

2009 SENATE TRANSPORTATION

SB 2177

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2177

Senate Transportation Committee

Check here for Conference Committee

Hearing Date: January 22, 2009

Recorder Job Number: 7571

Committee Clerk Signature

Jody Hange

Minutes:

Senator Lee called the Transportation committee to order. Attendance was called. All committee members were present.

Senator Nodland opened the hearing on SB 2177 relating to the collection and distribution of highway funds; relating to the registration fee for the public transportation fund. He said the new formula aggregates those funds that had been going to the individual entities and puts them into a single pot. Then, each group receives a percentage of the total dollars, based on the amount of their original contribution. Written testimony #1.

Francis Ziegler, Director of ND Department of Transportation testified in support of SB 2177. Written testimony #2. He gave the history of the meetings and why this bill was put together.

Senator Fiebiger asked if in the new formula on the distribution if it closely matched and if there were any variation he thought were significant.

Ziegler answered no.

Senator Marcellais asked about tribal governments and the proposed changes and he didn't see tribal government % on the information give.

Ziegler said that their share comes right off the top because of previous agreements.

Senator Marcellais said on the flow cart there are different proposals.

Ziegler explained that the money for the tribal government comes off the top and they have agreements with 3 of the 4 tribes and they are working on the fourth agreement.

Senator Nodland asked if it changed anything with counties and townships.

Ziegler explain how the formula worked

Senator Potter asked if this was just an internal shift or am I going to pay \$3 more in registrations fees.

Ziegler said he would not be paying \$3 more.

Senator Potter asked what the effect would be on transit.

Ziegler said transit is going to be at 7.8 M, it was at 5.7 M.

Senator Potter asked if the 120 M goes away would this affect the transit program.

Ziegler said if the 120 M goes away it will affect this whole concept. He made reference to the companion bill in appropriations SB 2012.

Senator Nodland asked Ziegler to give the committee an update of how bad the roads and bridges are. He participated in one of the forums in Dickinson.

Ziegler will supply us with his testimony for SB 2012. #2

Mark Johnson, CAE-Executive Director of NDAC, testified in support of SB 2177. Written testimony #3.

Tom Balzer, North Dakota Motor Vehicle Carriers testified in support of SB 2177.

Connie Sprynczynatyk, ND League of Cities testified in support of SB 2177. Written testimony #4.

Senator Potter asked her to put on her Commissioners hat and he had a question concerning the funding and transit and the future.

Connie Sprynczynatyk said if the funding goes down we all suffer and if this happens we will have to all sit down and figure out how to meet the transit needs.

Russ Hanson, AGC of ND testified in support of SB 2177. He also said that he would get copies of the testimony for the committee that outlined the conditions of bridges and roads.

James Moench, Executive Director of the North Dakota Disabilities Advocacy Consortium (NDDAC) testified in support of SB 2177. Written testimony #5.

Jim Gilmore, Director of Planning and Development City of Fargo testified in support of SB 2177. Written testimony #6.

No opposing testimony.

Closed the hearing on SB 2177.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2177

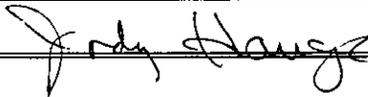
Senate Transportation Committee

Check here for Conference Committee

Hearing Date: January 22, 2009

Recorder Job Number: 7653

Committee Clerk Signature



Minutes:

Committee Work on SB 2177

Senator Nething moved a do pass and rereferred to the Appropriations Committee.

Senator Nodland seconded.

Discussion followed that supported the bill.

Roll call vote 6-0-0

Senator Gary Lee will carry the bill.

FISCAL NOTE
 Requested by Legislative Council
 01/23/2009

REVISION

Bill/Resolution No.: SB 2177

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill changes the Highway Tax Distribution allocation formula and places some tax and fee revenues previously allocated directly to various entities into the Highway Tax Distribution fund for allocation by way of the formula.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

This bill is intended to modify the allocation formula and the related fee and tax revenues that are allocated through the Highway Tax Distribution Fund. The sections of the bill with significant fiscal changes are:

SECTION 1

- Section 1 increases the Motor Vehicle Registration fees by \$3. Under current law, an additional motor vehicle registration fee of \$3 is assessed and credited to the Public Transportation Fund; section 6 of this bill removes that additional separate fee for public transportation. Section 1 of this bill replaces the revenue lost by the provisions of section 6 however; the revenue will now go into the Highway Tax Distribution Fund instead of the Public Transportation Fund. \$3 of Motor Vehicle Registration fees generates approximately \$4.7 million per biennium.
- Section 1 also changes the fund into which \$13 of each motor vehicle registration fee is deposited. Current law provides that \$13 of each motor vehicle registration fee be deposited directly into the State Highway Fund. Section 1 of this bill provides that this \$13 be deposited into the Highway Tax Distribution Fund. \$13 of motor vehicle registration fees generates approximately \$20 million per biennium.

SECTION 2

Section 2 changes the distribution rates for the Highway Tax Distribution Fund (HTDF) and adds the Township Highway Aid Fund and the Public Transportation Fund as recipients of the Highway Tax Distribution Fund through the new distribution rates.

- Under current law, the State Highway Fund receives 63 percent of HTDF allocations (plus the \$20 million of direct revenues from the \$13 of motor vehicle registration fees), the counties receive 23 percent, and the cities receive 14 percent. While the Public Transportation Fund and the Township Highway Aid Fund do not receive percentage allocations under current law, they do receive direct revenues of \$4.7 million and \$10.6 million respectively.
- Under the changes proposed in this bill, the State Highway Fund would receive 63.28 percent of HTDF allocations (but lose the \$20 million of direct revenues from the \$13 of motor vehicle registration fees), the counties would receive 20.15 percent, the cities would receive 12.27 percent, the Township Highway Aid Fund would receive 2.76 percent (but would lose the \$10.6 million of revenue from the one cent of dedicated fuel tax), and the Public Transportation Fund would receive 1.54 percent (but would lose the \$4.7 million from dedicated motor vehicle registration fees).

