

**2021 SENATE TRANSPORTATION**

**SB 2260**

# 2021 SENATE STANDING COMMITTEE MINUTES

## Transportation Committee Fort Totten Room, State Capitol

SB 2260  
1/28/2021

A BILL for an Act to amend and reenact subsection 5 of section 24-05-01 of the North Dakota Century Code, relating to the county road and bridge fund.

**Vice Chair Fors** calls the meeting to order. Present are Vice Chair Fors, Senators Bakke, Conley, Dwyer, D. Larsen. Chair Clemens is absent at initial roll call, but arrives at 9:17. [8:59]

### Discussion Topics:

- County roads
- County bridges
- Federal road funds
- Consolidating a fund for roads and bridges

**Senator Patten [8:59]** presents the bill and testifies in favor.

**Linda Svihovec [9:01]**, ND Association of Counties, testifies in favor and submits testimony #3982.

**Erica Johnsrud [9:16]**, auditor treasurer for Mckenzie County, testifies in favor and submits testimony #3916.

**Chair Clemens [9:17]** arrives at the meeting.

**Senator Dwyer [9:20]** motions DO PASS.

**Senator Bakke [9:20]** seconds.

Senators	Vote
Senator David Clemens	Y
Senator Robert Fors	Y
Senator Cole Conley	Y
Senator Michael Dwyer	Y
Senator Doug Larsen	Y
Senator JoNell Bakke	Y

Motion passes 6-0-0. [9:20]

**Senator Bakke** will carry.

**Chair Clemens** adjourns the meeting. [9:21]

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*Sheldon Wolf, Committee Clerk*

**REPORT OF STANDING COMMITTEE**

**SB 2260: Transportation Committee (Sen. Clemens, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2260 was placed on the Eleventh order on the calendar.

Testimony Prepared for the  
**Senate Transportation Committee**  
January 28, 2021  
By: Linda Svihovec, NDACo



## **RE: Support Senate Bill 2260**

Good morning Chairman Clemens and committee members. For the record, my name is Linda Svihovec with the North Dakota Association of Counties. Thank you for the opportunity to speak to you in support of Senate Bill 2260 on behalf of our 53 counties and their officials.

Senate Bill 2260 updates language in NDCC 24-05-01(5) to match current accounting practices and provides clarity on two county road levies that are set to expire in 2024.

Counties have historically included Highway Tax Distribution allocations with their Road and Bridge funds during the budget process when considering funds available for road maintenance and construction. Highway Tax allocations are either receipted directly into the county Road and Bridge fund or are receipted separately into a separate fund, and then transferred to the county Road and Bridge fund through the budget process. Since the permitted uses are the same for the county road levy funds as well as the highway tax distribution allocations, counties combine those funds when paying bills related to roads.

The State Auditor's office has recently interpreted the language in the last sentence in the first paragraph of Subsection 5 to indicate that highway tax distribution funds cannot be transferred to the county road and bridge fund. This language dates back to paper ledgers and is no longer consistent with modern county accounting procedures. SB2260 strikes that language to match the longtime county practice of combining the highway tax and county road and bridge funds for their common permitted uses.

The final sentence in Section 5 provides direction to counties on closing two county road levies that are set to expire in 2024 as a result of levy consolidation legislation passed in 2015. Referenced in the last sentence are the "county special road fund" and the "reserve road and bridge fund".

SB2260 updates the names of those two county road levy funds to match the fund names in the North Dakota Tax Department's Levy Limitations publication and also

referenced in tax code. Correcting the names of the two funds will provide clarity for the 31 counties still using the levies as to which funds are to be closed in 2024.

- Farm to Market and Federal Aid Roads (replaces “county special road fund”)
- County Road Fund (replaces “reserve road and bridge fund”)

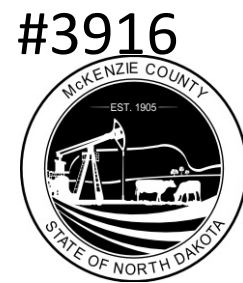
*Last sentence in NDCC 24-05-01(5):*

“Any unobligated balance in the ~~county special road fund~~ Farm to Market and Federal Aid Roads Fund and ~~reserve road and bridge fund~~ County Road Fund on August 1, 2015, must be transferred to the county road and bridge fund and the ~~county special road fund~~ Farm to Market and Federal Aid Roads Fund and ~~reserve road and bridge fund~~ County Road Fund must be closed out.”

