section, we scratched the rest of it and put "pursuant to" and referenced the federal language.

Chairman Cook – It says in the federal law, for the benefit of public schools and public roads of the county or counties in which such property is situated.

Discussion continued on how the language should be written.

Chairman Cook – Other federal oil money that comes into our state for federal lands, what kind of flexibility do we have with that, that's different from this?

John Walstad, Legislative Council – I'd have to look at that, but it seems to me that federal law in the case of drilling on federal lands other than this flood control stuff, I think they have a pretty specific statement of how that money gets distributed when it gets sent back.

Chairman Cook closed discussion on SB 2047.

2011 SENATE STANDING COMMITTEE MINUTES

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

SB 2047
2/21/2011
Job Number 14762

☐ Conference Committee

A. Bittmiller

Explanation or reason for introduction of bill/resolution:

Reporting of information on allocations of oil and gas related revenues and allocation of revenues from the leasing of federal flood control lands

Minutes: Committee Work

Chairman Cook opened discussion on SB 2047.

Chairman Cook – I've made a minor attempt at making a change to the amendments to see if they meet the will of this committee. First off, at the bottom you will see I put on an emergency clause, that has not been in any of the amendments before and also on page 2 lines 12 through 19 have been removed. That was something we discussed earlier, they have not shown up in the other amendments that you have but that was requested from the State Treasurer's Office to take that out of there. The only other change I made is if you look at page 1 line 13, the new language that is going in there, where the money goes to the impact grant fund to be held in a special account within that fund and made available through grants by the energy development impact office only for the benefit of oil and gas development. Senator Triplett you made an argument that I think had a lot of merit, the money needs to somehow identify the benefit for it.

Senator Hogue – I don't know if you want to add it to the amendment, in Natural Resources we heard from the park districts that added park districts to the equation for these impact grant funds. I don't know if this committee wants to add them along with the townships and county government but they came in and demonstrated that there was a need on behalf of the park districts. I don't know how the committee feels, but I thought I'd offer that as well.

Chairman Cook – Do you think as the bill is worded right now that it would deny any money going to a park district?

Senator Oehlke – Unless you are talking about parks and recs, I think park districts are kind of under the auspices of city or county, aren't they?

Senator Triplett – They are set up by law as separate taxing districts. It may not be true in counties. I think in counties they are like a creature of county government but in cities they can be separate districts. I think even if they aren't listed in the heading, just by the simple fact that we are transferring the money to the oil and gas impact fund, and as Senator Hogue said, in other legislation we have already said that the oil and gas impact fund can give money to park districts.

Vice Chairman Miller – There is a pool of money here and that's going to relieve other areas that need money so then by default park districts should have the ability to access other monies that might be available.

Senator Triplett – The other additional thought I've had is if there really is a lot of money that flows from, in the future, once development under the lake starts happening, maybe we should have some kind of offset against the other appropriation where we are considering giving $100 million, which really hasn't passed here, if when we have a chance to consider that, maybe in that bill we might want to put some sort of offset in case this ends up being more than $100 million, at some point we aren't just piling way too much money into that fund. That may be a different topic for a different day.

Chairman Cook – You could do something in an adjoining county that's going to benefit a county. Hopefully for the benefit of, we would allow some of that to happen. Especially if there was tremendous royalty checks coming in.

Chairman Cook went in to explanation of a similar House bill.

Senator Dotzenrod – The people that manage this oil and gas impact grant fund, what kind of mandate do they have when they are over the biennium are they required to spend the money that's there? Can they leave some and not spend it? They are just going to respond to the requests that they get and then rule on those requests and then if there is money that they have beyond what's requested that will just stay in the fund and would be carried over to the next biennium?

Chairman Cook – Currently, right now we have 1 person that decides who gets the money and the requests, of course, have always been much more than the $8 million that he's had to distribute. Now we are talking about $100 million or more. Who knows what it will be when we go home. They are talking changing who gets to make that decision, who knows what that will be.

Senator Triplett – I'll move the amendments.

Seconded by **Senator Burckhard**.

Chairman Cook – All in favor say yea. Opposed? (7-0-0)

Senator Hogue – I'll move a Do Pass as Amended.

Seconded by **Senator Burckhard**.

Carried by **Senator Hogue**.

FISCAL NOTE STATEMENT

Senate Bill or Resolution No. 2047

This bill or resolution appears to affect revenues, expenditures, or fiscal liability of counties, cities, or school districts. However, no state agency has primary responsibility for compiling and maintaining the information necessary for the proper preparation of a fiscal note regarding this bill or resolution. Pursuant to Joint Rule 502, this statement meets the fiscal note requirement.

Becky Keller
Senior Fiscal Analyst

Prepared for the Senate
Finance and Taxation Committee
by Alex Kelsch
February 21, 2011

PROPOSED AMENDMENTS TO SENATE BILL 2047

Page 1, line 6, remove "and "

Page 1, line 6, after "date" insert "; and to declare an emergency."

Page 1, line 11, after "**distributed**" insert "**through grants**"

Page 1, line 11, overstrike "**for schools and roads**" and insert immediately thereafter "**, school districts, and townships**"

Page 1, line 12, overstrike "pay" and insert immediately thereafter "transfer"

Page 1, line 13, after the first "the" insert "oil and gas impact grant fund, to be held in a special account within that fund and made available through grants by the energy development impact office only for the benefit of oil and gas development-impacted townships, school districts, or county government in the"

Page 1, line 13, overstrike "entitled to receive them in proportion to the area of the land in the county" and insert immediately thereafter "in which land has been"

Page 1, line 14, overstrike "as"

Page 1, line 15, overstrike "that area bears to the total of these federal lands in the state"

Page 2, remove lines 12 through 19.

Page 2, after line 22, insert;

"**SECTION 4. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

Date: 2-21-11
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2047

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 Triplett Seconded By Senator Burckhard

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

Total (Yes) 7 No 0

Absent 0

Floor Assignment _____

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

Verbal vote

11.0233.02005
Title.03000

Prepared by the Legislative Council staff for
House Finance and Taxation
February 21, 2011

2-21-11

PROPOSED AMENDMENTS TO SENATE BILL NO. 2047

Page 1, line 1, remove "to create and enact a new section to chapter 54-11 of the North Dakota"

Page 1, remove lines 2 and 3

Page 1, line 4, remove "to political subdivisions by the state treasurer;"

Page 1, line 6, remove "and"

Page 1, line 6, after "date" insert "; and to declare an emergency"

Page 1, line 11, overstrike "**distributed**" and insert immediately thereafter "**through grants**"

Page 1, line 11, overstrike "**for schools and roads**" and insert immediately thereafter "**, school districts, and townships**"

Page 1, line 12, overstrike "pay" and insert immediately thereafter "transfer"

Page 1, line 13, after the first "the" insert "oil and gas impact grant fund, to be held in a special account within that fund and made available through grants by the energy development impact office only for the benefit of oil and gas development-impacted townships, school districts, or county government in the"

Page 1, line 13, overstrike "entitled to receive them in proportion to the area of the land in the county" and insert immediately thereafter "in which land has been"

Page 1, line 14, overstrike "as"

Page 1, line 15, overstrike "that area bears to the total of these federal lands in the state"

Page 2, remove lines 12 through 19

Page 2, after line 22, insert:

"**SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

Date: 2-21-11
Roll Call Vote # 2

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2047

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 Hogue Seconded By Senator Burckhard

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 Hogue

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

REPORT OF STANDING COMMITTEE

SB 2047: Finance and Taxation Committee (Sen. Cook, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2047 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "to create and enact a new section to chapter 54-11 of the North Dakota"

Page 1, remove lines 2 and 3

Page 1, line 4, remove "to political subdivisions by the state treasurer;"

Page 1, line 6, remove "and"

Page 1, line 6, after "date" insert "; and to declare an emergency"

Page 1, line 11, overstrike "**distributed**" and insert immediately thereafter "**through grants**"

Page 1, line 11, overstrike "**for schools and roads**" and insert immediately thereafter "**, school districts, and townships**"

Page 1, line 12, overstrike "pay" and insert immediately thereafter "transfer"

Page 1, line 13, after the first "the" insert "oil and gas impact grant fund, to be held in a special account within that fund and made available through grants by the energy development impact office only for the benefit of oil and gas development-impacted townships, school districts, or county government in the"

Page 1, line 13, overstrike "entitled to receive them in proportion to the area of the land in the county" and insert immediately thereafter "in which land has been"

Page 1, line 14, overstrike "as"

Page 1, line 15, overstrike "that area bears to the total of these federal lands in the state"

Page 2, remove lines 12 through 19

Page 2, after line 22, insert:

"**SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

2011 HOUSE FINANCE AND TAXATION

SB 2047

2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

SB 2047
March 14, 2011
Job # 15367

☐ Conference Committee

Committee Clerk Signature Marilyn Kienzle

Explanation or reason for introduction of bill/resolution:

A bill relating to allocation of revenues from the leasing of federal flood control lands; to provide an effective date; and to declare an emergency.

Minutes:

See attached testimony #1, #2, #3, #4, #5 and amendments #1 and #2.

Chairman Belter: Opened the hearing on SB 2047.

John Walstad, Legislative Council: Introduced bill. I am appearing in an extremely Neutral position. I served as council for the interim tax committee and that is where this bill originated. During the interim, it was a surprise to many people, when we became aware that some payments were being made to some political subdivisions, particularly Mountrail County, in very substantial amounts. Examining the back ground it was discovered that almost all of this came from Federal Flood Control Land Acquisitions and resulting leases from by Federal Government for oil and gas. The Federal Flood Control Land Acquisitions was done at the time of the Pick Sloan Plan Execution and the Acquisition of property by Federal Government all down the Missouri River. Obviously in North Dakota that is a substantial amount of North Dakota property. Some of this is under Lake Sakakawea and some of it is not. I believe it incorporates the land acquisition all the way up to the tack line. Now that horizontal drilling is feasible and development of minerals under lying that Federal property, leases have been entered and substantial amounts of revenue started being paid out. It is done under a Federal Law and there is a copy attached to the memo. So the interim committee recommended a bill which doesn't look much like the bill you have in front of you now, with the exception it is the same section of Law. This was amended significantly by the Senate and now provides that the Treasure will transfer the moneys allocated to the state under that Federal Law provision to the Oil and Gas Impact Grant Fund and that money is to be made available through grants by the Energy Development Grant Impact Office, only for the benefit of oil and gas impacted townships, school districts or county government in the counties in which land has been acquired by the Fed. Something went wrong with the effective date when it came over here. As you can see Please see there is an emergency clause is to stop these large shocking payments and reallocate them the money. So the emergency date is appropriate however because the effective date clause it is actually not going to take effect on emergency bases, the date needs to be adjusted in the effective date clause.
See attached testimony #1.

Vice Chairman Craig Headland: What date are we supposed to put in to make the emergency clause work?

John Walstad: I would check with Carlie but what I would guess is the first date of the month. Or the first date of the first month following the filling the bill with the Secretary of State would be my suggestion.

Representative Shirley Meyer: When you talk about massive amounts of money in order for that to be fair and equitable, we need a memo that shows how many of millions of dollars were lost when the flood acquisition came in. Has that memo been prepared at all?

John Walstad: No. I'm assuming you're talking about acreage lost within each township or within the Newtown school district that kind of thing or lost tax revenue?

Representative Shirley Meyer: Correct and it was for a lot of land, a lot of property and a lot of dollars in the Killdeer school district, the Dunn County or the Mountrail especially for 40 years.

John Walstad: I don't know how hard that would be, probably pretty difficult. To answer simply nothing like that had been attempted.

Representative Dave Weiler: The federal says the money must be expended by the Legislature to the schools, and to the counties for roads and to whatever the county government deems necessary. That is kind of what the Federal Law says. The State Law that the Senate is trying to put in here is that it is going to go to the Oil and Gas Impact Grant Fund. Is there a conflict here? It doesn't seem to me like the Senate is attempting to put the money where the Feds tell us we have to put the money.

John Walstad: You put your finger on a significant issue and I could argue it any way but there is an argument there. The Federal Law looks to me like it requires a little more specificity in distributing that money to the effect that townships, which is not a necessity, but schools and counties are a little more where targeting is required. There is another issue here, which is a small issue, is some of the money that comes in is not counties that are along the river. That money is not oil leasing money but is probably grazing fees. The amendment that was prepared, that the Senate approved, throws all that money into a pot and gives that money to oil counties. Admittingly they are not huge payments but those smaller amounts that are distributed to some counties on the list as Barnes and Greggs will be cut off and given to oil counties. An adjustment needs to be made to address that if nothing else.

Representative Dave Weiler: On the back page of your handout lines 14-19 are basically unorganized townships. The 6 unorganized townships received 1.7 million dollars. Just because they are unorganized who receives that money? Does the county?

John Walstad: Yes. If there is no organized township it goes to the county to be used on those townships.

Representative Glen Froseth: All the overstruck language on page 1 starting on line 16 through page 2 line 13 is previously legislation that has been passed to distribute these funds, that is State Legislation isn't it?

John Walstad: Yes, that is existing law under which those allocations are being made which is being showed on the hand out.

Representative Glen Froseth: There are no federal stipulations in the language in this portions of the bill, what so ever? It does not negate any federal-

John Walstad: No. There is no formula in the federal provision. It was left to State Legislation to make that allocation. Current law seems to be in compliance with that federal mandate. However it distributes money in excessive amounts to townships and federal law does not require that.

Representative Glen Froseth: The distribution back of the 75%, half goes back to the counties and 25% goes to the school district and this is state statues. So this money can be distributed as long 75% of it goes back to the county we can distribute the money through a grant fund like this.

John Walstad: No, there is no formula in the federal provision. It was left to the legislators to make that allocation at the local government level.

Vice Chairman Craig Headland: On the original bill out of the interim committee these counties that impacted like Barnes and Stutsman that have flooded lands, did we provide a mechanism to share in some of these funds or are they out?

John Walstad: I don't recall the verses in the original bill but it would not have affected the allocations that are received by each county. So Mountrail County would receive the full amount shown on the chart here and I think it would eliminate the township allocation. It states that the treasure will pay the moneys to the counties entitled to receive them. So Barnes County would have continued to receive the funds but there would not have been any break down beyond the county receiving the money.

Representative Mark S. Owens: The counties that lost land under the Flood Control are they only oil producing counties?

John Walstad: No. Federal Flood Control has acquired land in some counties that are not even close to oil producing areas. There are revenues that are received from those lands but grazing is the best guess of what that is. The leases that were sold along the river that have generate these payments that have flashed up on the radar, far more than the $3,000 a year payments that were received by some counties prior to that.

Representative Mark S. Owens: The way this bill is written right now, all the monies from the Flood Control would go to this Oil and Gas Fund now, even those small amounts for grazing?

John Walstad: That is correct.

Representative Dave Weiler: The way that this federal money is currently handled and how it passed from the Federal Office to the Treasures Office and then to the county is there some kind of problem with how that is being handled. I am having a difficult time trying to figure out why they want to take all this money and put it into the Oil and Gas Impact Grant Fund. Is there a problem with the way the money was distributed before? According to the Federal Law that is the way it was being handled.

John Walstad: Administratively no, I don't believe there is a problem with current law. It is just that the numbers got some much bigger than it was anticipated. State Statuary Provision was established in 1979 and I don't think anyone at that time had in mind the kind of money that is flowing now?

Representative Roscoe Streyle: It seems to me the problem is with how much money it is. Why wouldn't it be easier to tinker with these numbers just a little bit and instead of changing everything to flow through one fund.

John Walstad: I guess that is a question for you to address, more than for me. I defer to this committees wisdom.

Representative Dave Weiler: The impact grant fund, did the Governor put in his budget to put in an extra 100 million dollars this fund?

John Walstad: Same fund.

Representative Dave Weiler: Do they need to have a lot more people to administer that because they have a lot more money in there?

John Walstad: I would defer to the appropriations committee wisdom on this.

Representative Dave Weiler: Along with the Governor's 100 million and we had capped it at 8 million last session and if we add all these million is there not another energy office that is attempting to be added this Legislative Session?

Vice Chairman Craig Headland: It is a special fund.

John Walstad: There was another but not anymore. HB 1458 would have set up a different structure for the Impact Fund.

Representative Glen Froseth: The big bulk of the money has been collected and spent. The oil leases have already been tied up for about the next 5 years and the oil drilling will probably take place before the leases expire. So there probably will not be any more money coming in. The leases under other federal owned lands that have been taken for money paid back to the county, will this bill distribute all oil and gas money that goes to this fund and be distributed amongst other federal land holdings across the state?

John Walstad: It is a two part question and the answer to your first question is yes. All the money paid out for Federal Flood Control Land Revenues would go into the Impact Grant

Fund but it wouldn't be paid out to all affected counties. It would be paid out to all oil and gas development impacted township, school districts and counties. The counties that do not have oil but do have some revenue, that money would go into the pot but they wouldn't be eligible.

Representative Glen Froseth: The money that is collected from grassland revenues will be collected too and will go into oil and gas producing counties.

John Walstad: There are quite a few different kinds of Federal Property Ownership and any revenues from those properties are distributed in different fashions. This is relating to the property acquired for the major flood control project that the Feds did. Grasslands payments, that's a whole separate section of law.

Representative Steven L. Zaiser: It seems to me that this might make it more of a bureaucratic process putting this back into a fund. Do you have any kind of idea what the administrative costs might be following this procedure?

John Walstad: I have no idea what it might cost to administer. I think it would be safe for me to say that it would be more costly than it is right now.

Representative Lonny B. Winrich: Do we have any reports as to what the counties are doing with this sudden wind fall?

John Walstad: In the original bill there was a reporting requirement. There was a provision for the state treasurer to report to legislative management monthly. It was this money and everything else that was related to oil that was to be reported. That is not in the bill now.

Representative Dave Weiler: In response to Representative Froseth's comment about the payments that mostly have been paid out on this already, does the Federal Law say anything on royalties? It says on here any moneys that provide 75% collected in a fiscal year from leasing lands acquired by the United States. So that is the leasing of it, how about the royalties? When the Federal Government starts bring in the royalties does 75% of that money have to go back as well?

John Walstad: Yes, I believe it does. Near the end of that Federal Legislation money includes bonuses, royalties', fees and rentals. I believe it does and over time these payments we are looking at over 17 months will be just a small part of the money.

Representative Dave Weiler: This issue is just starting. The royalties are only going to dwarf the bonus potentially. If we pass this bill that the Senate has send over and the money goes through the Oil and Gas Impact Grant Fund to the schools etc. will that all be imputed in the school formula?

John Walstad: Yes, I believe it would, there is no exception.