- It is very important to note that the allocation formula prescribed in Section 2 of the bill closely matches the percentage of funds the recipients realized in the 2007-2009 biennium through the Highway Tax Distribution fund or direct allocations. When coupled with the additional revenue provisions contained in SB2012, the provisions in SB2177 provide a transportation funding mechanism that provides all recipients with more transportation revenues than they currently receive.

SECTION 3

- Section 3 of the bill discontinues a separate allocation of one cent of motor fuel taxes which, under current law is allocated directly to the Township Highway Aid Fund. Section 3 of the bill provides that this one cent be deposited into the Highway Tax Distribution Fund. One cent of motor fuel tax generates approximately \$10.6 million per biennium.
- Section 3 provides that the one cent of fuel tax that is currently allocated directly to the Township Highway Aid Fund be eligible for refund to qualifying taxpayers. Under current law, some fuel purchases are eligible for tax exempt status; taxpayers are usually eligible to claim a refund of such taxes paid. However, current law also provides that the one cent of fuel taxes that is currently dedicated to the Township Highway Aid Fund is not eligible to be claimed for refund. Since Section 3 of the bill will remove the dedication of the one cent to the Township Highway Aid Fund, it also will allow taxpayers to obtain a refund of that one cent of fuel tax if they otherwise qualify for the tax exemption. The estimated amount of the tax that will be refunded under this provision is \$600,000 per biennium.

SECTION 6

- Section 6 eliminates the \$3 motor vehicle registration fee that is currently credited directly to the Public Transportation Fund. The revenue lost under this section is replaced by the revenue generated under section 1 of the bill.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

It is very difficult and somewhat misleading to present the revenue impacts of this bill without also including the impacts of SB2012. Therefore, we cannot accurately depict the revenue and expenditure impacts in Parts 1A and 1B of this fiscal note. However, the following revenue points are noted for consideration.

- The allocation formula prescribed in Section 2 of the bill closely matches the percentage of funds the recipients realized in the 2007-2009 biennium through the Highway Tax Distribution fund or direct allocations.
- As a result of the provisions of Sections 1 and 3 of this bill, the revenues to the highway tax distribution fund are increased by \$34.7 million (this is net of the \$600,000 of tax refunds discussed in part 2B of this fiscal note) while a like amount of direct allocations to the Public Transportation Fund (\$4.7 million), the Township Highway Aid Fund (\$10.6 million), and the State Highway Fund (\$20 million) are eliminated.
- Even without its companion bill (SB2012), this bill (SB2177) will result in increased revenue for the State Highway Fund, cities, counties, Public Transportation Fund, and the Township Highway Aid Fund as compared to the 2007-2009 biennium funding level. The growth in revenues from increased fuel consumption and motor vehicle registrations, coupled with the reallocations and formula changes provided for in this bill will result in increased revenues to the State Highway Fund of \$24.1 million, \$2.5 million for the cities, \$4.1 million for the counties, \$500,000 for the Township Highway Aid Fund, and \$200,000 for the Public Transportation Fund.
- As noted, this bill (SB2177) as written cannot be fully evaluated without also considering the impact of SB2012. Senate Bill 2012 injects \$120 million into the transportation funding mechanism by way of a one-time transfer from the state's General Fund.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

SB2177 does not directly affect appropriations. It is designed to change the revenue allocation structure through the Highway Tax Distribution Fund. However, it does impact the revenues that will be available for transportation funding for the NDDOT, cities, counties, townships, and transit.

The NDDOT appropriation is contained in SB2012 which is a "companion" bill to this bill. As previously mentioned, to fully reflect the transportation funding proposal, including the NDDOT appropriation, SB2177 must be considered in conjunction with SB2012.

Name:	Shannon L. Sauer	Agency:	NDDOT
Phone Number:	328-4375	Date Prepared:	01/26/2009

FISCAL NOTE
Requested by Legislative Council
01/12/2009

Bill/Resolution No.: SB 2177

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$34,700,000		\$34,700,000
Expenditures						
Appropriations						

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
			(\$3,000,000)	(\$1,800,000)		(\$3,000,000)	(\$1,800,000)	

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill changes the Highway Tax Distribution allocation formula and places some tax and fee revenues previously allocated directly to various entities into the Highway Tax Distribution fund for allocation by way of the formula.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The allocation formula prescribed in SB2177 closely matches the percentage of funds the recipients realized in the 2007-2009 biennium through the Highway Tax Distribution fund or direct allocations.

The negative impact to the counties and cities resulting from this bill is completely offset for the 2009-2011 biennium by the provisions of SB2012. In order to reflect the complete funding proposal, SB2177 must be considered in conjunction with SB2012.

The fee and tax revenues that would now be allocated through the Highway Tax Distribution Fund allocation formula are:

SECTION 1

- Increases the Motor Vehicle Registration fees by \$3, currently an additional registration fee credited to the public transportation fund.
- Eliminates the current \$13 allocation of each registration fee to the state highway fund.

SECTION 2

- Changes the distribution rates of the highway tax distribution fund.
- Adds townships and transit as recipients of the fund.

SECTION 3

- Removes the one cent allocation to the township highway aid fund.
- Allows one cent to be refunded (the 1 cent township portion is not subject to refund under current law)

SECTION 6

- Eliminates the \$3 registration fee credited to the public transportation fund (increased for distribution in section 1 above).

It is very important to note that this bill is intended to be considered in conjunction with a one-time transfer of \$120 million from the State General Fund provided for in SB2012. The fiscal impacts shown in Section 1A of this fiscal note DO NOT reflect the additional \$120 million provided by SB2012. Section 1A of this fiscal note only shows the fiscal impact of SB2177 considered by itself.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

As previously noted, the negative impact to the counties and cities resulting from this bill is completely offset for the 2009-2011 bienium by the provisions of SB2012. In order to reflect the complete funding proposal, SB2177 must be considered in conjunction with SB2012.