*Below taken from July 2019 Schedule of Levy Limitations, ND State Tax Department*

1212	Farm-to-Market and Federal-Aid Roads	Levy established by ballot	N.D.C.C. § 24-05-01;	(x) Repealed by 2015 SB 2144. However, if a voter-approved levy was authorized before January 1, 2015, it remains in effect for up to 10 taxable years under the provisions of law in effect at the time it was approved.
1233	County Road Fund	5 Mills	N.D.C.C. §§ 24-05-01	(x) Repealed by 2015 SB 2144. However, if a voter-approved levy was authorized before January 1, 2015, it remains in effect for up to 10 taxable years under the provisions of law in effect at the time it was approved.

Chairman Clemens and committee members, the ND Association of Counties and its members request your support with a DO PASS on SB2260 to align with current accounting practices and to provide clarity for the county road levies set to expire in 2024.



Written Testimony for the  
**Senate Transportation Committee**  
January 28, 2021  
Erica Johnsrud, McKenzie County Auditor/Treasurer

**RE: SUPPORT for SB2260**

Good morning, Chairman Clemens, and members of the Senate Transportation Committee. My name is Erica Johnsrud and I am the Auditor/Treasurer for McKenzie County. I stand in support of SB2260.

This bill was introduced at the request of counties and seeks to cleanup language in ND Century Code that is no longer in line with modern accounting practices. Line 16 of the drafted bill references the portion of NDCC describing the Highway Tax Distribution Fund. As stated in section 11 of article X of the Constitution of North Dakota, these funds must be appropriated and “shall be appropriated and used solely for construction, reconstruction, repair and maintenance of public highways.”

Revenue for this fund, which is distributed by the ND State Treasurer, includes gasoline and other motor fuel excise and license taxes and motor vehicle registration and license taxes. The table below outlines information from the two years for allocations McKenzie County has received, as well as other information about our road projects and budgets.

Year	Funds Received	Miles Paved	Road Construction Budget	Road Maintenance Budget
2019	\$1.48M	21	\$86,165,000	\$4,065,000
2020	\$1.33M	28	\$75,935,000	\$5,730,000

In 2020 the cost to reconstruct and pave one mile in McKenzie County was approximately \$1.85M and the cost to gravel one mile is approximately \$560,000. As you can see the funds we have received have been spend for the costs as required – and do not even cover the cost to pave one mile of public roadways.

This legislation also corrects the names of county road levies to match the Levy Limitations Publication of the State Tax Commissioner which assist in providing more clear direction to counties regarding our road levies.

Thank you for your time today and I urge a DO PASS recommendation on SB2260.

**2021 HOUSE POLITICAL SUBDIVISIONS**

**SB 2260**



# 2021 HOUSE STANDING COMMITTEE MINUTES

## Political Subdivisions Committee Room JW327B, State Capitol

SB 2260  
3/4/2021

<b>Relating to the county road and bridge fund.</b>
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**Chairman Dockter: (10:31).** Opened the hearing.

Representatives	
Representative Jason Dockter	P
Representative Brandy Pyle	P
Representative Mary Adams	P
Representative Claire Cory	P
Representative Sebastian Ertelt	P
Representative Clayton Fegley	P
Representative Patrick Hatlestad	P
Representative Mary Johnson	P
Representative Lawrence R. Klemin	P
Representative Donald Longmuir	P
Representative Dave Nehring	P
Representative Marvin E. Nelson	P
Representative Luke Simons	P
Representative Nathan Toman	P

**Discussion Topics:**

- Highway Tax allocations

**Sen Patten:** Introduced the bill.

**Linda Svihovec, ND Association of Counties:** 7070. In favor.

**Erica Johnsrud, McKenzie County Auditor/Treasure:** Testimony #7200. In favor.

**Rep. Nelson:** Moved a do pass motion.

**Rep. Adams:** Second the motion.

Representatives	Vote
Representative Jason Dockter	Y
Representative Brandy Pyle	Y
Representative Mary Adams	Y
Representative Claire Cory	Y

Representative Sebastian Ertelt	Y
Representative Clayton Fegley	Y
Representative Patrick Hatlestad	Y
Representative Mary Johnson	Y
Representative Lawrence R. Klemin	Y
Representative Donald Longmuir	Y
Representative Dave Nehring	A
Representative Marvin E. Nelson	Y
Representative Luke Simons	Y
Representative Nathan Toman	Y

13-0-1 carried

**Rep. Nelson:** Will carry the bill.

**Chairman Dockter: (10:44).** Closed the hearing.

*Carmen Hickle, Committee Clerk*

**REPORT OF STANDING COMMITTEE**

**SB 2260: Political Subdivisions Committee (Rep. Dockter, Chairman)** recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2260 was placed on the Fourteenth order on the calendar.

Testimony Prepared for the  
**House Political Subs Committee**  
March 4, 2021  
By: Linda Svihovec, NDACo



## **RE: Support Senate Bill 2260**

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Written Testimony for the  
**House Political Subdivisions Committee**

March 4, 2021

Erica Johnsrud, McKenzie County Auditor/Treasurer

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