Representative Drovdal District 39 and Speaker of the House: This addresses the lease payments only. The royalty payments for oil or oil royalty are addressed in a different section and distributed under a different section law. This would not affect

whatever you do here, is that correct? The majority of this is under a different section when we addressed this in the Interim. This goes back 60 years as Rep Beyers did point out that these taxes were taken away from schools and counties when the dam was build. I can't speak for the Oil and Gas County Association but as for a legislature from oil and gas county, the oil and gas counties are not interested in taking away money from counties that receive lease flood money that do not have oil. This does go into the State Oil and Gas Grant Fund which is going to deal with this differently than they deal with the other grant money. Do we really need that money to go in there? The counties already have a infrastructure grant fund under the regular program that they administer for schools and townships. I do have two amendments to offer.

Representative Shirley Meyer: Before you moved on with that there is no formula with the way the moneys are going to be handled differently. The way this bill reads now it simply is going into the Oil and Gas Impact Fund. We have learned how harmful this is with the passage of HB 1304. You mention that this will be handled differently but there is no formula so I don't believe it will be handled differently because it just says it is going to the Oil and Gas Impact Grant Fund.

Representative Drovdal: I do have an amendment dealing with the schools. In HB 1458 you may recall you worked a hog house amendment on it. One of those amendments had to do with how to deal with flood money that comes back under this section. What it does is it recognizes the value of land the number of years the schools lost that money. The 1458 amendment will put language back as far as the school dollars into this bill. Please refer to attached proposed amendments #1. The second amendment also was in 1458 refers to holding schools harmless for the moneys when we put the caps on two years ago. This would bring schools back to the 2009 funding level. See amendment #2.

Carlee McLeod, Deputy State Treasurer: Neutral testimony. Please refer to attached testimony #2. To clarify some of the questions about royalty versus lease payments; there are different programs that we receive federal dollars. This particular program deals with the lands acquired for flood and navigation purposes. This money at this point has been for leases however royalties under those lands will come back through this program. There is a completely separate federal program by which we receive mineral royalties right now. Those moneys will not be part of this statutory structure. The Flood Lease Payments for this year are down significantly from the past couple of years. You are not going to see 50 million dollar payments this year. I believe the largest county payment will be around 1.2 collectively for the whole fiscal year to date but I am sure as royalties payments come in that will grow.

Chairman Wesley R. Belter: In looking at these non-oil counties, how do they fit into the formula?

Carlee McLeod: Well in some point in that county there was an area of land that the feds acquired for flooding or navigation purposes. We are not privy to why they do that at our office. We just get the information as to the money coming in and where it is distributable.

Representative Lonny B. Winrich: Do you have any knowledge on what is happening out in the counties and townships? Are they using this money or are they socking it away or what are they doing with it?

Carlee McLeod: I'm not sure what they are doing with it. I assume they are using it for the purposes they are told. I do believe with the report you receive in Mountrail you can see how they are using it. I have not seen any other reports as to how they are using it.

Representative Mark S. Owens: In your testimony you suggest that the change to 21-06-10 conflicts with federal law. Are you talking about how it came out of the Senate and not the original version?

Carlee McLeod: That is correct. The original version does not conflict.

Representative Dave Weiler: Do you know if there is any law, federal or state, that gives a time to use that the money, for example the NewTown School District, or do they just get a check?

Carlee McLeod: There is nothing coming to knowledge about the timing of how they have to use that money but having said that, I have not read all of the Federal Code relating to this.

Representative Shirley Meyer: In response to that question, when we knew this was coming in the 2009 legislation session, they were given additional amount time to deal with those correctly and this was in the school funding formula. When we knew this was coming we extended time frame so they did the right thing. New Town built a cafeteria. Killdeer did a computer lab. We allowed the extra time so they could get bids etc.

Representative Onstad District 4 in Parshall: In opposition SB 2047. He also asked for consideration of the amendments brought to the hearing. He also noted that due to the winter storm, some of those representatives from those township and counties, who would be testifying here today, where unable to make it. I will say those townships have plans for that fund. We have very little funding for emergencies planning such as fire districts, rural ambulances and so on. They also recognize that the traffic in that area does not warrant gravel roads anymore. Please refer to attached testimony #3.

Greg Boschee Mountrail County Commissioner: He is also the president for the North Dakota Oil and Gas Association of Counties. We are in opposition SB 2047. We believe the Federal Code requires it to be distributed as it has previously been. It is not our intent to receive grant funds from the other counties, as grassland funds. We are also opposed to putting that money into a pool and apply to the pool for funds from this pool. We are now receiving this money monthly in a direct payment. This Flood Control Money has kept Mountrail County's head above water, as I am sure it has for Dunn and Mc Kienze County. It is definite needed revenue. I would like to talk a little about the schools. In Mountrail County if you look at the New Town School District and then the Parshall School District, New Town got the windfall and Parshall got like $3,000. When the lake was flooded, the School District of New town had those acres. A year after the flooding the acres were divided, so there is some inequity there also. Please give the money to the counties and

not to a pool that we have to apply for and has nothing spelled out for us. The original bill had the money being sent or distributed to the counties and we are in favor of that bill. Please refer to attached testimony #4.

Vice Chairman Craig Headland: From my recollection back to the interim committee, you were there and testified at that time. Were you happy with the Interim Tax Committee bill as it was written? This was where the townships were cut out of the funding and it was left to the counties.

Greg Boschee Mountrail County Commissioner: That is not a problem with us because we work with the township anyway.

Representative Shirley Meyer: How many dollars did the Mountrail County apply for through the Impact Fund and how many dollars did you receive?

Greg Boschee Mountrail County Commissioner: Millions and gotten none. Mountrail County hasn't gotten got any for I believe 3 years. The townships have.

Representative Shirley Meyer: Can you recall how many dollars you applied for, to the Impact Fund?

Greg Boschee Mountrail County Commissioner: I don't. I would say millions.

Representative Dave Weiler: The money that has flooded into Mountrail County, have the property tax owners seen property tax decreases?

Greg Boschee Mountrail County Commissioner: I am going to say no. Because of the impact in Mountrail County, we are trying to hold the line on taxes where our people won't have to pay the brunt of the oil industry.

Representative Glen Froseth: If the law and the distribution stayed exactly the same way it is right now, what is wrong with that?

Greg Boschee Mountrail County Commissioner: The example of Liberty Township getting 4 million dollars and our township right next to it gets 5 thousand dollars that I normally get.

Representative Glen Froseth: Liberty Township can return the money to the county that they choose.

Greg Boschee Mountrail County Commissioner: I suppose they could! Good point.

Jerry Wills, Superintendant at Killdeer: I am in opposition of SB 2047. I am here to tell you that the Killdeer School District received a substantial payment in 2009 based on the distribution of the Flood Control statue. It was 1.6 million dollars. I can tell you as far as this year I have seen come in on the revenue side of my budget is between 30 to 40 thousand dollars. You can see that based on what leases were and the settlement and the dollars that came through in 2009 were significant higher than now, which is based on

some royalty monies with some additional dollars coming through. Those dollars were received based on the existing statue where it tells us ½ of the money coming in must be paid to the school districts and the county which was subject to taxation because of the acquisition of the lands from the United States. The current proposal is now saying it is okay to remove this source and negate the fact that these lands were once a part of the Killdeer School District tax base. These lands have generated some revenue for the Killdeer School District for many years and as the dollars came into the district they went into our general fund which allowed much latitude in the expense side of the budget. I haven't had a chance to digest the purposed amendments that are come to the committee. The purposed changes to this law will now have me apply for the dollars in the form of a grant, which will require me to justify the districts needs. It will allow a grant manager digression over this request or other infrastructure needs in oil and gas producing counties. What I would like for this committee to do is to give some consideration to the historic funding base for our district or possibly set a cap, if a cap is necessary, so it is the school district discretion as to how this money is used and not a grant manager.

Representative Shirley Meyer: I am taking it you did not waste the money you got. Could you inform the committee what you used the dollars for?

Jerry Wills, Superintendant at Killdeer: I came unarmed as far as a list of expenditures but here is a broad brush answer. If you are familiar with HD TV or extreme makeovers, we did an extreme makeover at the Killdeer School. That was taking care of issues such as removal of the entire old asbestos tile putting in new tile, upgrades to our new gymnasium, new computer labs, new computers for the teachers, spending 100,000 dollars on a reading program, which last year showed to be successful. That is to name a few. It was not a frivolous spend in any means.

Representative Wayne Trottier: If the money would go to the counties would that work with you? Or does that work like another grant program from the county?

Jerry Wills, Superintendant at Killdeer: That is difficult to answer. At the time under the gross production tax formula and monies that went into infrastructure that we have to apply for those dollars based on transportation needs that are quite restrictive and is based on what the county commissioners see.

Ron Ness, North Dakota Petroleum Council: We are in favor of the original bill and in opposition of the engrossed SB 2047. Just a couple of points from the previous two speakers, if you put this money into the Oil Impact Fund than the EIEIO Fund, they have to apply that back to energy, oil and gas impact, so the things the superintendant is talking about, they would likely not be eligible under that program for this things. We want the money to go back to the areas that it came from and this is what the Federal Government had design this to do.

Marc Bluestone, New Town Public School District: I am in opposition of SB 2047. I am the Superintendant at the New Town Public Schools in New Town, ND. We have an enrollment of about 730 students Pre K through 12 of which 68% of the students are eligible for free or reduced meals program which means we live in an area of poverty and regardless of all the oil impact that is going on in our communities we still have a great

amount of poverty. This legislation would of course remove payments received to the school districts and townships through the leasing of lands acquired by the United State for flood control. The loss of land was 42,000 acres from the New Town schools. Please refer to attached testimony #5.

Representative Dave Weiler: On the 2nd page the 4th bullet down you say you refurbished a cafeteria, commons area and kitchen preparation facility and yet you are going to be building a new High School. Do you currently have a high school and a middle school?

Marc Bluestone, New Town Public School District: We kind of have a school within a school. On the original High School we did an addition in 1998 and that portion will still exists. What we will do is level the old portion on the school building but the middle portion will still stay the same. We will still use the cafeteria, commons area and kitchen preparation facility. We will be building about 50 yards away and extend a hallway.

Representative Dave Weiler: The area that you upgraded is not going to be destroy that and build a new school that is still going to be used.

Marc Bluestone, New Town Public School District: Yes

Representative Wayne Trottier: Are the kids in the school better educated?

Marc Bluestone, New Town Public School District: The infrastructures of the our facilities makes it a state of the art facility, with a state of the art curriculum and teacher training which is all very beneficial to our students. With the high rate of children diabetes and obesity on the Reservation, we can use the gym is very beneficial to them. We have implemented a wellness plan so we can we can effectively use the building up on till 10 o'clock every night.

Chairman Belter: Closed the hearing on SB 2047

2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

SB 2047
March 14, 2011
Job # 15398

☐ Conference Committee

Committee Clerk Signature Marilyn Lyle

Minutes: *" No attached testimony"*

Chairman Wesley R. Belter: Discussion on SB 2047

Representative Shirley Meyer: There is nothing that is broken here. For 60 years they have come with this tax revenue and I don't believe any of them have misused this money. I think it should be left the way it is.

Chairman Wesley R. Belter: Are you saying the way it is amended now?

Representative Shirley Meyer: No. I recommend a do not pass

Representative Patrick Hatlestad: The way the gentleman (County Commissioner Boschee) from Stanley spoke they got 4 million dollars for 10 miles of road.

Representative Shirley Meyer: That is Liberty Township and Mountrail County. When you visit with them it is true but if they come in and repair their roads, it will cost 10 million dollars. They have met and are doing the right thing with their money. Maybe the county commissioners have an issue with that but $250,000 they use to improve the access to the lake and they are going to use the rest for the road repair. There roads are shot.

Representative Glen Froseth: I visited with Greg Boschee and he also indicated that some of the townships in their county don't really want the responsibility of handling this money and don't have very many people leaving in the township. He felt the county could easily handle the townships repair needs through the county funds. I think there are 6 unorganized townships in Mountrail County and he figured there would be more townships that would be turned over to the county. I don't see any problem with giving ½ to the school districts and ½ to the county and put in language that the counties must take responsibilities of the townships infrastructure.

Chairman Wesley R. Belter: Would you like to come up with some amendments?

Representative Glen Froseth: I could try. We could put the bill back to its original state but then the Senate would agree with that? This change would put in the reporting requirement that a lot of the interim committee felt was so necessary because of the large amounts of distributions that was handed out and there was no way to tell what it was used for.

Representative Shirley Meyer: One of the problems with the reporting requirements is that so many legislators don't believe it after they do the reporting. Also after having all of these reporting requirements, you then will have to hire someone to evaluate them. That is a big drawback. They make the case that you can go into their budget and their expense sheets which are very clear. I can help with the amendment.

Chairman Wesley R. Belter: Does somebody else want to join Froseth and Meyer? Rep Hatlestad.

2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

SB 2047
March 15, 2011
Job # 15473

☐ Conference Committee

Committee Clerk Signature Marilyn Kuenzle

Minutes: *See attached amendments.*

Chairman Wesley R. Belter: We will go to SB 2047.

Representative Glen Froseth: Distributed and reviewed amendments. The amendment before us is what we discussed yesterday. The bill as it was amended puts all the money into the Oil and Gas Impact Grant Fund. The Hog House amendment put the bill exactly how it is handled today with one exception. As you recall 75% of the flood money goes back to the State and 25% goes to the Federal. Of the 75% one-half must go back to the school districts in proportion to the land that was lost by flooded acres in their school district. The other half 25% goes to the township and the other 25% will go to the county. Rep Froseth reviewed with the committee Paragraph 2. I talked to the Association of Township Officers head person Ken, and he felt it was fine. I talked to a couple of County Commissioners and they felt this would work great. I did promise Speaker Drovdal that I would bring up the Amendment that makes the school districts whole harmless clause over the money they may have lost over the last 10 years.

Representative Shirley Meyer: I agreed to visit with the townships. Liberty Township is doing the right thing. They have a whole plan done for the moneys they have been given. They have 10 miles of road repair and basically that will take more than the 4 million dollars. The adjoining township is developing a plan and policy to use the money they have been given to develop boat ramps. There is a water depot in the adjoining township. They received a little more than 2 million. But because they have the water depot their road is gone. They are using their entire allocation to rebuild the road. They work well with the County Commissioner and are fine with this amendment. Dunn County was also fine with this amendment.

Representative Patrick Hatlestad: I think this gives the counties a little more flexibility by working with the townships.

Chairman Wesley R. Belter: What about the issues of the school.

Representative Shirley Meyer: Although I'd like to see this done I don't think it's the right vehicle. This is specifically done toward the Flood Control monies. That is what we messed up in 1304 last session. It really is a different section.

Chairman Wesley R. Belter: Rep Froseth do you want to move your amendments?

Representative Glen Froseth: I would move that we accept amendment 03003.

Representative Mark S. Owens: Seconded the motion

Representative Dave Weiler: Basically what this amendment does is give ½ to the school districts and ½ to the counties and specifies in there. However the Federal Law says that this money must be used for schools, public roads or counties which such properties situated or for defraying any of the expenses of county government. Does that mean the counties are or are not able to use some of this money for the defraying of their expenses?

Representative Shirley Meyer: They are.

Representative Dave Weiler: I'm having a hard time believing that the township officers are not having a problem with this. They are losing 12.5% that use to come to them. If I could just get some clarification on that.

Representative Glen Froseth: In visiting with Mountrail County Commissioner they have six or seven unorganized township in their county. I did ask what they expected to happen in the future. He did say they expected that more of the townships will give up their organization and give it to the county. The township business is getting too big for the Township Board of Directors that probably doesn't have enough people living in the township to elect a full slate of township officers and a lot of the townships want to get out of that responsibility.

Representative Dave Weiler: If that is the case where a township will want to go from organized to unorganized the money would go to the county anyway. There are certainly townships in these areas that are organized and are always are coming to the legislature for more money. This bill takes away 12.5% of money that is coming to them under this guideline and I am having a hard time believing they are okay with that.

Representative Shirley Meyer: That is not correct. 25% of this still goes to the townships for infrastructure under this amendment. It just goes to the counties first instead of the townships automatically. They will get the same amount of dollars. They asked me to visit with them because they did not come in and testify. They have no problem with this.
When they are looking at road projects, for example, many of the township officers understand that the county will get better bids and these townships can use their dollars for the match.

Representative Dave Weiler: The townships under this bill are getting ¼ amount retained by the county. The way the current law is today the townships got 25% of the total. Under this bill they are getting ¼ of one-half or 12.5%. We understand this bill is going to go to conference committee anyway and if we want to pass this out and move on and it will be resolved at that time, but Mr. Chairman I would hope that we could vote down these amendments and I would like a chance to put it the bill the way the law is currently so that when we go to conference committee.

Chairman Wesley R. Belter: I think Representative Weiler is correct here in the way it was written. My question to the three of you is where you aware that 1/4th of the total amount did go to the township?

Representative Glen Froseth: I think the understanding was ½ of the money the county gets should go to the infrastructure and we could amend that right now and not have to go through another process of having another amendment drafted.

Representative Shirley Meyer: I am sure that this was just another oversight.

Representative Glen Froseth: I would like to further amend 03003 on subsection 2, line 3 where it says 1/4th to ½ amount retained by the county under this subsection.

Representative Mark S. Owens: I'll agree to amend my second to change my ¼ to ½.

Representative Glen Froseth: I forgot one thing on this amendment. Carlee from the Treasures Office indicated would like a starting date as when this is to take effect, so if you look at on the back it states the first day of the first month after this Act is files with the Secretary of State.

Chairman Wesley R. Belter: All in favor to further Amend

Motion Carried.

Chairman Wesley R. Belter: What are your wishes? I need someone to make a motion to move this amendment.

Representative Steve Zaiser: Moved to move the amendment.

Representative Mark S. Owens: Seconded the motion

Motion Carried.

Representative Dwight Wrangham: How does this affect the counties that are not in the oil production area?

Representative Shirley Meyer: It doesn't.

Representative Shirley Meyer: I make a motion for a Do Pass as Amended.

Representative Glen Froseth: Seconded

Do Pass As Amended Yeas 14 Nay 0 Absent 0

Carrier is Representative Glen Froseth.

2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

SB 2047
March 21, 2011
#15723

☐ Conference Committee

Committee Clerk Signature Mary Brucker

Explanation or reason for introduction of bill/resolution:

A bill relating to allocation of revenues from the leasing of federal flood control lands; to provide an effective date; and to declare an emergency.

Minutes: *See attached amendments.*

Representative Bette Grande: A make a motion to reconsider our actions.

Representative Glen Froseth: Seconded.

A voice vote was taken to reconsider our actions: MOTION CARRIED.

Representative Glen Froseth: Distributed and reviewed amendments. See attached amendments. **I move the amendments.**

Representative Shirley Meyer: Seconded.

Representative Dave Weiler: Does this carry any fiscal note with it or is it handled by the distribution formula?

Representative Glen Froseth: There's no fiscal note because the money comes out of the share that is returned to the counties. Of that money that goes to the counties 35% was supposed to go back to the school districts. Of the second million the counties get 35% that was supposed to go back to the school districts based on enrollment. Then they are supposed to be held harmless up to a certain cap. The money over that cap goes back to the counties if the school districts don't require all of it.

A voice vote was taken on adopting the amendments 03006: MOTION CARRIED.