As a result of this bill, the revenues to the highway tax distribution fund are increased by \$34.7 million. These revenues are a result of the following changes:

- \$13 motor vehicle registration fee previously allocated directly to the highway fund (\$20 million)
- \$3 motor vehicle registration fee previously allocated directly to the public transportation fund (\$4.7 million)
- \$.01 per gallon of motor fuel taxes (net of refunds) previously allocated to township highway aid fund less refunds (\$10 million)

It must be noted that this data is only based on the provisions of SB2177. It is extremely important that this bill be considered in conjunction with SB2012 (the NDDOT appropriation bill). SB2012 provides for a one-time transfer of \$120 million from the State General Fund to be distributed through the Highway Tax Distribution fund in accordance with the new proposed allocation percentages contained in this bill (SB2177). In order to reflect the complete funding proposal, SB2177 must be considered in conjunction with its companion bill, SB2012.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

SB2177 does not directly affect appropriations. It is designed to change the revenue allocation structure through the Highway Tax Distribution Fund. However, it does impact the revenues that will be available for transportation funding for the NDDOT, cities, counties, townships, and transit.

The NDDOT appropriation is contained in SB2012 which is a "companion" bill to this bill. As previously mentioned, to fully reflect the transportation funding proposal, including the NDDOT appropriation, SB2177 must be considered in conjunction with SB2012.

Name:	Shannon L. Sauer	Agency:	NDDOT
Phone Number:	328-4375	Date Prepared:	01/21/2009

REPORT OF STANDING COMMITTEE

SB 2177: Transportation Committee (Sen. G. Lee, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2177 was rereferred to the Appropriations Committee.

2009 SENATE APPROPRIATIONS

SB 2177

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2177

Senate Appropriations Committee

Check here for Conference Committee

Hearing Date: 1/30/09

Recorder Job Number: 8210

Committee Clerk Signature



Minutes: **Senator Holmberg, Chairman**

Regarding the registration fee for the public transportation fund.

Senator Gary Lee – District 22 – Introduced the bill and gives an overview. He outlines a funding formula that was used for the distribution of highway dollars. That formula needs to be revised thus the reason for SB22177. In simple terms the formula aggregates those dollars and funds that had been going to the individual entities and puts them into a single pot. Each group then receives a percentage of the dollars based on the amounts of their original contribution. He then reviews the bill with the committee.

Senator Holmberg – Mentions that this committee has experts also because this bill is in conjunction with 2012, this bill will go to that sub-committee, which is Senators Wardner, Krebsbach, and Warner.

Senator Christmann – Asks if the townships and counties get their share, what is the difference between the county that has every township organized, so the county is getting it's share plus each township getting theirs compared to a county with no organized townships and takes care of the rural fuel projects.

Senator Lee- Unorganized townships are covered in section 3, page 9. He believes the county gets that fund and takes care of the roads as they normally would.

Senator Krebsbach – Has a question regarding the two fiscal notes. One dated 1/12 and the other dated 1/23, asks if there is a change in the bills or is this just an update in the fiscal information.

Senator Lee – He has only seen the fiscal note dated 1/12. DOT should be able to answer where the other came from.

Senator Bowman – He is looking at the fiscal note dated 1/12 and sees a negative to the counties and a negative to the cities, where is the positive, where does that money go. Your taking it out of the cities and counties, it needs to go somewhere.

Senator Lee – Says he is correct, he said it is a function of the math. The formulas have to be adjusted to account for the monies put in. He explains the formula and how they get their percentage.

Senator Holmberg – Mentions it is confusing having two fiscal notes and will wait to question the department on them.

Francis Ziegler -Director of the Department of Transportation – See written testimony. – In support of and urges a do pass.

Senator Seymour – Asks how much did we pay the Upper Great Plains Technical Institute to help you and why do we need them to help you.

Ziegler – Responds when you have a special study like this it takes a lot of time to pull it together, and a lot of energy to get all the data together and make it work. He said he doesn't have the staff anymore to take of those things. They still have planners but they are more production minded. Every set of plans they put out for a project gets more intense.

Senator Bowman – Asks about the new cars that will take less fuel, which is going to reduce the income for the state, aren't they lighter cars that won't wear the highways out so fast, so is there an offset.

Ziegler – Said yes the lighter the car the less wear and tear on the highway. We may have lighter cars but we have heavier trucks. Our weather plays a big role on our roads. ND, when they design bridges and roads they have more expansion and contraction than anywhere else in the country because of our temperature spread. They use a -40 and a +110 for calculations on what kind of expansion they need. He mentions the Memorial Bridge that was just built expands and contracts 7 inches at any given time. Some times in days.

Senator Christmann - Asks if anyone in the cities, the counties or contractors are in dissension.

Ziegler – As far as he knows everyone is in support.

Senator Christmann – Mentions the federal stimulus money for transportation, he asks if that revolves around matching funds or is it in a pool for specific projects.

Ziegler – Responds, the House and the Senate have both passed an economic recovery bill; there are some differences but not a whole lot. Sometime in mid to late February we should know what the stimulus package is. We know that ND will be getting around 200 million dollars. They are now designing those projects because they only have 90 days to get the first half of the funding under contract. It is 100% money, no match.

Senator Christmann - Is the 200 million state money or does it go into this formula?

Ziegler – He says they have gone out to the local governments and asked what they can get done in 90 to 180 days. If they can't get it done in that time it gets redistributed to the rest of the country. They are working with the local governments so they get their share.

Senator Christmann – Asks if they pass this bill are the shares divided by population or some other formula.

Ziegler – Responds that is in the formula, it hasn't changed.

Russ Hanson – Association of General Contractors – He said the various entities that were listed in Mr. Ziegler's testimony were all present at the policy hearing and all are on board.

Senator Warner – States, flushing so much money into the system all at once, do we have labor and technical expertise to take care of this.

Hanson - Responds, there will be challenges but feels they can meet them.

Senator Warner – Asks him to describe what kind of jobs are going to be available at the entry level.

Hanson – There will be a diverse amount of work for the very technical heavy equipment operators down to the laborers, pilot car drivers, flaggers.

Senator Grindberg – Does the 18 months give us two construction seasons.

Hanson- Responds yes.

Ziegler – Mentions in his testimony he said we had to have money in obligation after the first 90 days or 180 days for the second, it now looks like Congress is changing. The time it will take looks to be two construction seasons.

Senator Wardner – Asks Mr. Ziegler if the projects designed for the stimulus package would be taken care of first, because we only have so much work force and contractors. Can some of the state resources be put on the back burner until these others are taken care of?

Ziegler – Says, even if we get the stimulus money and the increase in 2012 and 2177, we won't get as much done as we would have in the past. We are going to do the stimulus money first.

