

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.