Vice Chairman Craig Headland: We have amended version of 2047.

Representative Steven L. Zaiser: I make a motion for a DO PASS AS AMENDED.

Representative Glen Froseth: SECONDED.

A roll call vote was taken: YES 13 NO 0 ABSENT 1
MOTION CARRIED.

Representative Glen Froseth will carry SB 2047.

FISCAL NOTE STATEMENT

Senate Bill or Resolution No. 2047

This bill or resolution appears to affect revenues, expenditures, or fiscal liability of counties, cities, or school districts. However, no state agency has primary responsibility for compiling and maintaining the information necessary for the proper preparation of a fiscal note regarding this bill or resolution. Pursuant to Joint Rule 502, this statement meets the fiscal note requirement.

Becky Keller
Senior Fiscal Analyst

11.0233.03003
Title.

Prepared by the Legislative Council staff for
Representative Froseth
March 15, 2011

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2047

Page 1, remove lines 5 through 23

Page 2, replace lines 1 through 13 with:

"**SECTION 1. AMENDMENT.** Section 21-06-10 of the North Dakota Century Code is amended and reenacted as follows:

21-06-10. Moneys received through leasing of lands acquired by United States for flood control distributed to counties for schools and roads.

The state treasurer shall pay the moneys allocated to the state under 33 U.S.C. 701(c)(3) to the counties entitled to receive them in proportion to the area of the land in the county acquired by the United States for which compensation is being provided under 33 U.S.C. 701(c)(3) as that area bears to the total of these federal lands in the state. A county receiving an allocation under this section shall disburse the moneys received as follows:

1. One-half must be paid to the school districts in the county which have lost land subject to taxation because of the acquisition of lands by the United States for which compensation is being provided under 33 U.S.C. 701(c)(3) in proportion to the area of these federal lands in each district as that area bears to the total of such lands in all of the school districts in the county. If, however, all of the land in a district has been acquired by the United States, that district's proportionate share of the funds allocated under this subsection must be paid into the county tuition fund and expended according to the law governing that fund.

2. ~~One-quarter~~One-half must be paid to the county for road purposes to be expended as the board of county commissioners shall determine. One-fourth of the amount retained by the county under this subsection must be expended as directed by the board of county commissioners for infrastructure projects by or on behalf of organized or unorganized townships.

~~3. The final quarter must be allocated among the organized townships, if any, which have lost land subject to taxation because of land acquisitions by the United States for which compensation is being provided under 33 U.S.C. 701(c)(3) and the county for road purposes in proportion to the area of these lands in each township as that area bears to the total area of these federal lands in the county. The county must be allocated a similar proportionate share based on the area of these lands in the county not within an organized township.~~

~~This section applies to all funds heretofore received or to be received by the counties entitled thereto.~~"

Page 2, line 14, replace "Section 1 of this" with "This"

Page 2, line 15, after "701(c)(3)" insert "on or"

Page 2, line 15, replace "July 31, 2011" with "the first day of the first month after this Act is filed with the secretary of state"

Page 2, line 15, remove "Section 2 of this Act becomes effective"

Page 2, remove line 16

Renumber accordingly

Date: 3-15-11
Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2047

House Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment 03003 w/ further amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Froseth Seconded By Rep. Owens

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter			Scot Kelsh		
Vice Chair. Craig Headland			Shirley Meyer		
Glen Froseth			Lonny B. Winrich		
Bette Grande			Steven L. Zaiser		
Patrick Hatlestad					
Mark S. Owens					
Roscoe Streyle					
Wayne Trottier					
Dave Weiler					
Dwight Wrangham					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

VOICE VOTE

MOTION CARRIED

Date: 3-15-11
Roll Call Vote # 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2047

House Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

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

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Zaiser Seconded By Rep. Owens

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter			Scot Kelsh		
Vice Chair. Craig Headland			Shirley Meyer		
Glen Froseth			Lonny B. Winrich		
Bette Grande			Steven L. Zaiser		
Patrick Hatlestad					
Mark S. Owens					
Roscoe Streyle					
Wayne Trottier					
Dave Weiler					
Dwight Wrangham					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

VOICE VOTE

MOTION CARRIED.

Date: 3-15-11
Roll Call Vote # 3

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2047

House 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 Meyer Seconded By Froseth

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter	✓		Scot Kelsh	✓	
Vice Chair. Craig Headland	✓		Shirley Meyer	✓	
Glen Froseth	✓		Lonny B. Winrich	✓	
Bette Grande	✓		Steven L. Zaiser	✓	
Patrick Hatlestad	✓				
Mark S. Owens	✓				
Roscoe Streyle	✓				
Wayne Trottier	✓				
Dave Weiler	✓				
Dwight Wrangham	✓				

Total (Yes) 14 No Ø

Absent Ø

Floor Assignment Rep. Froseth

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

Date: 3-01-11
Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2047

House 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 our previous decision

Motion Made By Rep. Grande Seconded By Rep. Froseth

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter			Scot Kelsh		
Vice Chair. Craig Headland			Shirley Meyer		
Glen Froseth			Lonny B. Winrich		
Bette Grande			Steven L. Zaiser		
Patrick Hatlestad					
Mark S. Owens					
Roscoe Streyle					
Wayne Trottier					
Dave Weiler					
Dwight Wrangham					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

VOICE VOTE

MOTION CARRIED.

11.0233.03006
Title.04000

Prepared by the Legislative Council staff for
Representative Froseth
March 21, 2011

VR
3/21/11
1084

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2047

Page 1, line 1, after "21-06-10" insert "and subsections 3 and 4 of section 57-51-15"

Page 1, line 2, after "lands" insert "and oil and gas gross production tax allocations to school districts"

Page 1, remove lines 5 through 23

Page 2, replace lines 1 through 13 with:

"**SECTION 1. AMENDMENT.** Section 21-06-10 of the North Dakota Century Code is amended and reenacted as follows:

21-06-10. Moneys received through leasing of lands acquired by United States for flood control distributed to counties for schools and roads.

The state treasurer shall pay the moneys allocated to the state under 33 U.S.C. 701(c)(3) to the counties entitled to receive them in proportion to the area of the land in the county acquired by the United States for which compensation is being provided under 33 U.S.C. 701(c)(3) as that area bears to the total of these federal lands in the state. A county receiving an allocation under this section shall disburse the moneys received as follows:

1. One-half must be paid to the school districts in the county which have lost land subject to taxation because of the acquisition of lands by the United States for which compensation is being provided under 33 U.S.C. 701(c)(3) in proportion to the area of these federal lands in each district as that area bears to the total of such lands in all of the school districts in the county. If, however, all of the land in a district has been acquired by the United States, that district's proportionate share of the funds allocated under this subsection must be paid into the county tuition fund and expended according to the law governing that fund.

2. ~~One-quarter~~One-half must be paid to the county for road purposes to be expended as the board of county commissioners shall determine. One-half of the amount retained by the county under this subsection must be expended as directed by the board of county commissioners for infrastructure projects by or on behalf of organized or unorganized townships.

~~3. The final quarter must be allocated among the organized townships, if any, which have lost land subject to taxation because of land acquisitions by the United States for which compensation is being provided under 33 U.S.C. 701(c)(3) and the county for road purposes in proportion to the area of these lands in each township as that area bears to the total area of these federal lands in the county. The county must be allocated a similar proportionate share based on the area of these lands in the county not within an organized township.~~

~~This section applies to all funds heretofore received or to be received by the counties entitled thereto.~~

SECTION 2. AMENDMENT. Subsections 3 and 4 of section 57-51-15 of the North Dakota Century Code are amended and reenacted as follows:

3. The amount to which each county is entitled under subsection 2 must be allocated within the county ~~so the first five million three hundred fifty thousand dollars is allocated~~ under subsection 4 for each fiscal year ~~and any~~for the first time three million nine hundred thousand dollars for a county with a population of fewer than three thousand, four million one hundred thousand dollars for a county with a population of three thousand to six thousand, and four million six hundred thousand dollars for a county with a population of more than six thousand. Any amount received by a county exceeding ~~five million three hundred fifty thousand dollars is credited~~the amount to be allocated under subsection 4 must be allocated by the county treasurer ~~to the county infrastructure fund and allocated~~ under subsection 5.

4. a. Forty-five percent of all revenues allocated to any county for allocation under this subsection must be credited by the county treasurer to the county general fund. However, the allocation to a county under this subdivision must be credited to the state general fund if during that fiscal year the county does not levy 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.

   b. Thirty-five percent of all revenues allocated to any county for allocation under this subsection 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~~superintendent of public instruction. 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~~superintendent of public instruction shall certify to the county treasurer of each oil-producing county 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~~superintendent of public instruction required by this subsection.

~~The countywide allocation to school districts under this subdivision is subject to the following:~~

~~(1) The first three hundred fifty thousand dollars is apportioned entirely among school districts in the county.~~

~~(2) The next three hundred fifty thousand dollars is apportioned seventy-five percent among school districts in the county and twenty-five percent to the county infrastructure fund.~~

~~(3) The next two hundred sixty-two thousand five hundred dollars is apportioned two-thirds among school districts in the county and one-third to the county infrastructure fund.~~

~~(4) The next one hundred seventy-five thousand dollars is apportioned fifty percent among school districts in the county and fifty percent to the county infrastructure fund.~~

~~(5) Any remaining amount is apportioned to the county infrastructure fund except from that remaining amount the following amounts are apportioned among school districts in the county:~~

~~(a) Four hundred ninety thousand dollars, for counties having a population of three thousand or fewer.~~

~~(b) Five hundred sixty thousand dollars, for counties having a population of more than three thousand and fewer than six thousand.~~

~~(c) Seven hundred thirty-five thousand dollars, for counties having a population of six thousand or more.~~

c. Twenty percent of all revenues allocated to any county for allocation under this subsection must be apportioned no less than quarterly by the state treasurer to the incorporated cities of the county. Apportionment among cities under this subsection must be based upon the population of each incorporated city according to the last official decennial federal census. A city may not receive an allocation for a fiscal year under this subsection and subsection 5 which totals more than seven hundred fifty 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. 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 this subdivision must be increased by eight hundred percent. If a city receives a direct allocation under subsection 1, the allocation to that city under this subsection is limited to sixty percent of the amount otherwise determined for that city under this subsection and the amount exceeding this limitation must be reallocated among the other cities in the county."

Page 2, line 15, after the second closing parenthesis insert "on or"

Page 2, line 15, replace "July 31, 2011" with "the first day of the first month after this Act is filed with the secretary of state"

Page 2, line 16, replace "August" with "July"

Renumber accordingly

Date: 3-21-11
Roll Call Vote # 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 3047

House Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment
R. Froseth's amendment - 03006

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Froseth Seconded By Rep. Meyer

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter			Scot Kelsh		
Vice Chair. Craig Headland			Shirley Meyer		
Glen Froseth			Lonny B. Winrich		
Bette Grande			Steven L. Zaiser		
Patrick Hatlestad					
Mark S. Owens					
Roscoe Streyle					
Wayne Trottier					
Dave Weiler					
Dwight Wrangham					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

VOICE VOTE

MOTION CARRIED.

Date: 3-21-11
Roll Call Vote # 3

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2047

House 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 Rep. Zaiser Seconded By Rep. Froseth

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter	AB		Scot Kelsh	✓	
Vice Chair. Craig Headland	✓		Shirley Meyer	✓	
Glen Froseth	✓		Lonny B. Winrich	✓	
Bette Grande	✓		Steven L. Zaiser	✓	
Patrick Hatlestad	✓				
Mark S. Owens	✓				
Roscoe Streyle	✓				
Wayne Trottier	✓				
Dave Weiler	✓				
Dwight Wrangham	✓				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Rep. Froseth

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

REPORT OF STANDING COMMITTEE

SB 2047, as engrossed: Finance and Taxation Committee (Rep. Belter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2047 was placed on the Sixth order on the calendar.

Page 1, line 1, after "21-06-10" insert "and subsections 3 and 4 of section 57-51-15"

Page 1, line 2, after "lands" insert "and oil and gas gross production tax allocations to school districts"

Page 1, remove lines 5 through 23

Page 2, replace lines 1 through 13 with:

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2. ~~One-quarter~~One-half must be paid to the county for road purposes to be expended as the board of county commissioners shall determine. One-half of the amount retained by the county under this subsection must be expended as directed by the board of county commissioners for infrastructure projects by or on behalf of organized or unorganized townships.

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Page 2, line 16, replace "August" with "July"

Renumber accordingly

2011 SENATE FINANCE AND TAXATION

CONFERENCE COMMITTEE

SB 2047

2011 SENATE STANDING COMMITTEE MINUTES

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

SB 2047
4/13/2011
Job Number 16548

☒ Conference Committee

A. Rittmiller

Explanation or reason for introduction of bill/resolution:

Reporting of information on allocations of oil and gas related revenues and allocation of revenues from the leasing of federal flood control lands

Minutes: Conference Committee

Senator Hogue opened discussion on SB 2047.

Senator Hogue – I think we will start out by asking the Representatives of the House if they could walk us through the changes and the underlying reasons for the changes.

Representative Meyer – What we did in the House, we went in and designated that we were trying to follow the federal code with the flood monies and we decided that one half was going to go to the county and one half of that amount retained, one half of that would be given on behalf of the organized or unorganized townships. One page 2 section 2 you will notice that was the school funding fix that came up as something that shouldn't have happened under HB 1304 last session. Basically section 2 that amendment covers those schools that were shorted during the last round and that was never the intention for them to get less money under the new formula and those are the changes that we enacted.

Senator Hogue – Educate me on the fix?

Representative Wrangham – If I may just go back a moment to explain section 2, the educational fix. Two years ago we met and I believe Senator Cook, Senator Hogue, and Senator Triplett was in on that. At the time that we negotiated the oil and gas agreement 2 years ago the testimony at that time as you remember was basically roads. There was an impact of fluctuation of people coming in, but what we did is we capped schools at a certain amount and we intended to cap all the schools at that exact same amount. What happened the way the language was written that there were schools in smaller producing counties, because of language, did not get to that cap even though money was taken from them and put into an infrastructure grant within the county. This does 2 things, it will change the language so that the lower producing counties, the schools in those counties would get the requirement that we set forth 2 years ago, and it also simplifies the reporting system for the county treasurers and for the state Tax Department in following the dollars going out there. It affects no money from the state; it only affects money from those small producing

counties between the county infrastructure grand fund and the schools in that county. That is a shifting number, everybody is assuming that it's the same 3 counties but because production levels are going up it may affect different counties but it is the lower producing counties wherever they may be.

Senator Hogue – I think the original intent of SB 2047, at least I think from the Senate standpoint was to correct a perceived unfairness about the distribution of the flood control revenues.

Representative Meyer – With this, this is federal code and when it got to the House that is what we looked at. It has to be distributed proportionately to the lands that were lost and that happened for 60 years these school districts and counties have lost the revenue generated that had been generated or should have been generated by these lands that were flooded. Putting these federal fund monies into the granting system when we look at it we look at that as a delay and why they would have to apply for these monies, I don't believe the state Land Department wants to be doing this. The local control here of these township officers and county officers and the school districts, they are doing an excellent job with handling of these monies. I don't believe there has been one dollar that has been misappropriated. You mentioned the school districts; if you visit with both of those school districts they are fine with this concept.

Representative Drovdal – I would also like to refer back to HB 1268 on which we have had several conference committee meetings already. I think this first section is pretty much the same thing as being dealt with in that committee and with all due respect I wonder if maybe we should put a hold on that section until possibly, at least after the next meeting on HB 1268.

Senator Hogue – What would the House's reaction be if we had a separate impact fund that could only benefit a very small group of entities?

Representative Drovdal – The money is going to go back to the county from which the land is lost in proportion to the revenue coming in for that particular land.

Senator Hogue – There was a township that got in excess of $1 million because it lost all that land. Your saying you would be okay if that money that would otherwise go directly to that township could be broadened out to go to other impacts within that county.

Representative Drovdal – To me, the local county commissioners are there, they are on top of it, and they see it and they can make a wise choice as to exactly where that money can be used.

Representative Wrangham – The House did not discuss if any certain dollar amount was too much for any specific school district or entity within the county or the area. The question I have is do you think the Senate is interested in looking at something that may change what I believe we can change and that is how the money is distributed once it gets back to the county. I don't think we can take it from one county and give it to another under federal law. Would the Senate be interested in the treasurer sending this money to the county and letting the county decide totally on their own how they are going to use it within the county?

Senator Cook – I think that the Senates position and really what is separating us in the big picture here is simply that word flexibility. The Senates position is to have as much flexibility in getting this money to where the need is and the counties that should be getting it that we can possibly provide. I think its sound fiscal management. It has nothing to do with the misuse of existing funds. There is no need to justify how their spending their money. It's not an issue on the table. It's just simply flexibility. I think the other thing that seems to separate us as we have these discussions is our look into the future and the Senate is looking into the future and trying to plan and offer the flexibility if indeed we suspect and see some of the dollars that I think could very easily be coming to the state. I don't seem to think that the House has the anticipation of the amount of money that could possibly be coming that we are realizing. It's not a matter of whether it comes or doesn't come, it's a matter of how are we positioned to offer the greatest flexibility and the best use of the money to get to the needs in case certain windfalls do come.

Representative Meyer – How would these monies being put into a grant program give more flexibility? In my mind it would give them much less so I hate to keep bringing up the use or misuse of dollars but I think we've all agreed from HB 1268 that the federal law says they have to go back proportionately to the counties where the impacted land, where the flooded land happened so we know that's going to go back.

Senator Hogue – I think you are looking at the law differently than the Senate is. Senator Cook and I had a discussion about this very subject with John Walstad early on in the session and as you have probably heard from someone in the AG's office; his informal opinion is a plain reading requires a proportionate distribution and we don't feel the same way. If that legal constraint wasn't there would you concede that the Senate approach of trying to get this money where it's needed as opposed to applying a formula of strictly where the land was taken for flood control, would you concede that that's a better approach?

Representative Meyer – I tried to make this point when we were talking about HB 1268. The reason it's needed so desperately there in those counties, just since August 2009 through March 2011 Dunn County has put $93.89 million into the state coffers for us, Mountrail County has put in $282 million. In order to generate that kind of revenue that's the huge amount of impacts. You don't just get this revenue that we are talking about without the impacts. In order to develop that much oil the impacts are just huge. When you talk about taking this money and putting it into a granting system to go to the counties where the most needs are, it's kind of a slam dunk. Those are the 2 counties where the most needs are just because of the amount of oil they are producing, what it's doing to their roads and their infrastructure and also the secondary, fire, water, sewer, and ambulance.

Senator Cook – Let me explain flexibility this way. The existing law that we have in pace sent in excess of $4 million to a township that I heard took that money to pay for the only paved, the only 10 miles that existed in that township because that is the only thing they could really spend the money on. Flexibility would be having that money in the county so that they could take a look at the entire needs of the county and maybe they would have found out that it would be better served the impact in that county if there was another 10 miles of road paved somewhere else.