Senator Robinson – Comments if all the states would do that we wouldn't have a stimulus.

The idea of this is above and beyond, this is supposed to be another shot in the arm to do

things different, to really bolster this economy. It is a catch 22.

Senator Wardner – Asks do we have the capacity to do it all, do we have the contractors out there to do what we have planned for our own money plus the stimulus money.

Ziegler – Said he has made the comment before but the stress level at the DOT is as high as it's ever been. He is asking his engineers to design not only the standard program but also 200 million dollars more. He is committed they will do it.

Senator Grindberg – States once the bids are let, can we get the job done. We only have so many contractors in ND.

Ziegler – Says we are very fortunate in ND to have a lower unemployment rate. The whole strategic effort is to put people back to work and take care of infrastructure. America's infrastructure is deteriorating rapidly. We get a lot done and we need to kick it up a notch.

Senator Fischer – Asks if anyone working present contracts will ask for extensions so they can do the stimulus package work.

Ziegler – Mentions there is not much on the books right now.

Senator Warner – Asks if there is money for internships.

Ziegler – Stated, last summer we put in 18 internships. We are in the schools teaching engineering.

Ken Tupa – Dakota Transit Committee – Testified in favor of SB 2177. Supports all entities involved.

Senator Holmberg closed the hearing on SB 2177

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2177

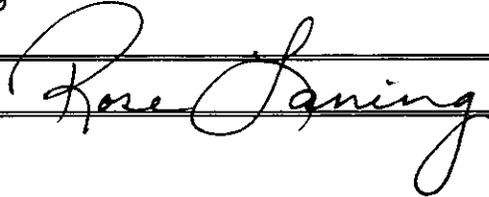
Senate Appropriations Committee

Check here for Conference Committee

Hearing Date: February 17, 2009

Recorder Job Number: 9639

Committee Clerk Signature



Minutes:

Chairman Holmberg opened discussion on SB 2177.

Chairman Holmberg asked if the subcommittee agreed that SB 2177 be killed?

Senator Wardner replied that they did.

Senator Warner Moved Do Not Pass on SB 2177

Senator Wardner seconded.

A Roll Call vote was taken. Yea: 13 Nay: 1 Absent: 0

Date: 2-17-09

Roll Call Vote # 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2177

Senate _____ **Senate Appropriations** _____ Committee

Check here for Conference Committee

Legislative Council Amendment Number Kill 2177

Action Taken Do Pass Do Not Pass Amended

Motion Made By Wardner Seconded By Robinson

Senators	Yes	No	Senators	Yes	No
Sen. Ray Holmberg, Chairman	✓		Sen. Aaron Krauter	✓	
Sen. Bill Bowman, VCh	✓		Sen. Elroy N. Lindaas	✓	
Sen. Tony S. Grindberg, VCh	✓		Sen. Tim Mathern	✓	
Sen. Randel Christmann	✓		Sen. Larry J. Robinson		✓
Sen. Tom Fischer	✓		Sen. Tom Seymour	✓	
Sen. Ralph Kilzer	✓		Sen. John Warner	✓	
Sen. Karen K. Krebsbach	✓				
Sen. Rich Wardner	✓				

Total Yes 13 No 1

Absent 0

Floor Assignment ~~Wardner~~ Warner

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

REPORT OF STANDING COMMITTEE (410)
February 17, 2009 4:59 p.m.

Module No: SR-31-3171
Carrier: Warner
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2177: Appropriations Committee (Sen. Holmberg, Chairman) recommends DO NOT PASS (13 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2177 was placed on the Eleventh order on the calendar.

2009 TESTIMONY

SB 2177

#1

January 21, 2009

Good Morning, Mr. Vice Chairman & members of the Senate Transportation Committee. I am Gary A. Lee, Senator from District 22, which includes much of the greater parts of Cass County.

I intend a brief introduction of SB 2177. A bill that comes after much collaboration, compromise and work by those that put Highway Funds, to beneficial use in our State.

During the past interim, The Great Plains Transportation Institute sponsored a series of workshops across the State for the purpose of providing & soliciting information from policymakers, users, builders, & planners, of the State's transportation system. The meetings produced an insiteful set of findings & challenges. A brief summary would include:

- Transportation infrastructure is a critical element of economic development
- Personal mobility & road networks are essential to daily life
- Inflation has eroded the ability to complete projects
- Current funding is not meeting all of the transportation & transit needs for ND
- All political subdivisions require an added infusion of dollars

One conclusion that was drawn from those working to put the workshop knowledge into action, was that the funding formula used for the distribution of highway dollars needed revision; Thus SB 2177.

Individuals representing DOT, counties, cities, townships, transit & contractors will speak directly to the changes that are being requested in the formula. But in very simple terms, the new formula aggregates those funds that had been going to the individual entities & puts them into a single pot. Then, each group receives a percentage of the total dollars, based on the amount of their original contribution.

Committee members, the Bill is a cooperative approach to securing funding for the needs of each stakeholder. It provides a thoughtful re-tooling of a very complex formula. It is a good Bill with constituent buy in. I ask that you will give SB 2177 a favorable endorsement.

SENATE TRANSPORTATION COMMITTEE

January 22, 2009

9:00 a.m. – Lewis and Clark Room

North Dakota Department of Transportation**Francis G. Ziegler, P.E., Director****SB 2177**

Good morning, Mr. Chairman and members of the committee. I'm Francis Ziegler, Director of the North Dakota Department of Transportation (NDDOT). Thank you for giving me the opportunity to present information to you this morning. I'm here to support SB 2177.

The effort to address transportation needs started two years ago. After the last legislative session, a group representing various agencies got together to discuss transportation needs and funding.

The NDDOT, counties, cities, townships and transit providers all face major challenges in maintaining and improving their road, bridge, street network and services.

