2023 SENATE FINANCE AND TAXATION

SB 2044

2023 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Fort Totten Room, State Capitol

SB 2044
1/4/2023

A BILL relating to transportation funding and expenditure reports.

Chairman Kannianen opened the hearing at 10:30 a.m. Senators Kannianen, Weber, Magrum, Rummel, Piepkorn and Patton were present.

Discussion Topics:

- Reporting importance

Shannon Fleischer, Associate Director of Tax Administration testified in favor and submitted testimony #12326.

Terra Miller, Deputy Director for Administration NDDOT, testified as neutral and submitted testimony #12327.

Chairman Kannianen closed the hearing at 10:55 a.m.

Danielle Butler, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Fort Totten Room, State Capitol

SB 2044
1/10/2023

A Bill relating to transportation funding and expenditure reports.

1:38 PM Chairman Kannianen called the meeting to order.
Senators Kannianen, Weber, Magrum, Rummel, Piepkorn and Patten were present.

Discussion Topics:

- Bill review

1:39 PM **Senator Weber** moved DO NOT PASS SB 2044
1:40 PM **Senator Patten** seconded DO NOT PASS SB 2044

1:40 PM Roll Call Vote DO NOT PASS

Senators	Vote
Senator Jordan Kannianen	Y
Senator Mark F. Weber	Y
Senator Jeffery J. Magrum	Y
Senator Dale Patten	Y
Senator Merrill Piepkorn	Y
Senator Dean Rummel	Y

Motion passed. 6-0-0

Senator Piepkorn will carry SB 2044.

1:41 PM **Chairman Kannianen** closed the meeting.

Danielle Butler, Committee Clerk

REPORT OF STANDING COMMITTEE

SB 2044: Finance and Taxation Committee (Sen. Kannianen, Chairman) recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2044 was placed on the Eleventh order on the calendar. This bill does not affect workforce development.

TESTIMONY

SB 2044

STATE OF NORTH DAKOTA
OFFICE OF STATE TAX COMMISSIONER
BRIAN KROSHUS, COMMISSIONER

Testimony
Senate Finance and Taxation Committee
Senate Bill 2044

January 4, 2023

Chairman Kannianen, and members of the Senate Finance & Taxation Committee:

My name is Shannon Fleischer, Associate Director of Tax Administration. I am here on behalf of the North Dakota Office of State Tax Commissioner in support of Senate Bill 2044. The bill amends North Dakota Century Code (N.D.C.C) § 54-27-26 relating to the annual Transportation Funding Reports required to be filed by counties, cities, and townships.

History of the Transportation Funding Report requirement under 54-27-26:

In 2009, SB 2012 created a new requirement for each county, city, and township to provide an annual report to the Tax Commissioner detailing the funding for their transportation projects and programs. The annual report requirements include the fund's beginning balance, fund revenues by source, fund expenditures by category, and the ending fund balance. The report is due to the Tax Commissioner within 90 days from the close of the calendar year.

The Office of State Tax Commissioner has been collecting this information since 2010. The Tax Commissioner does not use this information to administer any tax. The Department of Transportation is the only organization that continues to request this information from our agency. The Department of Transportation is required to report this information to the Federal Highway Administration.

Proposed changes to N.D.C.C.§ 54-27-26:

Senate Bill 2044 proposes changing the entity that receives the Transportation Funding Reports from the Tax Commissioner to the Director of the Department of Transportation. This change will create efficiencies in the reporting process by eliminating the Tax Commissioner as a middleman and reporting the information directly to the Department of Transportation.

Chairman Kannianen, and members of the Committee, the Tax Commissioner respectfully requests favorable consideration of Senate Bill 2044. I am available for any questions you may have. Thank you.

Prepared by:
Shannon Fleischer, Associate Director of Tax Administration
North Dakota Office of State Tax Commissioner
701-328-3431
sfleischer@nd.gov

NORTH Dakota | Transportation
Be Legendary.

Senate Bill No. 2044

Senate Finance and Taxation
Fort Totten | January 4, 2023, 10:30 a.m.
Terra Miller Bowley, Deputy Director for Administration

Good morning, Mr. Chairman and members of the committee. I'm Terra Miller Bowley and I'm the Deputy Director for Administration for the North Dakota Department of Transportation (NDDOT). I'm here to provide information on Senate Bill 2044.

This bill changes the state agency having responsibility for collecting city, county, and township highway funding and expenditure data. Currently the data is collected by the Tax Department, forwarded to the NDDOT which in turn fulfills the required reporting requirements imposed by the Federal Highway Administration (FHWA). Under the proposed legislation, the NDDOT would be the entity that collects the data.

In the 1990's, many states, including North Dakota, did not submit data to the FHWA, as required. Over the course of several years, the FHWA pushed back on this refusal by states to comply with the requirement, primarily through the threat of funding sanctions. North Dakota was one of the final holdouts, but eventually we also had to come into compliance.

The North Dakota legislature passed the provisions in NDCC 54-27-26 and the NDDOT worked with the Tax Department to craft the data elements necessary for local reporting efforts. We believe this legislation was originally driven by a desire on the part of the legislative assembly to have more timely and accurate information on the use of funds by local governments for highway purposes. Interestingly, NDCC 54-27-26 does not contain any requirement that the collected data be reported to the legislative assembly. Therefore, the primary direct user of the data has been the NDDOT in fulfillment of the federal reporting requirement.

Since the implementation of NDCC 54-27-26, all data collection systems and methodologies have been developed and handled by the Tax Department. The NDDOT does not have a system to collect the data, nor does it have the staff resources to handle the related collection responsibilities. Conversely, the Tax Department already has the ability to electronically collect the data through the Tax Department's system known as the Taxpayer's Access Point (TAP). Cities, counties and townships can either enter their data directly into this system, or they can complete a written form and submit it to the Tax Department. Manual forms must be processed into the TAP system by Tax Department employees. If this legislation were to pass as it currently reads, it will place NDDOT into a situation where we must either contract with an entity to gather and compile the data from the cities, counties, and townships, or a system will have to be developed to allow the local entities to submit their data electronically and

additional staff resources will be needed to assist with the processing and compilation of the data; either option will be costly.

There is a secondary problem currently inherent in NDCC 54-27-26 of which you should be aware. The current law, as well as the proposed law does not provide any consequences for non-compliance. Despite the requirements set forth in the law, the compliance by the cities, counties, and townships is dismal at best. According to information provided by the Tax Department, as of 9/1/2022, 21 counties out of 53 had filed their reports; this is a 40% filing rate. Of the 357 cities, only 68 had filed their reports; this equates to a 19% filing rate. For the townships, only 205 out of 1,325 had filed their reports for a filing rate of 15.5%. Several of the entities not in compliance are some of the larger counties and cities. This extremely low compliance rate and the fact that some of the larger entities are non-compliant poses a significant problem for the validity of the data reported to FHWA; it is very difficult to project a reasonably valid estimate of the cumulative highway funding and expenditures for the local governmental entities with such a low compliance rate.

In conclusion, while removing some administrative burden from the Tax Department, this proposed legislation will shift that burden to the NDDOT and place the NDDOT in a very difficult position with regards to collection and compilation of local transportation data. If the committee chooses to give the bill a "Do Pass" recommendation, we respectfully request that the legislative assembly provide the NDDOT two years before the bill would take effect and adequate fiscal and staff resources to ensure the successful development of an electronic reporting system and the necessary staffing to validate and compile the data, and/or the acquisition of a firm to collect and compile the data.

This concludes my testimony. Thank you.