Representative Meyer – What happened in that township was, that is a road that goes to a water depot that they are using for water sales. The county signed off on this. There wasn't, just coincidentally there wasn't a bigger need in that county. It wasn't a case of where we are going to spend this money, it was a case of, they took $4.4 million and they weren't even close to getting the amount of money to pave that 10 miles of road that benefit all of Mountrail. When you ask the Mountrail County Commissioners that would have been first on their priority list. That's why if we leave it up to local control; there wasn't a problem with that township. That township did the right thing and they went to Mountrail and they cooped with them because, Mountrail, that was one of their priorities and they didn't have the money to do it in the amount of funding they received previously.

Representative Drovdal quoted John Walstad as saying "to the county and counties that have lost land".

Senator Cook – The biggest difference in SB 2047 that we really aren't discussing in HB 1268 is section 2 of the bill dealing with the school funding and I would hope that at the next meeting we can focus on that.

Senator Hogue closed discussion on SB 2047.

2011 SENATE STANDING COMMITTEE MINUTES

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

SB 2047
4/15/2011
Job Number 16665

☒ Conference Committee

A. Bittmiller

Explanation or reason for introduction of bill/resolution:

Reporting of information on allocations of oil and gas related revenues and allocation of revenues from the leasing of federal flood control lands

Minutes: Conference Committee

Senator Hogue opened discussion on SB 2047.

Senator Hogue – Representative Wrangham brought me some suggested amendments earlier this afternoon. I don't know if you want to go through those now.

Representative Wrangham – I think there were some questions on the table from our last meeting. I believe Representative Drovdal had some answers.

Representative Drovdal – I was asked last time to provide the numbers concerning the educational division of this bill which dealt with the school districts that were shorted because of the way we did the language in HB 1304 last time. I called up and got the figures for fiscal year 2010 and as I said in my testimony it's a flowing county deal because of production. This is money that was received by the counties but was not distributed to the school under their formula because of the way we wrote the language.

Representative Wrangham – There are really 3 problems that need to be addressed between this and HB 1268. Section 1 is the fix for distribution of the flood money and that is giving it back but instead of dictating how they distribute it to school districts it's left up to the county to use it as they see fit for township roads, county roads, and school districts. Section 2 deals with one of the other problems and section 3, another problem. I would ask that the other Representatives who are each experts in one or the other of these questions explain what's done with them.

Senator Hogue – I want to make sure we understand the problems. You are saying section 1 is to fix the problem under the current law we pay half to the school districts and half to the county for road purposes and you are saying section 1 is to fix that problem and give it all to the county in their discretion to distribute as they would think is appropriate.

Representative Drovdal – Section 2 I think I explained the other day. When we did HB 1304 last session the conference committee, we discussed with attorneys and the language we wanted to do was go up to the cap that we've established which I just reported on was depending on the population. Because of the way we wrote the language the schools did not receive that cap that we put in there and this corrects that so they will receive up to that cap that we had designated 2 years ago.

Representative Meyer – Section 3 is simply the fix for what happened on the oil and gas compact that the state had with the Three Affiliated Tribes. The counties were to receive their portion before the state and the tribes split out of the state share and Legislative Council has testified before budget section repeatedly this was a drafting error it should have never been done. This is simply the fix.

Representative Wrangham – I took what we had put together as solutions to 3 problems to John Walstad and asked him to prepare an amendment that would do these 3 things. I have the amendment prepared, it's 11.0233.3010. I would move that amendment.

Senator Hogue – You would like to make a motion for amendments that address the 3 problems that the House identifies with SB 2047?

Representative Wrangham – Yes

Senator Hogue – I would say SB 2047 of course doesn't relate to all 3 of those perceived problems. I recognize we could amend the bill to address them. I don't think that your section 1 proposal goes in the right direction I think it goes in an opposite direction than what the Senate would like to see. The Senate would like to see some accountability for the significant sums that are going to the county. By saying that it's just going to be how the county wants to spend it when previously we did have some guidance, it was sort of a 50/50 and so I don't know that that is the right direction but you're welcome to make the motion.

Representative Wrangham – I would like to withdraw the motion.

Representative Meyer – I don't mean to speak for Representative Wrangham but the 50/50 proposal, we were under the assumption I believe that is what the Senate wanted. To address that if it was allowed to go to the counties then they could address giving it proportionately as they saw fit to the school districts. That wasn't in our original bill that came over to you. The schools would receive half and the counties would receive 1 half and half of those monies being dedicated to township road repair.

Senator Hogue – I think the way SB 2047 came to you is that it was going to go into an impact fund which would try to make some allowances for specific needs rather than to say we are going to follow a rigid formula. I had some amendments drawn up myself.

Representative Meyer – When you make the statement this is more money than those counties can ever spend, what we have run up against in the last 2 years with dealing with this infrastructure problem that we have out there, it is almost unbelievable the amount on money this takes. There are other counties in the state that look at this and have a problem

with the amounts of money however one of the issues Mountrail has run up against, as has Dunn County, we have to be able for federal impact roads to have a match. We have virtually have lost money and time and road repair because we can never hold enough money in our accounts for the federal match because the needs are so dire out there.

Further discussion followed on where the money should go and how it should be used.

Senator Hogue closed the hearing on SB 2047.

2011 SENATE STANDING COMMITTEE MINUTES

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

SB 2047
4/18/2011
Job Number 16727

☒ Conference Committee

A. R. Hamilton

Explanation or reason for introduction of bill/resolution:

Reporting of information on allocations of oil and gas related revenues and allocation of revenues from the leasing of federal flood control lands

Minutes: Conference Committee

Senator Hogue opened discussion on SB 2047.

Senator Hogue – I look at the amendments that I distributed last week as something that's comparable to the legacy fund. The state has this large infusion of cash and it's probably more than the state needs and I think we took the prudent approach and the people did too to say wait a minute this is more revenue than we can possibly prudently spend, maybe we should set some of that aside. That is the way I look at the amendments as well. These counties, and they obviously have increased needs but we know they can't spend all that money in a short period of time and I think the best evidence of that is that they are saving, both the school district and the county are saving approximately $10 million for a single year and I think that is because of the flood control money. I continue to think the amendment is a pretty modest proposal to address that problem.

Senator Cook talked to amendment .03011 and moved the amendments.

Seconded by **Senator Hogue**.

Senator Dotzenrod – I'm having a hard time understanding how you make the argument that a windfall of any kind is better off kept at the state level rather than the county level. It seems to me that if there is a windfall, a single event, some leases or something that the people that are most responsible to spend the money and are going to have to guard that resource the most carefully are the people that are the ultimate recipients of that money. I'm failing to get this argument that somehow that money is better off at the state level.

Senator Hogue – I thought about that as well and I think the argument that you made is probably the one that was advanced when we created the permanent oil trust fund. We created the legacy fund, in my mind, because we actually wanted something that was a check against spending the money at the time that the revenues come in. I think as long as you leave the advantage of leaving at the State Treasurer's Office and subject to further

legislative appropriations, is that we can study. I have more confidence when you put that barrier in place. That that money will not be spent imprudently. It acts like a legacy fund because now you, the county, have to go to the legislature and make your case.

Senator Dotzenrod – If there is some data to support this notion that somehow the counties have gone overboard or somehow have misused their money or spent too much and then they didn't have enough when they needed, some data to support the argument I would consider that, but I don't see that that's the history.

Senator Cook – I don't think there is any data out there and I don't think anyone has insinuated there was any indication of misuse. What we have seen is data that shows that today they have received more money than they are able to spend even though there are a lot of needs out there.

Representative Drovdal – The reason the money is so high is because the impact is so great right now and as the impact goes down, the money will go down too. I have no doubt that whatever we do here, 2 years down the road we are going to be revisiting all these issues one more time. If there is still too much money going out and they haven't been able to spend it prudently, then I think it may be the time to look at the caps.

Representative Meyer went through some statistics and mentioned again how Mountrail and Dunn Counties missed out on some federal match because they did not have the money in their account to bid it to get roads fixed.

Representative Wrangham asked if the legislature wants to have some oversight of this money, what the committee thinks of having the counties put together a plan and submit it to Legislative Management and appropriate accordingly.

Senator Cook explained that he doesn't think it's a matter of overseeing it because it is their money, but that they will not be able to spend it. The need for road repair is there but it's a matter of getting a contractor out there and getting the work done and there is so much need everywhere that it may not happen any time soon.

Representative Drovdal – I did support the legacy fund but not for the same reason. I supported it simply because it took the hands out of us legislators and not necessarily for things that we would have needed to spend it for.

Senator Hogue – Ask the clerk to take the roll. (2-4-0) Motion failed.

Senator Hogue closed discussion on SB 2047.

2011 SENATE STANDING COMMITTEE MINUTES

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

SB 2047
4/25/2011
Job Number 16856

☒ Conference Committee

A. Bitthmiller

Explanation or reason for introduction of bill/resolution:

Reporting of information on allocations of oil and gas related revenues and allocation of revenues from the leasing of federal flood control lands

Minutes: Conference Committee

Senator Hogue opened discussion on SB 2047.

Representative Drovdal – This was an honest mistake that was made 2 years ago when we did the conference committee and wrote the language on the oil and gas distribution for schools. As I sit here I see 4 options that we have. One is that the Senate accedes to the amendments of the House and goes up and votes much as we did HB 1268. The second option is an amendment I have here (amendment number .03013). The third option is one that does the same thing only doesn't have the sunset clause (amendment number .03008) and it also deals with the tribal and it also leaves the other languages that corrects the language for small oil producing counties. The forth option is that the House will recede from our amendments and we will take it up and vote on our floor and see how it goes. I think those are the 4 options we have and I would be happy to allow a motion from one of the Senators on any one of those 4 options.

Senator Hogue – I've got amendments to create a 5th option and that would be to amend the bill to allow the first $3 million to go to the counties that produced it and then to put the balance into the impact fund for those counties to be distributed to those counties as per the discretion of the impact fund.

Representative Drovdal – I believe a quite similar option was tried on HB 1268 and the House rejected that and we are under the same orders here. The House just doesn't see the need to babysit the counties.

Senator Dotzenrod – One of the thoughts I had on this is that if you look that the 4000 version when we had this on HB 1268 there was some disagreement on what is section 1 which is the distribution of the flood money and we had a section that dealt with the Fort Berthold reservation and I guess I am okay with trying to fix this problem with the distribution to the schools which in 4000 is section 2 and I don't think that includes any effective date. I don't know how anyone else feels but I guess I will make a motion that the

House recede from its amendments and further amend the bill to include section 2 of version 4000 and section 4 which is the emergency clause.

Senator Cook – I think before we take any action we should have some conversations with some others in the Chambers so we know to what degree we will be successful with it. So I would ask that we adjourn and set another meeting.

Senator Dotzenrod – I will withdraw my motion.

Senator Hogue closed discussion in SB 2047.

2011 SENATE STANDING COMMITTEE MINUTES

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

SB 2047
4/25/2011
Job Number 16876

☒ Conference Committee

A. Rittmiller

Explanation or reason for introduction of bill/resolution:

Reporting of information on allocations of oil and gas related revenues and allocation of revenues from the leasing of federal flood control lands

Minutes: Conference Committee

Senator Hogue opened discussion on SB 2047.

Senator Hogue – We had 4 options that were presented from the House on SB 2047 and I was going to ask if you've got any other amendments or ideas to present.

Representative Drovdal – The only other option that we thought of was taking off the sunset clause and when doing that we have to define the legislative reporting to be on an annual basis and if the report was not filed the money would be withheld from future payments from the flood until such reports were filed. I think we were checking with the Tax Department. We were told some of these reports are being filed already. That is the only change we had.

Senator Hogue – The Senate side is working on another amendment and I'm hopeful we'll have some progress on that in the morning.

Senator Hogue closed discussion on SB 2047.

2011 SENATE STANDING COMMITTEE MINUTES

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

SB 2047
4/26/2011
Job Number 16885

☒ Conference Committee

Committee Clerk Signature A. Richmond

Explanation or reason for introduction of bill/resolution:

Reporting of information on allocations of oil and gas related revenues and allocation of revenues from the leasing of federal flood control lands

Minutes: Conference Committee

Senator Hogue opened discussion on SB 2047.

Senator Hogue - I had hoped to have some amendments available for distribution this morning but they are not available so we will adjourn and reschedule.

Representative Drovdal – If you permit I would like to make a motion.

Senator Hogue – Go ahead.

Representative Drovdal – I would move that the House recede from its amendments.

Seconded by **Representative Meyer**.

Senator Cook – The oil that is owned by the federal government, to what degree is it subject to North Dakota production and excise tax?

Representative Drovdal made reference to an email he had received.

Senator Cook – So all of that oil that is drilled under Lake Sakakawea is subject to North Dakota tax.

Representative Drovdal – Except the portions owned by the federal government or state government or subdivisions.

Senator Cook – Lets take Mountrail County, what if they were to get $30 million in federal relief, how much money would be available to them to fix roads under that condition with the way the Senate passed this bill right before you, where you are acceding to our amendments but which I fully expect you to kill on the floor leaving it in to existing law where that money is distributed to schools and townships. How much money would be

available to Mountrail County to fix roads under the Senate version vs. under the current version of law which is what we will have if you kill the bill?

Representative Drovdal – I don't have the answer and I think for a number of reasons. There are so many variables in there that would take some work on behalf of the Tax Department to come up with that. I'm not sure what you are getting at. Mountrail County did get $30 million one biennium and $20 million the next and they also received state foundation aid under the oil and gas formula. They do have $13 million left over which means they did spend a considerable amount of money for fixing the roads and the roads are still in bad shape. I do believe that there is a time in the future when this expiration slows down that there may be adequate money but that time is not now and the circumstances are not now so we would prefer to vote on the motion on the floor.

Senator Cook – This biennium Mountrail County got I believe $52 million. I believe half of that went to one school district. That is half of that $52 million that could not be used for roads. If you kill the bill and Mountrail County was to get $30 million in federal aid that would be $15 million that would be available to Mountrail County. If you pass the Senate bill then all that money would be in the impact grant fund and virtually all of it or the vast majority of it could be available for roads. So if roads is the issue in Mountrail County I don't understand the rationale in taking a path, and I'm willing to go down the path if that's what you want to do is recede to our amendments, I guess I trust your amendments that you are going to recognize that the amendments are the best way to have the bill, but I also recognize you are going to kill it which will put it back in to current law where we have a distribution formula based on proportionate land and how much of it has to go to the school and you are taking away a tremendous amount of money to address the problem that you have been sitting here in this entire conference committee arguing that needs to be fixed and that is roads. I do not understand the rationale of why you would take a path that would take money away from roads.

Representative Drovdal – I think all of us when we started this, and there was 10 meetings on the bill very similar to this that dealt with the same thing and all those 10 meetings and the meetings we have had the House has insisted we do not want the state to babysit the counties and that is what your bill does. I think it was $4 million if I remember correct and then the rest went to a state grant program. That is unnecessary and we agree that we would like to have it go to the county, that's one of our options, but the Senate has refused to budge on having all kinds of strings attached and we want to keep this simple. Therefore our intent is to take it up to the floor and kill it. We would prefer to solve the problem but we don't see where we are making any progress.

Senator Cook – We are taking potentially $15 million or maybe even more if the federal money is more than $30 million and conceivably it could be. You are taking that away from roads. I don't care how many times we've had a meeting; we still have days left here in this session. If you are willing to do it, fine, but I just want to make sure that what you are doing is recognizing that you will have considerably less money to fix roads in Mountrail County with the path you are taking than the path that the Senate would like to take.

Senator Hogue – I want to make sure your question gets answered. It was $30 million, $7.5 million would go to the county, $15 million would go to that one school district, and

$7.5 million would go to those 2 or 3 townships. So that is the answer to the question. I assume that's a problem that the House recognizes and that's a problem we are not going to solve by killing the bill.

Representative Meyer – One of the problems with the monies going into the impact fund, there are so many secondary impacts that the impact fund is prohibited by law from covering. That is one of the things they have used these federal flood monies for. Buildings, which impact dollars do not allow us to do, social impact, cost of county government, there are so many prohibitions in the impact dollars. When they can use them to offset there is many more impacts out there than just roads. The roads are shot, granted, but our police and fire and ambulance. When you put these monies into the impact fund so that they have to apply for these, all of these secondary impacts are prohibited. That is one of the main problems with the Senate version, I believe.

Senator Cook – We have got very clear federal law that we have to follow whether we send the money to the counties or whether we send it to the impact fund. We have had this discussion, there cannot be restrictions. Federal law says that the county can spend it on county business. We cannot offer the restrictions and if you think that the current language does, it's a very easy fix to make it clear that it does not offer restrictions. The path we are taking is reducing money for roads, greatly. That is what we need to acknowledge and if you are willing to acknowledge that and still follow this path then I guess all we can do here is let you do and make the mistake, but I will tell you, you are making a great mistake if that is your argument.

Representative Meyer – In our earlier meetings I asked that from the Treasurer's Office and I asked that in committee. If it goes into the impact fund it is subjected to the same restrictions as the other dollars and that fix is not in here. That was a concern of mine and still is.

Representative Drovdal – We recognize that we are right back to where we were 2 years ago when they got that big check. I don't really personally believe they are going to get that big of a check but I also, after sitting here listening to HB 1268 the discussion on the same subject and what we've done here I have not seen anything presented that would work for the benefit of the counties. Its more strings attached and more controls and I haven't heard of a presentation that is going to help and it gets to a point where it's time to move on. I think that is where the House is. We realize the money is going back to the county where it was produced, where the land is located.

Senator Hogue – Ask the clerk to take the roll. (5-1-0)

Senator Hogue closed discussion on SB 2047.

2011 SENATE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: Finance and Taxation

Bill/Resolution No. SB 2047 as (re) engrossed

Date: 4-26-11

Roll Call Vote #: 1

Action Taken

- ☐ SENATE accede to House amendments
- ☐ SENATE accede to House amendments and further amend
- ☒ HOUSE recede from House amendments
- ☐ HOUSE recede from House amendments and amend as follows

Senate/House Amendments on SJ/HJ page(s) 900 - 903

☐ Unable to agree, recommends that the committee be discharged and a new committee be appointed

((Re) Engrossed) SB 2047 was placed on the Seventh order of business on the calendar

Motion Made by: Representative Drovdal Seconded by: Representative Meyer

Senators					Yes	No	Representatives					Yes	No
Senator Hogue	X	X	X	X		X	Rep Wrangham	X	X	X	X	X	
Senator Cook	X	X	X	X	X		Rep Drovdal	X	X	X	X	X	
Senator Dotzenrod	X	X	X	X	X		Rep Meyer	X	X	X	X	X	

Vote Count: Yes 5 No 1 Absent 0

Senate Carrier Senator Cook House Carrier Rep Wrangham

LC Number _____ . _____ of amendment

LC Number _____ . _____ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

REPORT OF CONFERENCE COMMITTEE

SB 2047, as engrossed: Your conference committee (Sens. Hogue, Cook, Dotzenrod and Reps. Wrangham, Drovdal, S. Meyer) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ pages 900-903 and place SB 2047 on the Seventh order.