- **Upper Great Plains Technical Institute (UGPTI) Workshops and Needs Study** – In the spring of 2008, the UGPTI hosted a series of eight regional transportation workshops and one statewide meeting. About 500 people attended the workshops including a cross-section of participants (including legislators) representing a variety of transportation interests. The purpose of the workshops was to inform participants, solicit input, and encourage future involvement. Some of the major findings and challenges indentified include:
 - Transportation infrastructure and personal mobility are critical to economic development.
 - Customer expectations related to highways and transit systems are increasing.
 - Transit services enhance the mobility of our residents and allow people to stay in their homes and communities.
 - Demands on the transportation system have increased significantly due to agriculture production, processing and energy development.
 - Inflation has had a significant impact on the purchasing power of transportation dollars. Reduced purchasing power results in deferred maintenance.
 - The Federal Highway Trust Fund is not generating adequate revenue to support expenditures.
 - Increased funding is needed by all jurisdictions to meet current and future needs.

As a result of public input, and the need for additional transportation funding by all jurisdictions, the steering committee recommended a change in the formula allocation and a revenue enhancement. Following is an overview of the transportation needs that were used as a basis for recommending additional state revenue for transportation.

Table 1, which was prepared by the UGPTI, provides an overview of the revenue needed to maintain existing roadway and bridge conditions in North Dakota. The table does not include needs for system expansion or operational expenditures for snow removal, signing, mowing, or other maintenance activities indirectly relating to roadway surface condition.

The table shows the annual needs for roads and bridges on the state system are about \$243 million. There are also substantial needs on the local road and street networks. The county needs are approximately \$160 million, urban streets \$71 million, townships \$36 million and small city streets \$30 million.

The table also shows the current average annual funding levels and annual revenue shortfalls for maintaining the existing condition of roads and bridges.

Table 1 -- Comparison of Annual Needs to Revenue (UGPTI June 2008)					
	Annual Needs	Present Average Annual Funding	Inflation	2007 Buying Power	2008 Difference
State System	Roads & Bridges \$242.9 M	Federal & State \$148 M	15%	\$125.8 M	\$117 M
County	Roads & Bridges \$159.5 M	Federal, State & Local Mill Levies \$75.6 M ¹	15%	\$64.3 M	\$95.6 M
Urban	Streets \$70.7 M	Federal & State \$52.3 M ²	15%	\$44.4 M	\$26.3 M
Townships	Roads \$36.3 M	State & Local Mill Levies \$24.7 M	15%	\$21 M	\$15.3 M
Small Cities	Streets \$29.7 M	Special Assessments NA	15%	NA	NA
Transit	\$13.7 M	State & Local Match \$13.2 M	15%	\$11.2 M	\$2.5 M

¹Does not include oil/gas/coal impact fund; ²Does not include local revenue generated for transportation; NA: Not available

Current Allocation of the Highway Tax Distribution Fund

SB 2177 would significantly modify the way highway user revenues are disbursed through the Highway Tax Distribution Fund. Currently, with some exceptions, all motor vehicle registrations (after deduction for motor vehicle program costs) and fuel taxes are deposited into the fund and distributed based on a formula whereby the NDDOT receives 63 percent, the counties receive 23 percent, and the cities receive 14 percent.

The exceptions, which either never go into the Highway Tax Distribution Fund or are distributed off of the top of the fund before the remainder is allocated, are:

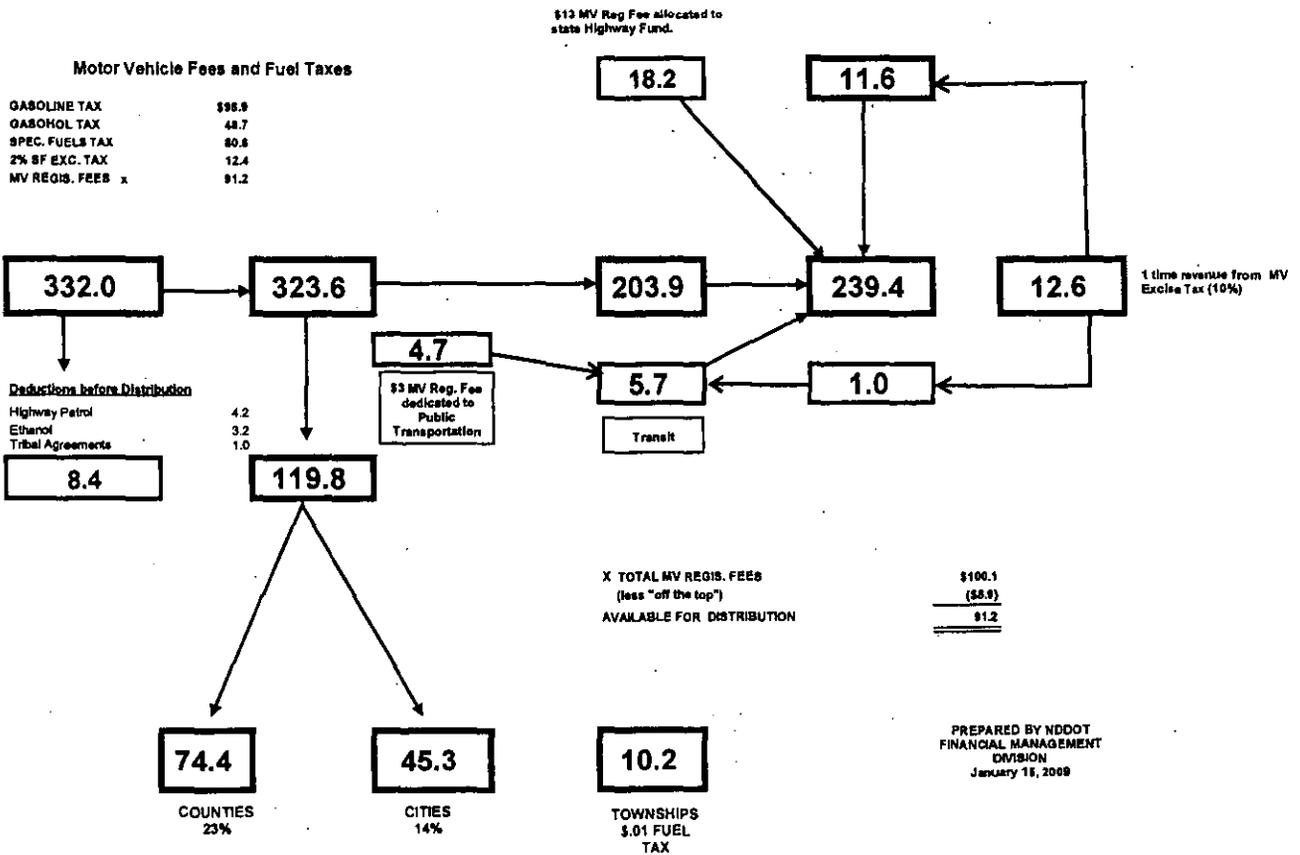
- \$13 dollars of every motor vehicle registration goes directly to the Highway Fund.
- Ten percent of the Motor Vehicle Excise Tax is deposited directly into the State Highway Fund (approximately \$12.6 million); \$1 million of this amount is dedicated to transit. This is a one-biennium provision; this allocation is scheduled to expire on June 30, 2009.
- \$3 of every motor vehicle registration goes directly to the Highway Fund for the Public Transportation programs.
- The Highway Patrol, the Ethanol Production Incentive Fund, and various tribal governments receive a total of about \$8.4 million dollars.
- Townships receive the revenue from one cent of fuel taxes (approximately \$10.2 million).
- The Motor Boat Program and Safety Account receives an amount equal to \$2.50 times the number of motor boats registered with the Game and Fish Department. This is approximately \$200,000 per biennium.
- The State Snowmobile Fund receives an amount equal to the tax on 30 gallons of fuel times the number of snowmobiles registered. This is approximately \$200,000 per biennium.

The chart on the following page shows the estimated distribution of 2007-2009 biennium revenues through the Highway Tax Distribution Fund as provided for under current law.

DEPARTMENT OF TRANSPORTATION 2007 - 2009 BIENNIUM Current Highway Tax Distribution Fund Revenues

(MILLIONS)

HIGHWAY TAX DISTRIBUTION FUND



Proposed Changes to the Highway Tax Distribution Fund Allocation Formula

This legislative assembly is being asked to consider changes to the allocation formula. The changes bring some of the previously mentioned dedicated allocations into the highway tax distribution fund for distribution through the new formula.

Under the new allocation formula, the DOT is allocated 63.28 percent, the townships receive 2.74 percent, the counties and cities receive 32.45 percent (20.17 and 12.28 percent respectively), and public transportation will receive 1.53 percent. This allocation formula is prescribed in SB 2177 and closely matches the percentage of funds the recipients realized in the 2007-2009 biennium through the Highway Tax Distribution Fund or direct allocations.

The \$13 and \$3 dollar motor vehicle registration fee allocations that were previously dedicated to the State Highway fund and public transportation will now be deposited in the Highway Tax Distribution Fund and distributed by way of the new allocation percentages, as will the one cent of fuel tax currently allotted to the townships.

The allocations for the Highway Patrol and the Ethanol Production Incentive Fund will continue as they currently are; the motor vehicle program costs will also continue to be funded "off the top" before the fund is allocated. The funding to the Motor Boat Program and Safety Account and the State Snowmobile Fund will continue as it currently is.

In conjunction with this proposal, SB 2012 provides for a one-time transfer of \$120 million from the State General Fund to be distributed through the Highway Tax Distribution Fund in accordance with the new proposed allocation percentages.

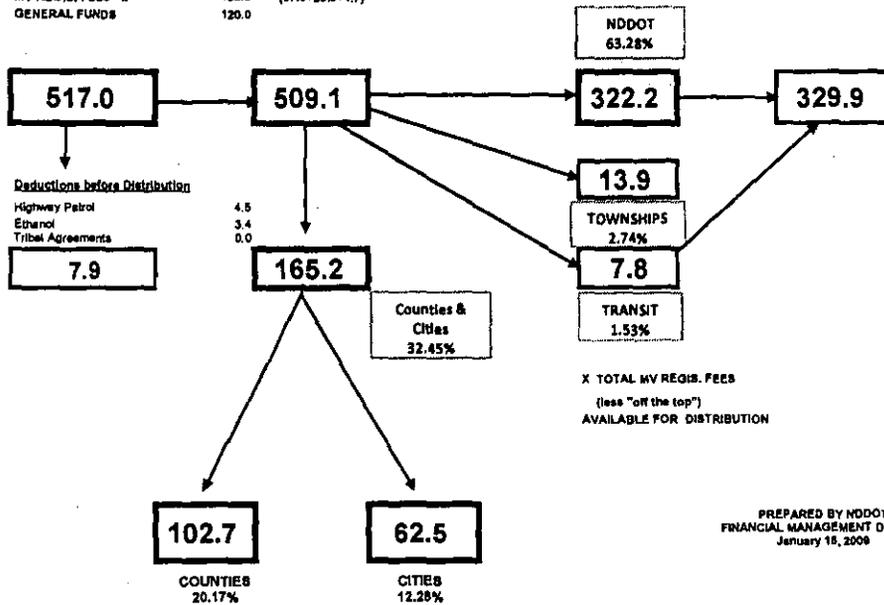
The chart on the following page shows the estimated distribution of 2009-2011 biennium revenues through the Highway Tax Distribution Fund as proposed.

**DEPARTMENT OF TRANSPORTATION
2009 - 2011 BIENNIUM
Proposed Highway Tax Distribution Fund Revenues**
(MILLIONS)

**HIGHWAY TAX
DISTRIBUTION FUND**

Motor Vehicle Fees and Fuel Taxes

GASOLINE TAX	82.0	(\$85.0+6.4)
GASOHOL TAX	99.4	
SPEC. FUELS TAX	96.4	(92.8+3.6)
2% SF EXC. TAX	16.6	
MV REGIS. FEES x	122.8	(97.9+20.0+4.7)
GENERAL FUNDS	120.0	



X TOTAL MV REGIS. FEES	\$109.3
(less "off the top")	(\$11.4)
AVAILABLE FOR DISTRIBUTION	<u><u>97.9</u></u>

PREPARED BY NDDOT
FINANCIAL MANAGEMENT DIVISION
January 15, 2009



The new formula provides a vision for the future of transportation. The Upper Great Plains Institute and several groups including: Association of Counties, League of Cities, Township Officers, Transit, Associated General Contractors organization and the NDDOT worked together to create a formula to provide funding to meet transportation needs across the state.

Mr. Chairman, this concludes my testimony and I would be happy to answer any questions the committee may have. Thank you.