Engrossed SB 2047 was placed on the Seventh order of business on the calendar.

2011 TESTIMONY

SB 2047

Prepared by the North Dakota Legislative Council staff for the Taxation Committee
September 2010

FEDERAL FLOOD CONTROL MINERAL LEASE REVENUE ALLOCATION

Federal construction of the Garrison Dam and the resulting creation of Lake Sakakawea required the federal government to acquire rights to thousands of acres of land presently lying along and under Lake Sakakawea. Recent rapid development of oil exploration, drilling, and production in the area and the feasibility of horizontal drilling beneath the lake have made leasing of the mineral rights to those lands from the federal government desirable and valuable. The federal government has leased mineral rights on those lands and collected substantial lease and bonus revenues.

Federal law, contained in 33 U.S.C. 701c-3 (Appendix A) provides that 75 percent of revenue collected during a fiscal year from leasing of lands acquired by the United States for flood control is to be paid out at the end of the year to the state in which the property is situated. The amount received by the state is to be expended as the state legislature may prescribe for the benefit of public schools and public roads of the county, or counties, in which such property is located, or for any of the expenses of county government. It is significant to note that the language of the federal provision includes bonuses, royalties, and rentals paid to the United States from a mineral lease.

North Dakota has provided for an allocation of flood control revenues by enactment of North Dakota Century Code Section 21-06-10 (Appendix B). The statutory provision provides that one-half of the county allocation goes to school districts in the county, one-quarter goes to the county for road purposes, and one-quarter is to be allocated among organized townships that have lost land because of federal land acquisitions and to the county for lands not within an organized township. This allocation method has existed since 1979, so it is likely the Legislative Assembly did not anticipate the amounts of revenue currently being distributed.

Beginning in calendar year 2009, counties along the lake in areas of leasing activity began to receive very substantial payments. Attached as Appendix C is a printout from the website of the State Treasurer showing flood control payments to counties since September 2007.

Attached as Appendix D are spreadsheets showing for 2009 and 2010 how the funds received by Mountrail County are allocated within the county according to the statutory formula. During the 17 months of allocations, three townships have each received more than $1 million, including Liberty Township, which has received more than $4 million. For those 17 months, the Mountrail County road and bridge fund has received almost $12.8 million and the New Town School District has received almost $22.5 million.

ATTACH:4

§701c-3. Lease receipts; payment of portion to States

75 per centum of all moneys received and deposited in the Treasury of the United States during any fiscal year on account of the leasing of lands acquired by the United States for flood control, navigation, and allied purposes, including the development of hydroelectric power, shall be paid at the end of such year by the Secretary of the Treasury to the State in which such property is situated, to be expended as the State legislature may prescribe for the benefit of public schools and public roads of the county, or counties, in which such property is situated, or for defraying any of the expenses of county government in such county or counties, including public obligations of levee and drainage districts for flood control and drainage improvements: Provided, That when such property is situated in more than one State or county, the distributive share to each from the proceeds of such property shall be proportional to its area therein. For the purposes of this section, the term "money" includes, but is not limited to, such bonuses, royalties and rentals (and any interest or other charge paid to the United States by reason of the late payment of any royalty, rent, bonus or other amount due to the United States) paid to the United States from a mineral lease issued under the authority of the Mineral Leasing Act for Acquired Lands [30 U.S.C. 351 et seq.] or paid to the United States from a mineral lease in existence at the time of the acquisition of the land by the United States.

21-06-10. Moneys received through leasing of lands acquired by United States for flood control distributed to counties for schools and roads. The state treasurer shall pay the moneys allocated to the state under 33 U.S.C. 701(c)(3) to the counties entitled to receive them in proportion to the area of the land in the county acquired by the United States for which compensation is being provided under 33 U.S.C. 701(c)(3) as that area bears to the total of these federal lands in the state. A county receiving an allocation under this section shall disburse the moneys received as follows:

1. One-half must be paid to the school districts in the county which have lost land subject to taxation because of the acquisition of lands by the United States for which compensation is being provided under 33 U.S.C. 701(c)(3) in proportion to the area of these federal lands in each district as that area bears to the total of such lands in all of the school districts in the county. If, however, all of the land in a district has been acquired by the United States, that district's proportionate share of the funds allocated under this subsection must be paid into the county tuition fund and expended according to the law governing that fund.

2. One-quarter must be paid to the county for road purposes to be expended as the county commissioners shall determine.

3. The final quarter must be allocated among the organized townships, if any, which have lost land subject to taxation because of land acquisitions by the United States for which compensation is being provided under 33 U.S.C. 701(c)(3) and the county for road purposes in proportion to the area of these lands in each township as that area bears to the total area of these federal lands in the county. The county must be allocated a similar proportionate share based on the area of these lands in the county not within an organized township.

This section applies to all funds heretofore received or to be received by the counties entitled thereto.

APPENDIX C

Tax Distribution Search Results

Payment Date: 09/1/2007 - 9/2/2010

Distribution Type: Flood Control

Payment Date	Entity	Tax Type	Amount
01/15/2008	Barnes County	Flood Control	2,613.12
01/15/2009	Barnes County	Flood Control	2,529.29
01/15/2010	Barnes County	Flood Control	2,786.78
		Total:	**$7,929.19**
01/15/2008	Dunn County	Flood Control	18,044.88
01/15/2009	Dunn County	Flood Control	24,180.23
03/13/2009	Dunn County	Flood Control	3,010,801.49
05/19/2009	Dunn County	Flood Control	427,908.74
09/15/2009	Dunn County	Flood Control	64,947.75
11/16/2009	Dunn County	Flood Control	294.75
01/15/2010	Dunn County	Flood Control	21,581.55
04/14/2010	Dunn County	Flood Control	1,361.24
		Total:	**$3,569,120.63**
01/15/2008	Emmons County	Flood Control	21,635.10
01/15/2009	Emmons County	Flood Control	7,285.35
01/15/2010	Emmons County	Flood Control	8,198.09
		Total:	**$37,118.54**
01/15/2008	Griggs County	Flood Control	389.25
01/15/2009	Griggs County	Flood Control	927.00
01/15/2010	Griggs County	Flood Control	889.50
		Total:	**$2,205.75**
01/15/2008	McKenzie County	Flood Control	19,450.57
01/15/2009	McKenzie County	Flood Control	22,767.03
03/13/2009	McKenzie County	Flood Control	81,352.11
05/19/2009	McKenzie County	Flood Control	1,168,176.79
06/12/2009	McKenzie County	Flood Control	286.14
07/15/2009	McKenzie County	Flood Control	280.06

08/14/2009	McKenzie County	Flood Control	280.19
09/15/2009	McKenzie County	Flood Control	209.77
11/16/2009	McKenzie County	Flood Control	301.83
01/15/2010	McKenzie County	Flood Control	13,019.72
03/12/2010	McKenzie County	Flood Control	408.37
04/14/2010	McKenzie County	Flood Control	1,596.26
08/13/2010	McKenzie County	Flood Control	535.55
		Total:	**$1,308,664.39**
01/15/2008	McLean County	Flood Control	8,913.60
01/15/2009	McLean County	Flood Control	9,151.25
01/15/2010	McLean County	Flood Control	10,008.69
		Total:	**$28,073.54**
01/15/2008	Mercer County	Flood Control	1,479.70
01/15/2009	Mercer County	Flood Control	1,295.25
01/15/2010	Mercer County	Flood Control	1,012.50
		Total:	**$3,787.45**
01/15/2008	Morton County	Flood Control	10,120.80
01/15/2009	Morton County	Flood Control	4,826.63
01/15/2010	Morton County	Flood Control	3,807.15
		Total:	**$18,754.58**
01/15/2008	Mountrail County	Flood Control	20,330.44
01/15/2009	Mountrail County	Flood Control	37,363.77
03/13/2009	Mountrail County	Flood Control	14,103,085.01
05/19/2009	Mountrail County	Flood Control	5,526,609.42
06/12/2009	Mountrail County	Flood Control	36,542.13
07/15/2009	Mountrail County	Flood Control	9,308,716.84
08/14/2009	Mountrail County	Flood Control	172,427.57
09/15/2009	Mountrail County	Flood Control	633,880.96
11/16/2009	Mountrail County	Flood Control	157,260.54
01/15/2010	Mountrail County	Flood Control	12,173,198.65
03/12/2010	Mountrail County	Flood Control	26,669.39
04/14/2010	Mountrail County	Flood Control	100,428.33

	Mountrail County	Flood Control	56,350.63
		Total:	**$42,352,863.68**
01/15/2008	Sioux County	Flood Control	118.50
01/15/2009	Sioux County	Flood Control	116.25
01/15/2010	Sioux County	Flood Control	135.00
		Total:	**$369.75**
01/15/2008	Steele County	Flood Control	42.00
		Total:	**$42.00**
01/15/2008	Stutsman County	Flood Control	750.00
01/15/2009	Stutsman County	Flood Control	952.50
01/15/2010	Stutsman County	Flood Control	952.50
		Total:	**$2,655.00**
01/15/2008	Williams County	Flood Control	16,666.21
01/15/2009	Williams County	Flood Control	15,203.19
03/13/2009	Williams County	Flood Control	12,457.88
05/19/2009	Williams County	Flood Control	39,398.25
01/15/2010	Williams County	Flood Control	12,536.29
04/14/2010	Williams County	Flood Control	180.00
		Total:	**$96,441.82**
12/14/2009	Dunn County	Flood Control	906.74
		Total:	**$906.74**
10/14/2009	McKenzie County	Flood Control	453.81
12/14/2009	McKenzie County	Flood Control	414.65
02/12/2010	McKenzie County	Flood Control	435.50
05/14/2010	McKenzie County	Flood Control	387.39
06/14/2010	McKenzie County	Flood Control	223.88
07/15/2010	McKenzie County	Flood Control	487.87
		Total:	**$2,403.10**
10/14/2009	Mercer County	Flood Control	869.62
		Total:	**$869.62**
10/14/2009	Mountrail County	Flood Control	49,570.08
12/14/2009	Mountrail County	Flood Control	51,057.73

	Mountrail County	Flood Control	8,641,730.35
05/14/2010	Mountrail County	Flood Control	45,285.08
06/14/2010	Mountrail County	Flood Control	48,600.80
07/15/2010	Mountrail County	Flood Control	74,258.99
		Total:	**$8,910,503.03**
02/12/2010	Williams County	Flood Control	87.75
05/14/2010	Williams County	Flood Control	291.00
		Total:	**$378.75**
		Grand Total:	**$56,343,087.56**

	A	B	C	D	E	F	G	H	I	J	K	L	
1	FLOOD A[redacted]9 YEAR-TO-DATE												
2													
3	FUND #		Feb '09	Apr '09	May '09	July '09	July '09	Aug '09	Sept '09	Oct'09	Nov'09	Dec'09	TOTALS
4				Acreage Update									
5													
6	937	RAT LAKE 154-93	99.28	56.41	22.12	0.15	37.23	0.70	2.54	0.20	0.63	0.21	219.47
7	918	KNIFE RIVER 153-92	126.23	52,012.18	20,382.14	134.77	34,330.55	635.91	2,337.75	182.81	579.98	188.30	110,910.62
8	946	VAN HOOK 152-91	406.91	381,724.67	149,587.36	989.08	251,956.71	4,667.05	17,157.10	1,341.70	4,256.53	1,381.97	813,469.08
9	929	OSBORN 152-92	493.71	262,461.94	102,851.58	680.06	173,237.55	3,208.92	11,796.68	922.51	2,926.66	950.20	559,529.81
10	919	LIBERTY 151-91	1,271.97	1,168,507.58	457,905.84	3,027.66	771,271.41	14,286.44	52,520.04	4,107.12	13,029.78	4,230.37	2,490,158.21
11	914	HOWIE 151-92	524.75	367,124.46	143,865.93	951.25	242,319.86	4,488.55	16,500.87	1,290.38	4,093.73	1,329.11	782,488.89
12	904	BIG BEND 151-93	375.52	210,953.95	82,667.02	546.60	139,239.79	2,579.17	9,481.59	741.47	2,352.30	763.72	449,701.13
13	913	FERTILE	10.57										10.57
14	932	PARSHALL	57.52										57.52
15													
16	953	UNORG. 154-94	648.51	315,038.24	123,454.78	816.29	207,940.44	3,851.73	14,159.79	1,107.31	3,512.93	1,140.54	671,670.56
17	952	UNORG. 153-93	986.42	333,086.66	130,527.46	863.05	219,853.27	4,072.39	14,971.00	1,170.75	3,714.18	1,205.88	710,451.06
18	952	UNORG. 153-94		113,885.94	44,628.75	295.09	75,170.22	1,392.40	5,118.75	400.29	1,269.92	412.30	242,573.66
19	951	UNORG. 152-93	1,292.47	285,964.73	112,061.68	740.96	188,750.52	3,496.27	12,853.05	1,005.12	3,188.73	1,035.28	610,388.81
20	949	UNORG. 150-92	1,510.38	32,063.36	12,564.75	83.08	21,163.37	392.01	1,441.13	112.70	357.53	116.08	69,804.39
21	950	UNORG. 150-93	1,536.70	2,891.13	1,132.95	7.49	1,908.29	35.35	129.95	10.16	32.24	10.47	7,694.73
22													
23	214	CO. RD. & BRIDGE	9,340.94	3,525,771.25	1,381,652.36	9,135.53	2,327,179.21	43,106.89	158,470.24	12,392.52	39,315.14	12,764.43	7,519,128.51
24													
25	888	NEW TOWN SD	16,493.92	6,191,811.11	2,426,399.72	16,043.44	4,086,894.19	75,702.51	278,298.76	21,763.22	69,043.57	22,416.36	13,204,866.80
26	891	PARSHALL SD		1,881.05	737.13	4.88	1,241.59	23.00	84.55	6.61	20.98	6.81	4,006.60
27	896	TIOGA SD	2,187.97	857,850.35	336,167.85	2,222.75	566,222.64	10,488.28	38,557.17	3,015.21	9,565.71	3,105.70	1,829,383.63
28													
29		TOTALS	37,363.77	14,103,085.01	5,526,609.42	36,542.13	9,308,716.84	172,427.57	633,880.96	49,570.08	157,260.54	51,057.73	30,076,514.05
30													
31		2,312,583.21	Total Unorganized Townships - 2009 Year										
32		7,519,128.51	Total County Road & Bridge - 2009 Year										
33		9,831,711.72	GRAND TOTAL UNORG. & ROAD										
34													
35		COE Real Est. Leases											
36		Leasing					9,298,658.61		562,090.87				
37		Royalites					10,058.23		71,790.09	49,570.08			
38		Total	-	-	-	-	9,308,716.84	-	633,880.96	49,570.08	-	-	-

APPENDIX D

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O
1	FLOOD AID - 2010 YEAR-TO-DATE														
2															
3	FUND #		Jan '10	Feb '10	Mar '10	Apr '10	May '10	Jun ' 10	Jul '10	Aug '10	Sept '10	Oct '10	Nov. '10	Dec. '10	TOTALS
4									Unofficial						
5															
6	937	RAT LAKE 154-99	48.69	34.58	0.11	0.40	0.19	0.20	0.30						84.47
7	918	KNIFE RIVER 153-92	44,894.76	31,870.70	98.36	370.38	167.01	179.24	273.86						77,854.31
8	946	VAN HOOK 152-91	329,488.92	233,903.56	721.85	2,718.27	1,225.72	1,315.47	2,009.95						571,383.74
9	929	OSBORN 152-92	226,546.27	160,824.76	496.32	1,869.00	842.77	904.47	1,381.97						392,865.56
10	919	LIBERTY 151-91	1,008,607.32	716,008.41	2,209.69	8,320.96	3,752.08	4,026.81	6,152.70						1,749,077.97
11	914	HOWIE 151-92	316,886.62	224,957.20	694.24	2,614.90	1,178.84	1,265.15	1,933.09						549,529.44
12	904	BIG BEND 151-93	182,086.71	129,263.00	398.92	1,502.21	677.37	726.97	1,110.77						315,765.95
13															
14	953	UNORG. 154-94	271,927.95	193,041.13	595.75	2,243.39	1,011.59	1,085.66	1,658.82						471,564.29
15	952	UNORG. 153-93	287,506.61	204,100.39	629.88	2,371.92	1,069.54	1,147.85	1,753.85						498,580.04
16	952	UNORG. 153-94	98,501.62	69,784.15	215.36	810.98	365.69	392.48	599.66						170,469.90
17	951	UNORG. 152-93	246,832.91	175,226.21	540.77	2,036.36	918.23	985.47	1,505.74						428,045.69
18	949	UNORG. 150-92	27,675.77	19,646.97	60.63	228.32	102.96	110.49	168.83						47,993.97
19	950	UNORG. 150-93	2,495.51	1,771.55	5.47	20.59	9.28	9.96	15.21						4,327.57
20															
21	214	CO. RD. & BRIDGE	3,043,299.66	2,160,432.59	6,667.35	25,107.08	11,321.27	12,150.20	18,564.75						5,277,542.90
22															
23	888	NEW TOWN SD	5,344,514.80	3,794,060.79	11,708.91	44,092.00	19,881.94	21,337.67	32,602.63						9,268,198.74
24	891	PARSHALL SD	1,623.65	1,152.62	3.56	13.40	6.04	6.48	9.90						2,815.65
25	896	TIOGA SD	740,460.88	525,651.76	1,622.22	6,108.77	2,754.56	2,956.25	4,516.96						1,284,071.40
26															
27															
28		TOTALS	12,173,198.65	8,641,730.35	26,669.39	100,428.33	45,285.08	48,600.80	74,258.99	-	-	-	-	-	21,110,171.59
29															
30		1,620,981.45		Total Unorganized Townships - 2010 Year											
31		5,277,542.90		Total County Road & Bridge - 2010 Year											
32		6,898,524.36		GRAND TOTAL UNORG. & ROAD											
33															
34	COE REAL ESTATE LEASES		21,538.10												
35	LEASING (RENTS & BONUSES)		12,082,573.86	8,601,809.62	1,236.37	3,172.50	-	1,116.00	884.24						
36	ROYALTIES & INTEREST		69,086.69	39,920.73	25,433.02	97,255.83	45,285.08	47,484.80	73,374.75						
37		Total	12,173,198.65	8,641,730.35	26,669.39	100,428.33	45,285.08	48,600.80	74,258.99						

Federal Mineral and Flood Payment Summary, 2008 through 2010
Office of State Treasurer

Mineral Royalty Payments

Counties	Fiscal Year Total (July 2008-June 2009)	Fiscal Year Total (July 2009-June 2010)	Fiscal Year to Date (July 2010 to December 2010)
Billings	1,478,442.63	918,049.11	328,479.15
Bowman	4,166,024.88	3,204,040.29	1,731,407.21
Burke	60,738.65	1,254.41	32.09
Divide	226.59	229.23	534.13
Dunn	5,883,178.59	849,301.34	822,789.42
Golden Valley	210,654.44	153,053.56	138,963.57
McKenzie	1,151,326.20	1,476,916.32	891,312.92
McLean	335.20	481.42	146.29
Mercer	175,007.20	66,598.89	32,143.05
Mountrail	112,861.98	175,503.38	233,883.12
Oliver	1,235.67	10,405.79	6,030.57
Renville	2,660.77	14.70	-
Slope	156,156.20	133,638.96	69,180.98
Stark	177,514.30	125,458.49	70,274.31
Ward	45.21	30.51	-
Williams	77,035.28	120,728.25	20,465.37
Total County	13,283,552.63	7,235,704.65	4,345,642.18
State Share	13,283,552.63	7,235,704.66	4,345,642.19
Total	26,567,105.26	14,471,409.31	8,691,284.37

Federal Flood Payments

Counties	July 08-Jun 09	July 09-June 10	July 10 through Dec 10
Dunn	3,438,935.23	67,735.48	13,141.16
McKenzie	1,255,835.94	6,002.99	16,221.94
Mercer		869.62	869.62
Mountrail	28,995,171.50	22,134,922.01	816,244.59
Williams	51,856.13	643.88	
Total County	33,741,798.80	22,210,173.98	846,477.31

STATE OF NORTH DAKOTA
OFFICE OF STATE TREASURER
STATE CAPITOL, 600 E. BOULEVARD AVE., DEPT 120, BISMARCK, NORTH DAKOTA 58505-0600
701-328-2643 FAX 701-328-3002
http://www.treasurer.nd.gov

Kelly L. Schmidt
State Treasurer

Senate Bill 2047
Senate Finance and Tax
January 17, 2011
Testimony in Support of an Amendment

Chairman Cook, members of the committee, I am Carlee McLeod, Deputy State Treasurer for the State of North Dakota.

I am here today to propose an amendment to SB 2047 regarding the reporting requirement in Section 2. The amendment would remove this requirement from the duties of the State Treasurer and is as follows:

Page 2, remove lines 12 through 19.

While we understand legislative council's need for this information, we propose this amendment because the language in this bill is unnecessary. Currently, the Office of State Treasurer has as one of its duties that "At the request of either house of the legislative assembly, or any committee thereof, shall give information in writing as to the condition of the treasury, or upon any subject relating to the duties of the office (NDCC 54-11-01 (10)).

This information is covered by that section governing our office. Furthermore, as a practical matter, this information is already being reported to legislative council monthly by email in addition to being available on our website. When this issue was addressed by the legislative interim committee, we had already been providing this information to legislative council.

Our office provides information to a variety of agencies and political subdivisions as part of our daily routine. For every fund we handle and every tax distribution we complete, we have a list of agencies and political subdivisions that either need or want the information, and we send it out accordingly. Flood money is no exception.

As a practical matter, before we process any federal mineral or flood disbursements, we receive certification from the mineral division of the state auditor's office regarding the proper breakdown of funds to each county. For flood money, this comes as an email. For mineral royalties, we receive a written letter. If the legislative council would prefer, we could add them as recipients of those certifications, and they would receive the information sooner than this bill proposes. The current process is that we forward the emails and scan in the letters and email them to legislative council.

15.1-27-25. Royalties available under federal law - Distribution to counties and school districts - Continuing appropriation.

1. Any money paid to the state by the secretary of the treasury of the United States under the provisions of an Act of Congress entitled "An Act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain" [Pub. L. 66-146; 41 Stat. 437; 30 U.S.C. 181 et seq.] must be credited to the state general fund and must be distributed only pursuant to the terms of this section.

2. Within three months following the calendar quarters ending in March, June, September, and December, the state auditor shall certify to the state treasurer the amount of money the state received during the preceding calendar quarter for royalties under the Act of Congress cited in subsection 1.

3. The state treasurer shall allocate the percentage of the total moneys received as required by this section among the counties in which the minerals were produced based on the proportion each county's mineral royalty revenue bears to the total mineral royalty revenue received by the state for that calendar quarter. The state treasurer shall pay the amount calculated to each county.

4. The counties may use any money received under this section only for the planning, construction, and maintenance of public facilities and the provision of public services. As used in this section, public facilities include any facility used primarily for public use as determined by the board of county commissioners whether located on public or private property.

5. The percentage of money received by the state under the Act of Congress cited in subsection 1 which must be allocated and paid to the counties under this section is ten percent for collections in 2000, twenty percent for collections in 2001, thirty percent for collections in 2002, forty percent for collections in 2003, and fifty percent for collections in 2004 and thereafter.

6. Any remaining money received by the state under the Act of Congress cited in subsection 1 must be distributed to school districts as provided for in this chapter. Any moneys distributed under this subsection are deemed the first moneys withdrawn or expended from the general fund for the purpose of state aid to school districts.

7. The funds needed to make the distribution to counties, as provided for in this section, are hereby appropriated on a continuing basis.

Oil and Gas 2010 Fiscal Year Summary, Including County Breakdown
Office Of State Treasurer

Production/Extraction 7-1-09 through 6-30-10		Total "State Share"
Total Extraction tax FY 2010	**283,612,741.64**	**283,612,741.64**
General Fund (001)/Permanent Oil (60%)	170,167,644.97	
Oil Tax Resource (Fund 469) (20%)	56,722,548.33	
Permanent Education Trust (Fund 501) 10%	28,361,274.17	
Foundation Aid Stabilization (Fund 496) 10%	28,361,274.17	
Total Production tax	**312,309,029.78**	
State Share	235,894,071.48	**235,894,071.48**
Impact Fund (from state share)	8,000,000.00	
Three Affiliated Tribes	7,476,110.73	
Political Subdivisions	68,938,847.57	
Total Mineral Leasing	**14,471,409.31**	
Mineral Leasing State (50%)	7,235,705.66	**7,235,705.66**
Mineral Leasing Counties (50%)	7,235,705.65	-
Flood (100% to Counties)	**22,210,173.98**	-
Total		**526,742,518.78**

County Allocations (received by county, subject to further distribution)	Mineral	Flood	Gross Production	Total
Billings	918,049.11		4,577,211.36	5,495,260.47
Bottineau			3,466,663.76	3,466,663.76
Bowman	3,204,040.29		8,108,941.47	11,312,981.76
Burke	1,254.41		3,364,247.11	3,365,501.52
Divide	229.23		3,592,088.23	3,592,317.46
Dunn	849,301.34	67,735.48	7,805,101.82	8,722,138.64
Golden Valley	153,053.56		1,374,821.86	1,527,875.42
Hettinger			857.64	857.64
McHenry			74,513.00	74,513.00
McKenzie	1,476,916.32	6,002.99	8,210,364.51	9,693,283.82
McLean	481.42		282,185.41	282,666.83
Mercer	66,598.89	869.62	12,889.46	80,357.97
Mountrail	175,503.38	22,134,922.01	14,778,986.37	37,089,411.76
Oliver (not an oil and gas producing county)	10,405.79			10,405.79
Renville	14.70		1,987,994.71	1,988,009.41
Slope	133,638.96		1,282,807.10	1,416,446.06
Stark	125,458.49		2,877,918.30	3,003,376.79
Ward	30.51		150,323.17	150,353.68
Williams	120,728.25	643.88	6,990,932.29	7,112,304.42
Three Affiliated Tribes			7,476,110.73	7,476,[redacted]73
Tota[redacted]	[redacted]04.65	22,210,173.98	76,414,958.30	105,860[redacted]3

Prepared by the North Dakota Legislative Council staff for the Taxation Committee
September 2010

FEDERAL FLOOD CONTROL MINERAL LEASE REVENUE ALLOCATION

Federal construction of the Garrison Dam and the resulting creation of Lake Sakakawea required the federal government to acquire rights to thousands of acres of land presently lying along and under Lake Sakakawea. Recent rapid development of oil exploration, drilling, and production in the area and the feasibility of horizontal drilling beneath the lake have made leasing of the mineral rights to those lands from the federal government desirable and valuable. The federal government has leased mineral rights on those lands and collected substantial lease and bonus revenues.

Federal law, contained in 33 U.S.C. 701c-3 (Appendix A) provides that 75 percent of revenue collected during a fiscal year from leasing of lands acquired by the United States for flood control is to be paid out at the end of the year to the state in which the property is situated. The amount received by the state is to be expended as the state legislature may prescribe for the benefit of public schools and public roads of the county, or counties, in which such property is located, or for any of the expenses of county government. It is significant to note that the language of the federal provision includes bonuses, royalties, and rentals paid to the United States from a mineral lease.

North Dakota has provided for an allocation of flood control revenues by enactment of North Dakota Century Code Section 21-06-10 (Appendix B). The statutory provision provides that one-half of the county allocation goes to school districts in the county, one-quarter goes to the county for road purposes, and one-quarter is to be allocated among organized townships that have lost land because of federal land acquisitions and to the county for lands not within an organized township. This allocation method has existed since 1979, so it is likely the Legislative Assembly did not anticipate the amounts of revenue currently being distributed.

Beginning in calendar year 2009, counties along the lake in areas of leasing activity began to receive very substantial payments. Attached as Appendix C is a printout from the website of the State Treasurer showing flood control payments to counties since September 2007.

Attached as Appendix D are spreadsheets showing for 2009 and 2010 how the funds received by Mountrail County are allocated within the county according to the statutory formula. During the 17 months of allocations, three townships have each received more than $1 million, including Liberty Township, which has received more than $4 million. For those 17 months, the Mountrail County road and bridge fund has received almost $12.8 million and the New Town School District has received almost $22.5 million.

ATTACH:4

§701c-3. Lease receipts; payment of portion to States

75 per centum of all moneys received and deposited in the Treasury of the United States during any fiscal year on account of the leasing of lands acquired by the United States for flood control, navigation, and allied purposes, including the development of hydroelectric power, shall be paid at the end of such year by the Secretary of the Treasury to the State in which such property is situated, to be expended as the State legislature may prescribe for the benefit of public schools and public roads of the county, or counties, in which such property is situated, or for defraying any of the expenses of county government in such county or counties, including public obligations of levee and drainage districts for flood control and drainage improvements: Provided, That when such property is situated in more than one State or county, the distributive share to each from the proceeds of such property shall be proportional to its area therein. For the purposes of this section, the term "money" includes, but is not limited to, such bonuses, royalties and rentals (and any interest or other charge paid to the United States by reason of the late payment of any royalty, rent, bonus or other amount due to the United States) paid to the United States from a mineral lease issued under the authority of the Mineral Leasing Act for Acquired Lands [30 U.S.C. 351 et seq.] or paid to the United States from a mineral lease in existence at the time of the acquisition of the land by the United States.

#1 p.3

21-06-10. Moneys received through leasing of lands acquired by United States for flood control distributed to counties for schools and roads. The state treasurer shall pay the moneys allocated to the state under 33 U.S.C. 701(c)(3) to the counties entitled to receive them in proportion to the area of the land in the county acquired by the United States for which compensation is being provided under 33 U.S.C. 701(c)(3) as that area bears to the total of these federal lands in the state. A county receiving an allocation under this section shall disburse the moneys received as follows:

1. One-half must be paid to the school districts in the county which have lost land subject to taxation because of the acquisition of lands by the United States for which compensation is being provided under 33 U.S.C. 701(c)(3) in proportion to the area of these federal lands in each district as that area bears to the total of such lands in all of the school districts in the county. If, however, all of the land in a district has been acquired by the United States, that district's proportionate share of the funds allocated under this subsection must be paid into the county tuition fund and expended according to the law governing that fund.

2. One-quarter must be paid to the county for road purposes to be expended as the county commissioners shall determine.

3. The final quarter must be allocated among the organized townships, if any, which have lost land subject to taxation because of land acquisitions by the United States for which compensation is being provided under 33 U.S.C. 701(c)(3) and the county for road purposes in proportion to the area of these lands in each township as that area bears to the total area of these federal lands in the county. The county must be allocated a similar proportionate share based on the area of these lands in the county not within an organized township.

This section applies to all funds heretofore received or to be received by the counties entitled thereto.

Tax Distribution Search Results

Payment Date: 09/1/2007 - 9/2/2010

Distribution Type: Flood Control

Payment Date	Entity	Tax Type	Amount
01/15/2008	Barnes County	Flood Control	2,613.12
01/15/2009	Barnes County	Flood Control	2,529.29
01/15/2010	Barnes County	Flood Control	2,786.78
		Total:	**$7,929.19**
01/15/2008	Dunn County	Flood Control	18,044.88
01/15/2009	Dunn County	Flood Control	24,180.23
03/13/2009	Dunn County	Flood Control	3,010,801.49
05/19/2009	Dunn County	Flood Control	427,908.74
09/15/2009	Dunn County	Flood Control	64,947.75
11/18/2009	Dunn County	Flood Control	294.75
01/15/2010	Dunn County	Flood Control	21,581.55
04/14/2010	Dunn County	Flood Control	1,361.24
		Total:	**$3,569,120.63**
01/15/2008	Emmons County	Flood Control	21,635.10
01/15/2009	Emmons County	Flood Control	7,285.35
01/15/2010	Emmons County	Flood Control	8,198.09
		Total:	**$37,118.54**
01/15/2008	Griggs County	Flood Control	389.25
01/15/2009	Griggs County	Flood Control	927.00
01/15/2010	Griggs County	Flood Control	889.50
		Total:	**$2,205.75**
01/15/2008	McKenzie County	Flood Control	19,450.57
01/15/2009	McKenzie County	Flood Control	22,767.03
03/13/2009	McKenzie County	Flood Control	81,352.11
05/19/2009	McKenzie County	Flood Control	1,168,176.79
06/12/2009	McKenzie County	Flood Control	286.14
07/15/2009	McKenzie County	Flood Control	280.06

08/14/2009	McKenzie County	Flood Control	280.19
09/15/2009	McKenzie County	Flood Control	209.77
11/16/2009	McKenzie County	Flood Control	301.83
01/15/2010	McKenzie County	Flood Control	13,019.72
03/12/2010	McKenzie County	Flood Control	408.37
04/14/2010	McKenzie County	Flood Control	1,596.26
08/13/2010	McKenzie County	Flood Control	535.55
		Total:	**$1,308,664.39**
01/15/2008	McLean County	Flood Control	8,813.60
01/15/2009	McLean County	Flood Control	9,151.25
01/15/2010	McLean County	Flood Control	10,008.69
		Total:	**$28,073.54**
01/15/2008	Mercer County	Flood Control	1,479.70
01/15/2009	Mercer County	Flood Control	1,295.25
01/15/2010	Mercer County	Flood Control	1,012.50
		Total:	**$3,787.45**
01/15/2008	Morton County	Flood Control	10,120.80
01/15/2009	Morton County	Flood Control	4,826.63
01/15/2010	Morton County	Flood Control	3,807.15
		Total:	**$18,754.58**
01/15/2008	Mountrail County	Flood Control	20,330.44
01/15/2009	Mountrail County	Flood Control	37,363.77
03/13/2009	Mountrail County	Flood Control	14,103,085.01
05/19/2009	Mountrail County	Flood Control	5,526,609.42
06/12/2009	Mountrail County	Flood Control	36,542.13
07/15/2009	Mountrail County	Flood Control	9,308,716.84
08/14/2009	Mountrail County	Flood Control	172,427.57
09/15/2009	Mountrail County	Flood Control	633,880.96
11/16/2009	Mountrail County	Flood Control	157,260.54
01/15/2010	Mountrail County	Flood Control	12,173,198.65
03/12/2010	Mountrail County	Flood Control	26,669.39
04/14/2010	Mountrail County	Flood Control	100,428.33

	Mountrail County	Flood Control	56,350.63
		Total:	**$42,352,863.68**
01/15/2008	Sioux County	Flood Control	118.50
01/15/2009	Sioux County	Flood Control	116.25
01/15/2010	Sioux County	Flood Control	135.00
		Total:	**$369.75**
01/15/2008	Steele County	Flood Control	42.00
		Total:	**$42.00**
01/15/2008	Stutsman County	Flood Control	750.00
01/15/2009	Stutsman County	Flood Control	952.50
01/15/2010	Stutsman County	Flood Control	952.50
		Total:	**$2,655.00**
01/15/2008	Williams County	Flood Control	16,666.21
01/15/2009	Williams County	Flood Control	15,203.19
03/13/2009	Williams County	Flood Control	12,457.88
05/19/2009	Williams County	Flood Control	39,398.25
01/15/2010	Williams County	Flood Control	12,536.29
04/14/2010	Williams County	Flood Control	180.00
		Total:	**$96,441.82**
12/14/2009	Dunn County	Flood Control	906.74
		Total:	**$906.74**
10/14/2009	McKenzie County	Flood Control	453.81
12/14/2009	McKenzie County	Flood Control	414.65
02/12/2010	McKenzie County	Flood Control	435.50
05/14/2010	McKenzie County	Flood Control	387.39
06/14/2010	McKenzie County	Flood Control	223.88
07/15/2010	McKenzie County	Flood Control	487.87
		Total:	**$2,403.10**
10/14/2009	Mercer County	Flood Control	869.62
		Total:	**$869.62**
10/14/2009	Mountrail County	Flood Control	49,570.08
12/14/2009	Mountrail County	Flood Control	51,057.73

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	Mountrail County	Flood Control	8,641,730.35
05/14/2010	Mountrail County	Flood Control	45,285.08
06/14/2010	Mountrail County	Flood Control	48,600.80
07/15/2010	Mountrail County	Flood Control	74,258.99
		Total:	**$8,910,503.03**
02/12/2010	Williams County	Flood Control	87.75
05/14/2010	Williams County	Flood Control	291.00
		Total:	**$378.75**
		Grand Total:	**$56,343,087.56**