**Testimony To
THE SENATE TRANSPORTATION COMMITTEE
Prepared Thursday, January 22 by
Mark A. Johnson, CAE - Executive Director
North Dakota Association of Counties**

REGARDING SENATE BILL No. 2177

Chairman Lee and members of the Senate Transportation Committee, our Association and the counties we represent would like to thank you for the introduction of this bill, and explain our strong support for what it proposes.

Throughout the past year, a broad coalition of transportation interests has been holding public meetings across the State with the organizational help of the Upper Great Plains Transportation Institute. The turnout at every one of these meetings became a clear indication of the interest that local officials, business owners, agricultural producers, truckers, contractors, the elderly, the disabled, and a host of other citizens have for this issue. All were concerned with the impact of rising costs and deterioration in transportation service – whether this was road conditions, timely maintenance, lack of resources, or simply transit fare costs. It became obvious that to address these concerns, a broad-based comprehensive solution would be needed.

Senate Bill 2177 is a key component of that solution, and when combined with the enhanced transportation funding in Senate Bill 2012, will make significant strides toward an improved transportation system for North Dakota.

Attached to my testimony is a somewhat simplistic illustration of the flow of transportation funding now, contrasted with how it would look after the approval of SB2177. During the last three or four Sessions, the various components of the transportation sector have worked to nibble around the edges of our current transportation funding structure, proposing (and sometimes creating) dedicated funding streams that benefit that single component. This piecemeal approach to transportation would be replaced by SB2177 with a comprehensive funding strategy that would put all components in the same boat, obligating each to work for the benefit of all.

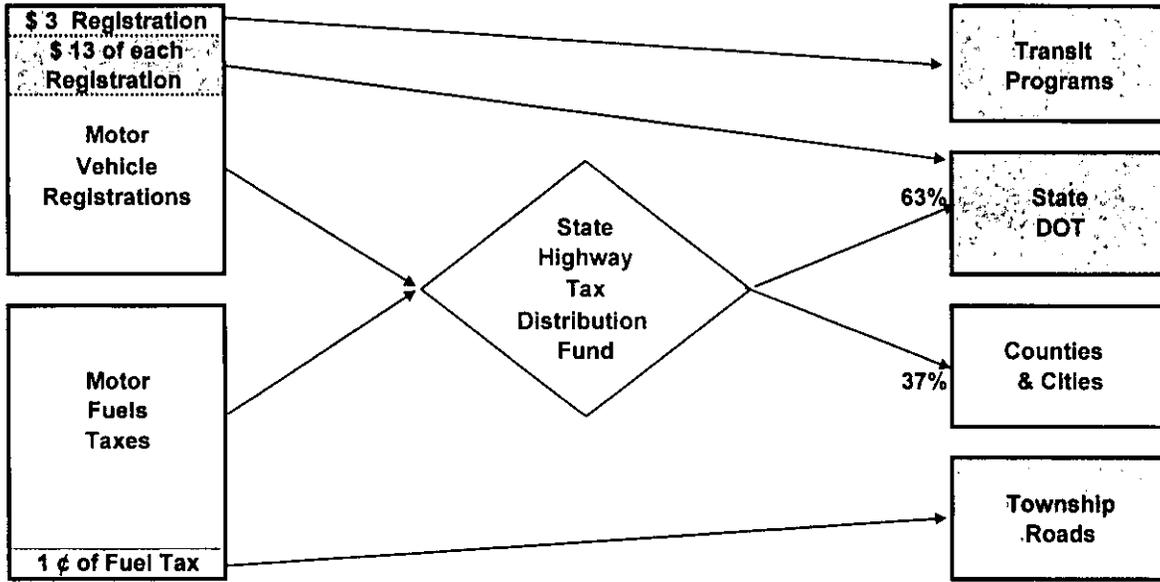
This formula change would bring the isolated and fixed funding for townships and transit into this dynamic funding structure for the first time, and with the \$120 million of SB2012 provide a 32% increase in funding for the State DOT, counties, cities, townships, and transit.

It is important to realize that SB2177 contains no fee or tax increase. While Section 1 of the bill appears to raise registration fees by \$3, in reality this simply replaces the flat \$3 fee for transit that is repealed in the final section of the bill. As illustrated on my attachment, transit authorities and townships are written into the state Highway Tax Distribution Fund and will receive a permanent percentage share as NDDOT, counties and cities have for well over 30 years.

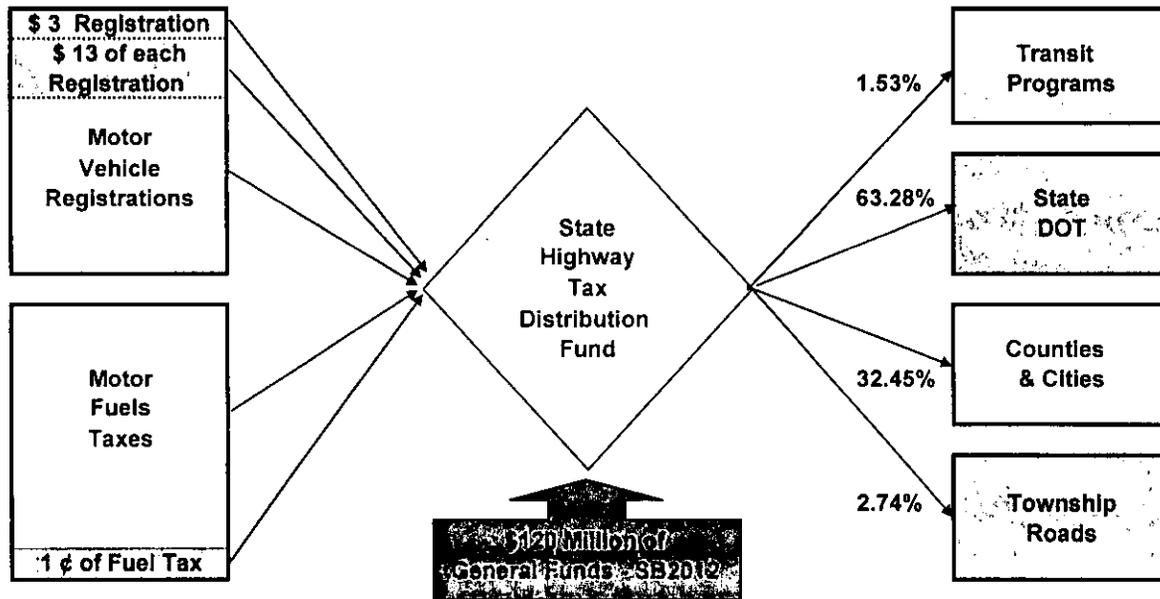
This is a monumental and historic piece of legislation, and something that has been embraced by, not only road and transit authorities, but business groups, transportation, contractors, and farm organizations. We in county government are extremely excited about the potential for such a strong coalition, committed to the betterment of our State.