	A	B	C	D	E	F		H	I	J	K	L	
1	FLOOD AID - 2009 YEAR-TO-DATE												
2													
3	FUND #		Feb '09	Apr '09	May '09	July '09	July '09	Aug '09	Sept '09	Oct'09	Nov'09	Dec'09	TOTALS
4				Acreage Update									
5													
6	937	RAT LAKE 154-93	99.28	56.41	22.12	0.15	37.23	0.70	2.54	0.20	0.63	0.21	219.47
7	918	KNIFE RIVER 153-92	126.23	52,012.18	20,382.14	134.77	34,330.55	635.91	2,337.75	182.81	579.98	188.30	110,910.62
8	946	VAN HOOK 152-91	406.91	381,724.67	149,587.36	989.08	251,956.71	4,667.05	17,157.10	1,341.70	4,256.53	1,381.97	813,469.08
9	929	OSBORN 152-92	493.71	262,461.94	102,851.58	680.06	173,237.55	3,208.92	11,796.68	922.51	2,926.66	950.20	559,529.81
10	919	LIBERTY 151-91	1,271.97	1,168,507.58	457,905.84	3,027.66	771,271.41	14,286.44	52,520.04	4,107.12	13,029.78	4,230.37	2,490,158.21
11	914	HOWIE 151-92	524.75	367,124.46	143,865.93	951.25	242,319.86	4,488.55	16,500.87	1,290.38	4,093.73	1,329.11	782,488.89
12	904	BIG BEND 151-93	375.52	210,953.95	82,667.02	546.60	139,239.79	2,579.17	9,481.59	741.47	2,352.30	763.72	449,701.13
13	913	FERTILE	10.57										10.57
14	932	PARSHALL	57.52										57.52
15													
16	953	UNORG. 154-94	648.51	315,038.24	123,454.78	816.29	207,940.44	3,851.73	14,159.79	1,107.31	3,512.93	1,140.54	671,670.56
17	952	UNORG. 153-93	986.42	333,086.66	130,527.46	863.05	219,853.27	4,072.39	14,971.00	1,170.75	3,714.18	1,205.88	710,451.06
18	952	UNORG. 153-94		113,885.94	44,628.75	295.09	75,170.22	1,392.40	5,118.75	400.29	1,269.92	412.30	242,573.66
19	951	UNORG. 152-93	1,292.47	285,964.73	112,061.68	740.96	188,750.52	3,496.27	12,853.05	1,005.12	3,188.73	1,035.28	610,388.81
20	949	UNORG. 150-92	1,510.38	32,063.36	12,564.75	83.08	21,163.37	392.01	1,441.13	112.70	357.53	116.08	69,804.39
21	950	UNORG. 150-93	1,536.70	2,891.13	1,132.95	7.49	1,908.29	35.35	129.95	10.16	32.24	10.47	7,694.73
22													
23	214	CO. RD. & BRIDGE	9,340.94	3,525,771.25	1,381,652.36	9,135.53	2,327,179.21	43,106.89	158,470.24	12,392.52	39,315.14	12,764.43	7,519,128.51
24													
25	888	NEW TOWN SD	16,493.92	6,191,811.11	2,426,399.72	16,043.44	4,086,894.19	75,702.51	278,298.76	21,763.22	69,043.57	22,416.36	13,204,866.80
26	891	PARSHALL SD		1,881.05	737.13	4.88	1,241.59	23.00	84.55	6.61	20.98	6.81	4,006.60
27	896	TIOGA SD	2,187.97	857,850.35	336,167.85	2,222.75	566,222.64	10,488.28	38,557.17	3,015.21	9,565.71	3,105.70	1,829,383.63
28													
29		TOTALS	37,363.77	14,103,085.01	5,526,609.42	36,542.13	9,308,716.84	172,427.57	633,880.96	49,570.08	157,260.54	51,057.73	30,076,514.05
30													
31		2,312,583.21	Total Unorganized Townships - 2009 Year										
32		7,519,128.51	Total County Road & Bridge - 2009 Year										
33		9,831,711.72	GRAND TOTAL UNORG. & ROAD										
34													
35		COE Real Est. Leases											
36		Leasing					9,298,658.61		562,090.87				
37		Royalites					10,058.23		71,790.09	49,570.08			
38		Total	-	-	-	-	9,308,716.84	-	633,880.96	49,570.08	-	-	-

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APPENDIX D

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O
1	FLOOD AID - 2010 YEAR-TO-DATE														
2															
3	FUND #		Jan '10	Feb '10	Mar '10	Apr '10	May '10	Jun ' 10	Jul '10	Aug '10	Sept '10	Oct '10	Nov. '10	Dec. '10	TOTALS
4									Unofficial						
5															
6	937	RAT LAKE 154-93	48.69	34.58	0.11	0.40	0.19	0.20	0.30						84.47
7	918	KNIFE RIVER 153-92	44,894.76	31,870.70	98.36	370.38	167.01	179.24	273.86						77,854.31
8	946	VAN HOOK 152-91	329,488.92	233,903.56	721.85	2,718.27	1,225.72	1,315.47	2,009.95						571,383.74
9	929	OSBORN 152-92	226,546.27	160,824.76	496.32	1,869.00	842.77	904.47	1,381.97						392,865.56
10	919	LIBERTY 151-91	1,008,607.32	716,008.41	2,209.69	8,320.96	3,752.08	4,026.81	6,152.70						1,749,077.97
11	914	HOWIE 151-92	316,886.62	224,957.20	694.24	2,614.30	1,178.84	1,265.15	1,933.09						549,529.44
12	904	BIG BEND 151-93	182,086.71	129,263.00	398.92	1,502.21	677.37	726.97	1,110.77						315,765.95
13															
14	953	UNORG. 154-94	271,927.95	193,041.13	595.75	2,243.39	1,011.59	1,085.66	1,658.82						471,564.29
15	952	UNORG. 153-93	287,506.61	204,100.39	629.88	2,371.92	1,069.54	1,147.85	1,753.85						498,580.04
16	952	UNORG. 153-94	98,301.62	69,784.13	215.36	810.98	365.69	392.46	599.66						170,469.90
17	951	UNORG. 152-93	246,832.91	175,226.21	540.77	2,036.36	918.23	985.47	1,505.74						428,045.69
18	949	UNORG. 150-92	27,675.77	19,646.97	60.63	228.32	102.96	110.49	168.83						47,993.97
19	950	UNORG. 150-93	2,495.51	1,771.55	5.47	20.59	9.28	9.96	15.21						4,327.57
20															
21	214	CO. RD. & BRIDGE	3,043,299.66	2,160,432.59	6,667.35	25,107.08	11,321.27	12,150.20	18,564.75						5,277,542.90
22															
23	888	NEW TOWN SD	5,344,514.80	3,794,060.79	11,708.91	44,092.00	19,881.94	21,337.67	32,602.63						9,268,198.74
24	891	PARSHALL SD	1,623.65	1,152.62	3.56	13.40	6.04	6.48	9.90						2,815.65
25	896	TIOGA SD	740,460.88	525,651.76	1,622.22	6,108.77	2,754.56	2,956.25	4,516.96						1,284,071.40
26															
27															
28		TOTALS	12,173,198.65	8,641,730.35	26,669.39	100,428.33	45,285.08	48,600.80	74,258.99	-	-	-	-	-	21,110,171.59
29															
30		1,620,981.46		Total Unorganized Townships - 2010 Year											
31		5,277,542.90		Total County Road & Bridge - 2010 Year											
32		6,898,524.36		GRAND TOTAL UNORG. & ROAD											
33															
34	COE REAL ESTATE LEASES		21,538.10												
35	LEASING (RENTS & BONUSES)		12,082,573.86	8,601,809.62	1,236.97	3,172.50	-	1,116.00	884.24						
36	ROYALTIES & INTEREST		69,086.69	39,920.73	25,433.02	97,255.83	45,285.08	47,484.80	73,374.75						
37		Total	12,173,198.65	8,641,730.35	26,669.39	100,428.33	45,285.08	48,600.80	74,258.99						

Amendment #1 Speaker Drovdal

11.0233.03001
Title.

Prepared by the Legislative Council staff for
Representative Drovdal
March 4, 2011

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2047

Page 1, line 8, remove the overstrike over "~~**distributed**~~"

Page 1, line 8, remove "**through grants**"

Page 1, line 8, remove the overstrike over "~~**for schools and roads**~~"

Page 1, line 8, remove "**, school**"

Page 1, line 9, remove "**districts, and townships**"

Page 1, line 10, remove the overstrike over "~~pay~~"

Page 1, line 10, remove "transfer"

Page 1, line 11, remove "oil and gas impact grant fund, to be held in a special account within that fund"

Page 1, remove lines 12 and 13

Page 1, line 14, remove the overstrike over "~~entitled to receive them in proportion to the area of the land in the county~~"

Page 1, line 14, remove "in which land"

Page 1, line 15, remove "has been"

Page 1, line 16, remove the overstrike over "~~A county~~"

Page 1, line 17, remove the overstrike over "~~receiving an allocation under this section shall~~"

Page 2, line 13, after the overstruck period insert "deposit all amounts received in a special federal flood control mineral leasing fund in the county treasury. From the federal flood control mineral leasing fund, the county treasurer shall make a payment to each school district in the county that has lost land subject to taxation because of the acquisition of lands by the United States for which compensation is being provided under 33 U.S.C. 701(c)(3). The payment to a school district is determined by multiplying the lost land acres in the school district times the current average taxable valuation of agricultural property in the county, multiplying the resulting amount by the current school district general fund mill rate before reduction under chapter 57-64, and multiplying that result times ten. However, the total of annual payments to school districts may not exceed fifty percent of the balance of the fund. After the annual payment to school districts, remaining amounts in the federal flood control mineral leasing fund may be used for infrastructure development by the county."

Page 2, line 14, replace "Section 1 of this" with "This"

Page 2, line 15, replace "July 31" with "April 30"

Page 2, line 15, remove "Section 2 of this Act becomes effective"

Page 2, remove line 16

Renumber accordingly

Amendment #2 p. 1 Speaker Drovdal

11.0233.03002
Title.

Prepared by the Legislative Council staff for
Representative Drovdal
March 4, 2011

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2047

Page 1, line 1, after "21-06-10" insert "and subsections 3 and 4 of section 57-51-15"

Page 1, line 2, after "lands" insert "and allocation of oil and gas gross production tax revenues to school districts"

Page 2, after line 13, insert:

"**SECTION 2. AMENDMENT.** Subsections 3 and 4 of section 57-51-15 of the North Dakota Century Code are amended and reenacted as follows:

3. The amount to which each county is entitled under subsection 2 must be allocated within the county ~~so the first five million three hundred fifty thousand dollars is allocated~~ under subsection 4 for each fiscal year ~~and any~~for the first three million nine hundred thousand dollars for a county with a population of fewer than three thousand, four million one hundred thousand dollars for a county with a population of three thousand to six thousand, and four million six hundred thousand dollars for a county with a population of more than six thousand. Any amount received by a county exceeding ~~five million three hundred fifty thousand dollars is credited~~the amount to be allocated under subsection 4 must be allocated by the county treasurer ~~to the county infrastructure fund and allocated~~ under subsection 5.

4. a. Forty-five percent of all revenues allocated to any county for allocation under this subsection must be credited by the county treasurer to the county general fund. However, the allocation to a county under this subdivision must be credited to the state general fund if during that fiscal year the county does not levy 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.

   b. Thirty-five percent of all revenues allocated to any county for allocation under this subsection 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~~superintendent of public instruction. 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

than two hundred percent seasonally due to tourism, the population of that city for purposes of this subdivision must be increased by eight hundred percent. If a city receives a direct allocation under subsection 1, the allocation to that city under this subsection is limited to sixty percent of the amount otherwise determined for that city under this subsection and the amount exceeding this limitation must be reallocated among the other cities in the county."

Page 2, line 15, replace "July 31" with "April 30"

Page 2, line 15, replace "becomes" with "is"

Page 2, line 16, replace "August" with "for taxable events occurring after July"

Renumber accordingly

Testimony #2 p. 1

STATE OF NORTH DAKOTA
OFFICE OF STATE TREASURER
STATE CAPITOL, 600 E. BOULEVARD AVE., DEPT 120, BISMARCK, NORTH DAKOTA 58505-0600
701-328-2643 FAX 701-328-3002
http://www.treasurer.nd.gov

...elly L. Schmidt
State Treasurer

Senate Bill 2047
House Finance and Tax
March 14, 2011
Testimony in Support of an Amendment

Chairman Belter, members of the committee, I am Carlee McLeod, Deputy State Treasurer for the State of North Dakota.

I'm here to provide information relating to the federal law behind North Dakota Century Code 21-06-10. I've attached the federal code to this testimony.

The amendments to this bill placed on it by the Senate put all moneys received under this section in the oil and gas impact grant fund, which serves all oil and gas producing counties.

However, it should be noted that the federal program addressed by 21-06-10 are not all oil and gas producing counties. This program addresses all counties in which there are lands acquired by the United States for flood control, navigation, and allied purposes.

To date, those counties include: Barnes, Bowman, Burleigh, Dunn, Emmons, Griggs, McKenzie, McLean, Mercer, Morton, Mountrail, Sioux, Steele, Stutsman, Walsh, and Williams.

The language of 33 U.S.C. 701(c)(3) provides that "the State legislature may prescribe for the benefit of public schools and public roads of the county, or counties, *in which such property is situated* (emphasis added)..."

This change to NDCC 21-06-10 most likely conflicts with federal law, as it takes places these monies in a depository that will be used for counties not involved in this federal program. Also, the funds will now be unavailable for the counties not in oil and gas producing counties served by the oil and gas impact grant fund.

Before moving ahead with the changes in SB 2047, this conflict should be researched more fully.

#2 p. 2

33 USC 701c3 - Lease receipts; payment of portion to States

75 per centum of all moneys received and deposited in the Treasury of the United States during any fiscal year on account of the leasing of lands acquired by the United States for flood control, navigation, and allied purposes, including the development of hydroelectric power, shall be paid at the end of such year by the Secretary of the Treasury to the State in which such property is situated, to be expended as the State legislature may prescribe for the benefit of public schools and public roads of the county, or counties, in which such property is situated, or for defraying any of the expenses of county government in such county or counties, including public obligations of levee and drainage districts for flood control and drainage improvements: Provided, That when such property is situated in more than one State or county, the distributive share to each from the proceeds of such property shall be proportional to its area therein. For the purposes of this section, the term money includes, but is not limited to, such bonuses, royalties and rentals (and any interest or other charge paid to the United States by reason of the late payment of any royalty, rent, bonus or other amount due to the United States) paid to the United States from a mineral lease issued under the authority of the Mineral Leasing Act for Acquired Lands [30 U.S.C. 351 et seq.] or paid to the United States from a mineral lease in existence at the time of the acquisition of the land by the United States.

Source URL: http://openjurist.org/title-33/us-code/section-701-c-3

Testimony #3 p. 1

Testimony for 2047

Mr. Chairman and members of the Finance and Tax Committee

Representative Kenton Onstad, District 4, Parshall

The townships and schools that are benefactors of the Flood Control Act stand opposed to SB 2047 and so do I.

The Flood Control Act originated for land acquired by the United States. Compensation is being provided for lost revenue from taxation. This was in Lieu of Taxes for land acquired and compensation was so irrelevant that nobody noticed.

60 years these political subdivisions lost revenue from land acquired for the Garrison Dam. The townships surrounding the lake cussed that lake for 45 years of those 60 years before any organized boat ramps were put into place or changes by North Dakota Game and Fish. Fisherman came and drove everywhere along the country side to unload their boats, camp and fish along the shore. Individuals every fall using their roads, prairie roads and fields to hunt. It was a time when you could drive everywhere to hunt and fish.

School Districts with a good percentage of their tax base now tax exempt. It is unlike Bismarck and Fargo where tax exempt property still generates income for the community with jobs , sales tax collections etc. These School districts are penalized already if there cash carryover is too large and payments from the state are now deducted.

Now, they have won a windfall and some think it is time to stop those revenue sources. For 60 years those townships received $2500-$3500 per year from taxes collected. North Dakota Game and fish compensated $140 to one township .

When individuals purchased State land, those minerals were held back. Now the state is receiving a windfall from oil and gas development. Are we as legislators asking the state to share the wealth with those landowners?

Yes, they have won the lottery just like the State of North Dakota. Did we know what was going to happen? If you knew then what we know now you would not have passed The Flood Control Act in 1983 but this body did.

These political Subdivision have been impacted for 60 years and now you want to take it away

You need to oppose SB 2047 as written

Honorable Members of the Finance and Taxation Committee: testimony # 4 page 1

Your support for a "DO NOT PASS" on Senate Bill #2047 is greatly appreciated.

Taking away flood aid to Mountrail County would be detrimental. Mountrail County needs this funding directly to maintain their County Road & Bridge Budget. Mountrail County has more than doubled their work force in the road department, meaning more equipment, fuel and repairs. Mountrail County cannot fund their road department without flood aid. Cutting personnel in the road department would not be the answer to helping the deteriorated infrastructure in Mountrail County. This would mean less maintenance, snow removal and overall just less service. At the present, Mountrail County cannot keep up with the maintenance and snow removal of roads, what will happen if services were cut because funding is cut?

Please keep in mind that before the oil industry, only certain roads were maintained on a regular basis. Snow removal was done on priority and school bus routes only. Now because of all the drilling rigs and producing wells, all roads need to maintained on a regular basis. With future predictions in the oil industry, activity is not going to slow down for many years to come. Mountrail County cannot afford to lose any flood aid funding! This money is not just used for rebuilding of roads.

Further, I have attached the Federal Law pertaining to distribution of flood aid. Federal Law indicates the money should be distributed for the "benefit of the public schools and public roads of the county, or counties, in which such property is situated, or for defraying any of the expenses of county government in such county or counties, including public obligations of levee and drainage districts for flood control and drainage improvements". Is each county's proportional share going to be left in a separate pool at the State level? When counties and other entities are entitled to this money according to Federal Law, why not let these entities use their discretion on how to best utilize this funding. Taking away the local control is not the solution. Mountrail County has used all their funding for the road system and road department.

It is obvious there is need for more funding in the oil producing counties. I have faith in your judgment to continue distributing the flood aid dollars proportionately to the affected subdivisions. Please do not take funding away from entities that are entitled to receive a share of the flood aid.

Your consideration is greatly appreciated.

Wade G. Enget
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#4 p.2

U.S. Code collection

TITLE 33 > CHAPTER 15 > § 701c-3

§ 701c–3. Lease receipts; payment of portion to States

75 per centum of all moneys received and deposited in the Treasury of the United States during any fiscal year on account of the leasing of lands acquired by the United States for flood control, navigation, and allied purposes, including the development of hydroelectric power, shall be paid at the end of such year by the Secretary of the Treasury to the State in which such property is situated, to be expended as the State legislature may prescribe for the benefit of public schools and public roads of the county, or counties, in which such property is situated, or for defraying any of the expenses of county government in such county or counties, including public obligations of levee and drainage districts for flood control and drainage improvements: Provided, That when such property is situated in more than one State or county, the distributive share to each from the proceeds of such property shall be proportional to its area therein. For the purposes of this section, the term "money" includes, but is not limited to, such bonuses, royalties and rentals (and any interest or other charge paid to the United States by reason of the late payment of any royalty, rent, bonus or other amount due to the United States) paid to the United States from a mineral lease issued under the authority of the Mineral Leasing Act for Acquired Lands [30 U.S.C. 351 et seq.] or paid to the United States from a mineral lease in existence at the time of the acquisition of the land by the United States.

Testimony #5 p. 1

Chairman Belter and members of the committee, my name is Marc Bluestone. I am the Superintendent of the New Town Public School District #1 in New Town, North Dakota. New Town is located on the Fort Berthold Indian Reservation, home of the Mandan, Hidatsa, and Arikara people. The following is written testimony on behalf of our school district and community in opposition to Senate Bill 2047.

This legislation would remove payments received by school districts and townships through the leasing of lands acquired by the United States for flood control. Over the past three years, the New Town Public School District #1 has received approximately 22 million dollars in U.S. Flood payments. We have used this funding to complete building projects that we have desperately needed for years.

The U.S. Flood payments were received to compensate the school district for sixty years of lost revenue of property taxes due to the construction of the Garrison Dam. Our school district lost revenue which could have assisted us with the overall education of our children.

This windfall has allowed the school district to complete the following projects.

- Geothermal Heating & Cooling System @ Elementary School (Anticipated Completion Date: May 2011)
- Six Plex Apartment Building for Teacher Housing (Anticipated Completion Date: June 1, 2011)

- Teacher Housing Project (Anticipated Completion Date: March 2011)
- Understanding by Design Curriculum Training for All District Teachers (National Presenter) (Completion Date: January 2011)
- Elementary Gymnasium (Completion Date: January 2011)
- Cafeteria, Commons Area, and Kitchen Preparation Facility to the High School-Middle School (Completion Date: December 2010)
- Four Car/Bus Garage @ Elementary School (Completion Date: November 2010)
- School Bus (Purchased: November 2010)
- Smart Boards, LCD Panel Displays, and Document Readers for Five High School Classrooms (Completion Date: October 2010)
- Elementary Preparation Facility (Completion Date: September 2010)
- Football Facilities Upgrade including New Announcer Stand, Bleachers, & Scoreboard (Completion Date: September 2010)
- Treadmills and Exercise (Five) Equipment @ Elementary School (Completion Date: September 2010)
- New Computers (135) Purchased and Installed throughout the School District (Completion Date: August 2010)
- Asbestos Removal Project @ New Town High School (Phases IV/V of VII Phases: Completion Date: August 2010)
- Understanding by Design Curriculum Training for All District Teachers (National Presenter) (Completion Date: August 2010)
- Roof Upgrades @ Elementary School (Completion Date: July 2010)
- Asbestos Removal Project @ Elementary School (Phases IV & V Completion Date: July 2010) ***Elementary School--Asbestos Free***
- Two Teacher Housing Units (Completion Date: August 2010)
- Understanding by Design Curriculum--Teacher Training in New Jersey (6 staff) (Completion Date: July 2010)
- School Suburban @ New Town High School (Purchased: June 2010)
- Dance Pad Machine (25 port) for Middle School & High School Physical Education Classes (Purchased: June 2010)
- Acellus Mobile Computer Lab Including Math & Reading Programs for Middle School Integration (Purchased: June 2010)
- Reading/Language Arts Textbook Series Grades Kindergarten-6th (Purchased: June 2010)
- Science Textbook Series Kindergarten-12th Grade (Purchased: June 2010)
- Social Skills Textbook Series Grades Prekindergarten-8th (Purchased: May 2010)
- State of the Art Technology Lab @ New Town High School Alternative Program (Completion Date: April 2010)

#5 p.3

- Understanding by Design Curriculum--Teacher Training in Tucson, Arizona (6 staff) (Completion Date: March 2010)
- High School Gym Upgrades: New Lights, Refurbished Floor, & New Treadmills (10) (Completion Date: January 2010)
- New Television Sets & VCR/DVD Players Mounted in all Elementary Classrooms (Completion Date: December 2009)
- Ten Teacher Housing Units (Completion Date: November 2009)
- New Marquee Sign @ NTHS-NTMS (Completion Date: November 2009)
- New Playground Toys @ Elementary School (Completion Date: October 2009)
- New Lights @ Football Field Completed (Completion Date: August 2009)
- Locker Installation Project @ New Town High School (Completion Date: August 2009)
- New Ceiling Tiles & Lighting @ Elementary School (Completion Date: August 2009)
- Roof Upgrades @ New Town High School (Completion Date: July 2009)
- Asphalt of High School Parking Lots & Bus Drive Completed (Completion Date: July 2009)
- School Pickup for Elementary School (Purchased: June 2009)
- New Electrical System @ Elementary School (Completion Date: May 2009)
- Smart Boards, LCD Panel Displays, and Document Readers for all Middle School Classrooms (Completion Date: May 2009)
- New Television Sets & VCR/DVD Players Mounted in all Middle School & High School Classrooms (Completion Date: January 2009)
- School Buses (Four) (Purchased: December 2008)
- State of the Art Science Classroom @ New Town High School (Completion Date: September 2008)
- 3 Car School Vehicle Garage (Completion Date: August 2008)
- New Bus Barn (Completion Date: August 2008)
- New Playground Toys @ Elementary School (Completion Date: July 2008)
- Asphalt of Elementary School Parking Lots & Bus Drive Completed (Completion Date: July 2007 & July 2008)

Due to current state law regarding how much a school district can have in their end of year fund balance, the school district lost all of its state foundation aid for the 2010-2011 school year (approximately

$ 3,700,000)! The school district has had to replace this lost amount with the U.S. Flood payments that we received. Instead of using this 3.7 million for future capital projects, we had no choice but to use it to operate this year's budget!

Prior to receiving the U.S. Flood funds (2009-2010 school year), our school district's Taxable Valuation was $ 5,998 per student. The state's average was $22,664 per student. The 2010-2011 school year, our school district's Taxable Valuation was $10,703 per student. The state's average was $24,164 per student. If you take the U.S. Flood funds from us, it will cost the State more money to educate our students as our taxable valuation will drop back down. In addition, the school district received $681,328 in Equity Payments! After the U.S. Flood funds were received, the school district did not receive these payments as well. If you take the U.S. Flood funds away from us, the state will be required to provide these funds again!

The school district will break ground in May 2011 to construct a new high school building for approximately $11,000,000. Our current building is over fifty years old. Recent estimates to refurbish the building was nearly as much as new construction.

Future U.S. Flood payments would be used to fund a new vocational center for the middle and high school and a new high school gymnasium.

We would also purchase additional technology equipment including but not limited to Smart Boards, LCD Panel Displays, Document Readers, I-Pads for student use, etc. We believe that we would be able to put the funding to good use that would benefit our students.

In reference to Senate Bill 2047, if the U.S. Flood payments are ultimately left at the county's discretion, it is doubtful that even 1% would be received by our school district. We certainly would not have received the amounts necessary to complete the above projects. We could also understand the need for such legislation if the funding was misappropriated or spent recklessly by the schools or townships. However, the New Town Public School District #1 has used the U.S. Flood funds to rebuild the infrastructure of the school district.

Using Governor Jack Dalrymple's words in a recent speech, to not distribute these funds to the schools and townships would be "an unconscionable and unjust attempt to achieve monetary gain where none is justified." Senate Bill 2047 would be detrimental to our school district and we are recommending a Do Not Pass.

option 2

11.0233.03013
Title.

Prepared by the Legislative Council staff for
Representative Drovdal
April 21, 2011

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2047

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 21-06-10 and subsections 3 and 4 of section 57-51-15 of the North Dakota Century Code, relating to allocation of revenues from the leasing of federal flood control lands and oil and gas gross production tax allocations to school districts; to provide for reports to the legislative management; to provide an effective date; to provide an expiration date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 21-06-10 of the North Dakota Century Code is amended and reenacted as follows:

21-06-10. Moneys received through leasing of lands acquired by United States for flood control distributed to counties ~~for schools and roads.~~

The state treasurer shall pay the moneys allocated to the state under 33 U.S.C. ~~701(c)(3)~~701c-3 to the counties ~~entitled to receive them in proportion to the area of~~that contain the land ~~in the county~~ acquired by the United States for which compensation is being provided under 33 U.S.C. ~~701(c)(3) as that area bears to the total of these federal lands in the state~~701c-3, to be used as determined by the county for the benefit of public schools and public roads and to defray part of the expenses of county government. ~~A county receiving an allocation under this section shall disburse the moneys received as follows:~~

~~1. One-half must be paid to the school districts in the county which have lost land subject to taxation because of the acquisition of lands by the United States for which compensation is being provided under 33 U.S.C. 701(c)(3) in proportion to the area of these federal lands in each district as that area bears to the total of such lands in all of the school districts in the county. If, however, all of the land in a district has been acquired by the United States, that district's proportionate share of the funds allocated under this subsection must be paid into the county tuition fund and expended according to the law governing that fund.~~

~~2. One-quarter must be paid to the county for road purposes to be expended as the county commissioners shall determine.~~

~~3. The final quarter must be allocated among the organized townships, if any, which have lost land subject to taxation because of land acquisitions by the United States for which compensation is being provided under 33 U.S.C. 701(c)(3) and the county for road purposes in proportion to the area of these lands in each township as that area bears to the total area of these federal lands in the county. The county must be allocated a similar proportionate share based on the area of these lands in the county not within an organized township.~~

~~This section applies to all funds heretofore received or to be received by the counties entitled thereto.~~

SECTION 2. AMENDMENT. Subsections 3 and 4 of section 57-51-15 of the North Dakota Century Code are amended and reenacted as follows:

3. The amount to which each county is entitled under subsection 2 must be allocated within the county ~~so the first five million three hundred fifty thousand dollars is~~ allocated under subsection 4 for each fiscal year ~~and any~~for the first time three million nine hundred thousand dollars for a county with a population of fewer than three thousand, four million one hundred thousand dollars for a county with a population of three thousand to six thousand, and four million six hundred thousand dollars for a county with a population of more than six thousand. Any amount received by a county exceeding ~~five million three hundred fifty thousand dollars is credited~~the amount to be allocated under subsection 4 must be allocated by the county treasurer to the county infrastructure fund and allocated under subsection 5.

4. a. Forty-five percent of all revenues allocated to any county for allocation under this subsection must be credited by the county treasurer to the county general fund. However, the allocation to a county under this subdivision must be credited to the state general fund if during that fiscal year the county does not levy 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.

   b. Thirty-five percent of all revenues allocated to any county for allocation under this subsection 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~~superintendent of public instruction. 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~~superintendent of public instruction shall certify to the county treasurer of each oil-producing county 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~~superintendent of public instruction required by this subsection.

~~The countywide allocation to school districts under this subdivision is subject to the following:~~

~~(1) The first three hundred fifty thousand dollars is apportioned entirely among school districts in the county.~~

~~(2) The next three hundred fifty thousand dollars is apportioned seventy-five percent among school districts in the county and twenty-five percent to the county infrastructure fund.~~

~~(3) The next two hundred sixty-two thousand five hundred dollars is apportioned two-thirds among school districts in the county and one-third to the county infrastructure fund.~~

~~(4) The next one hundred seventy-five thousand dollars is apportioned fifty percent among school districts in the county and fifty percent to the county infrastructure fund.~~

~~(5) Any remaining amount is apportioned to the county infrastructure fund except from that remaining amount the following amounts are apportioned among school districts in the county:~~

~~(a) Four hundred ninety thousand dollars, for counties having a population of three thousand or fewer.~~

~~(b) Five hundred sixty thousand dollars, for counties having a population of more than three thousand and fewer than six thousand.~~

~~(c) Seven hundred thirty-five thousand dollars, for counties having a population of six thousand or more.~~

c. Twenty percent of all revenues allocated to any county for allocation under this subsection must be apportioned no less than quarterly by the state treasurer to the incorporated cities of the county. Apportionment among cities under this subsection must be based upon the population of each incorporated city according to the last official decennial federal census. A city may not receive an allocation for a fiscal year under this subsection and subsection 5 which totals more than seven hundred fifty 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. 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 this subdivision must be increased by eight hundred percent. If a city receives a direct allocation under subsection 1, the allocation to that city under this subsection is limited to sixty percent of the amount otherwise determined for that city under this subsection and the amount exceeding this limitation must be reallocated among the other cities in the county.

SECTION 3. REPORTS TO LEGISLATIVE MANAGEMENT - COUNTY FEDERAL FLOOD CONTROL MINERAL LEASES. Each county that receives revenue from mineral leases, bonuses, and royalties under section 21-06-10 shall report to the legislative management by September 30, 2012, on the amount and uses of such revenue received by the county from January 1, 2011, through June 30, 2012, showing each transfer or expenditure of those revenues and the amount of those revenues held by the county on June 30, 2012.

SECTION 4. EFFECTIVE DATE - EXPIRATION DATE. Section 1 of this Act is effective for revenue allocated to the state under 33 U.S.C. 701c-3 on or after the first day of the first month after this Act is filed with the secretary of state, is effective through July 31, 2013, and is thereafter ineffective. Section 2 of this Act is effective for taxable events occurring after June 30, 2011.

SECTION 5. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

option 3

11.0233.03008
Title.

Prepared by the Legislative Council staff for
Representative Drovdal
April 13, 2011

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2047

That the House recede from its amendments as printed on pages 900-903 of the Senate Journal and pages 1068-1071 of the House Journal and that Engrossed Senate Bill No. 2047 be amended as follows:

Page 1, line 1, after "21-06-10" insert ", subsections 2, 3, and 4 of section 57-51-15, and subsection 5 of section 57-51.2-02"

Page 1, line 2, after "lands" insert "and allocation of oil and gas gross production tax revenues"

Page 1, line 8, remove the overstrike over "~~**distributed**~~"

Page 1, line 8, remove "**through grants**"

Page 1, line 8, remove "**, school**"

Page 1, line 9, remove "**districts, and townships**"

Page 1, line 11, overstrike "701(c)(3)" and insert immediately thereafter "701c-3"

Page 1, line 11, remove "oil and gas impact grant fund, to be held in a special account within that fund"

Page 1, remove lines 12 and 13

Page 1, line 14, remove the overstrike over "~~entitled to receive them~~"

Page 1, line 16, overstrike "701(c)(3)" and insert immediately thereafter "701c-3"

Page 1, line 16, remove the overstrike over "~~A county~~"

Page 1, line 17, remove the overstrike over "~~receiving an allocation under this section~~"

Page 1, line 17, after the overstruck colon insert "may transfer or expend any portion of the amount received to or for the benefit of school districts and townships in the county, for the benefit of public schools and public roads."

Page 2, after line 13, insert:

"**SECTION 2. AMENDMENT.** Subsections 2, 3, and 4 of section 57-51-15 of the North Dakota Century Code are amended and reenacted as follows:

2. a. After deduction of the amount provided in subsection 1, annual revenue collected under this chapter from oil and gas produced in each county must be allocated as follows:

~~a.~~ (1) The first two million dollars must be allocated to the county.

~~b.~~ (2) The next one million dollars must be allocated seventy-five percent to the county and twenty-five percent to the state general fund.

~~c.~~ (3) The next one million dollars must be allocated fifty percent to the county and fifty percent to the state general fund.

~~d.~~ (4) The next fourteen million dollars must be allocated twenty-five percent to the county and seventy-five percent to the state general fund.

~~e.~~ (5) All annual revenue remaining after the allocation in ~~subdivision d~~paragraph 4 must be allocated ten percent to the county and ninety percent to the state general fund.

b. For taxes under this chapter imposed on oil and gas production within the Fort Berthold Reservation, the allocation to the county as determined under this subsection must be based on the entire amount of state and tribal taxes collected on that production, the allocation to the state general fund must be reduced accordingly, and the allocation to the Three Affiliated Tribes of the Fort Berthold Reservation must be as determined under the agreements entered under chapter 57-51.2 without any reduction under this subsection.

3. The amount to which each county is entitled under subsection 2 must be allocated within the county ~~so the first five million three hundred fifty thousand dollars is allocated~~ under subsection 4 for each fiscal year ~~and any~~for the first three million nine hundred thousand dollars for a county with a population of fewer than three thousand, four million one hundred thousand dollars for a county with a population of three thousand to six thousand, and four million six hundred thousand dollars for a county with a population of more than six thousand. Any amount received by a county exceeding ~~five million three hundred fifty thousand dollars is credited~~the amount to be allocated under subsection 4 must be allocated by the county treasurer to the county infrastructure fund and allocated under subsection 5.

4. a. Forty-five percent of all revenues allocated to any county for allocation under this subsection must be credited by the county treasurer to the county general fund. However, the allocation to a county under this subdivision must be credited to the state general fund if during that fiscal year the county does not levy 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.

b. Thirty-five percent of all revenues allocated to any county for allocation under this subsection 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~~superintendent of public instruction. 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~~ superintendent of public instruction shall certify to the county treasurer of each oil-producing county 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~~superintendent of public instruction required by this subsection.

~~The countywide allocation to school districts under this subdivision is subject to the following:~~

~~(1) The first three hundred fifty thousand dollars is apportioned entirely among school districts in the county.~~

~~(2) The next three hundred fifty thousand dollars is apportioned seventy-five percent among school districts in the county and twenty-five percent to the county infrastructure fund.~~

~~(3) The next two hundred sixty-two thousand five hundred dollars is apportioned two-thirds among school districts in the county and one-third to the county infrastructure fund.~~

~~(4) The next one hundred seventy-five thousand dollars is apportioned fifty percent among school districts in the county and fifty percent to the county infrastructure fund.~~

~~(5) Any remaining amount is apportioned to the county infrastructure fund except from that remaining amount the following amounts are apportioned among school districts in the county:~~

~~(a) Four hundred ninety thousand dollars, for counties having a population of three thousand or fewer.~~

~~(b) Five hundred sixty thousand dollars, for counties having a population of more than three thousand and fewer than six thousand.~~

~~(c) Seven hundred thirty-five thousand dollars, for counties having a population of six thousand or more.~~

c. Twenty percent of all revenues allocated to any county for allocation under this subsection must be apportioned no less than quarterly by the state treasurer to the incorporated cities of the county. Apportionment among cities under this subsection must be based upon the population of each incorporated city according to the last official decennial federal census. A city may not receive an allocation for a fiscal year under this subsection and subsection 5 which totals more than seven hundred fifty 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. 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 this subdivision must be increased by eight hundred percent. If a city receives a direct allocation under subsection 1, the allocation to that city under this subsection is limited to sixty percent of the amount otherwise determined for that city under this subsection and the amount exceeding this limitation must be reallocated among the other cities in the county.

SECTION 3. AMENDMENT. Subsection 5 of section 57-51.2-02 of the North Dakota Century Code is amended and reenacted as follows:

5. The allocation of revenue from oil and gas production taxes on the Fort Berthold Reservation must be as follows:

   a. Production attributable to trust lands. All revenues and exemptions from all oil and gas gross production and oil extraction taxes attributable to production from trust lands on the Fort Berthold Reservation must be evenly divided between the tribe and the state.

   b. All other production. The tribe must receive twenty percent of the total oil and gas gross production taxes collected from all production attributable to nontrust lands on the Fort Berthold Reservation in lieu of the application of the Three Affiliated Tribes' fees and taxes related to production on such lands. The state must receive the remainder.

   c. The state's share of the revenue as divided in subdivisions a and b is subject to distribution ~~among political subdivisions~~ as provided in chapters 57-51 and 57-51.1."

Page 2, line 15, replace "701(c)(3)" with "701c-3 on or"

Page 2, line 15, replace "July 31, 2011" with "the first day of the first month after this Act is filed with the secretary of state"

Page 2, line 15, replace "Section" with "Sections"

Page 2, line 15, after "2" insert "and 3"

Page 2, line 15, replace "becomes" with "are"

Page 2, line 16, replace "August 1, 2011" with "for taxable events occurring after June 30, 2011"

Renumber accordingly