Mr. Chairman and committee members, county government strongly urges a "Do Pass" recommendation on SB2177.

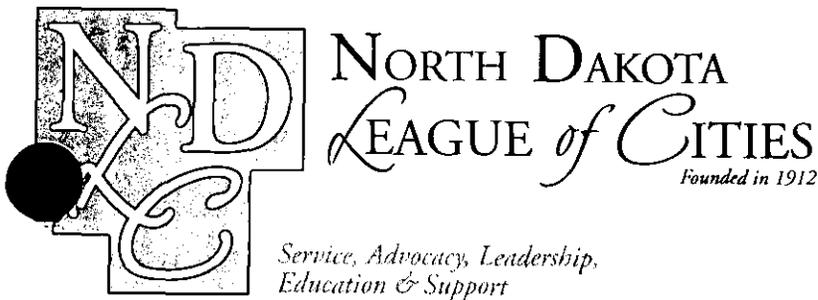
CURRENT TRANSPORTATION CASHFLOW *



PROPOSED TRANSPORTATION CASHFLOW - SB2177 *



* Generalized - does not change formula for ethanol, highway patrol, tribal, snowmobile & motorboat allocations



#4

Senate Transportation Committee
Senate Bill 2177
January 22, 2009

For decades, the cities and counties in North Dakota have worked with the state's Department of Transportation to address transportation needs. North Dakota's 357 incorporated cities use state, federal and local funds to maintain and improve streets, and transportation funds have become the largest per capita payment to cities.

During the 2007-09 interim, the League participated with representatives of local government, the private sector, the Upper Great Plains Transportation Institute and the state in determining the public's view of our transportation system as a key component in growing North Dakota's economy.

The results of eight meetings around the state, and a wrap-up statewide conference in the spring of 2008, did not surprise anyone. There is widespread recognition across the private and public sector that transportation needs have outstripped available funding. In fact, the annual shortfall among cities, counties, townships, transit and the state *exceeds \$550 million per year*.

Together, using all available sources of funds, we have made substantial investments in transportation and this state-local partnership has served us well over the decades. City leaders recognize the value of maintaining a high level of transportation services at the local level, as well as the crucial need for a well-maintained network of highways that connect communities and indeed the United States.

The League supports SB 2177 which will bring cities, counties, transit, townships and the state into the distribution fund at the proportionate level of funding we are now sharing. We also support the North Dakota Department of Transportation's 2009-11 budget which includes the executive budget recommendation to invest an additional \$120 million in transportation infrastructure and transit through the State Highway Distribution Fund.

We applaud the state's investment in this critical component of economic development and we will continue to be partners in funding state and local transportation needs.

Connie Sprynczynatyk
Executive Director

#5. Copy Book

Testimony
North Dakota Disabilities Advocacy Consortium
SB 2177
Senate Transportation Committee
Chairman Senator Gary Lee

Senator Lee and members of the Senate Transportation Committee, my name is James M. Moench, Executive Director of the North Dakota Disabilities Advocacy Consortium. NDDAC support Senate Bill 2177

While we support a strong transportation system for North Dakota, we are especially concerned with the needs of people with disabilities (PWD) and the aged - who may be the same person

PWD are the largest minority in ND
14% of ND over age of 5 has a disability
Some 83,000 ND citizens
29.4 % for persons age 65-74
47% for person over age 75

Whether they stay in their small rural town or farm home or move to the "big city"—they stress the transportation system. In the rural setting, the issue tends to be less people, but with greater needs and at greater distances.

Low density –Higher Cost per ride

In the urban setting, the need is for more routes and expanded times (evenings and weekends), better trained drivers, and updated, accessible, equipment. **More density, but PWD have difficulty using fixed routes in a timely manner.**

People need reliable transportation to live their lives for work, medical, spiritual, social, friendship, shopping, or maintaining family activities and contacts. Daily living activities that we all need to do and most of us take for granted.

Just look at working—paying taxes and being a contributing member of their community. In 52.6 % of persons with a disability work, that is the highest in the nation. 87.2 % for persons without a disability work, which is also the highest in the nation. In order to maintain that standing, and I think we want to, they requires services like timely transportation to and from work. Just look at the need for more employees and the potential, 14.4 % of persons

(over)

with disabilities who do not work are currently actively seeking employment. Everywhere I go, I see "Help Wanted" signs in the windows of businesses. Let's put these potential employers and employees together. The hours of greatest ridership are from 8am to 9am and from 4pm to 5pm. If the bus only runs from 8 to 5, that should be telling us something. What if you are offered a job from 8 to 5, you have a transportation problem.

In order to receive medical services, patients need to be able to schedule appointments and be on time keeping those appointments. Medical service providers constantly testify at the legislature that the major reason they don't take new Medicaid patients is not being able to rely on them being on time for appointments. People with disabilities tell me that a major reason for that reputation is the difficulty in scheduling reliable transportation services.

Every meeting on disability issues invariable turns to transportation. Everybody has a horror story, but solutions are few. More hours, more routes, more choices, better equipped vehicles, more drivers, etc **mostly more Money!!**

Partnerships in funding – fares even if increased dramatically will not fund public transportation alone. A quality transportation system including transit also needs city, county, state and national components. Highway funding for transit must be increased not decreased. It is an investment in the future.

Transit has identified the need to sit at the table with all the transportation sectors when priorities are selected and transportation issues decided.

Sound transportation systems investment in an adequate transportation infrastructure will play a significant role in preserving, enhancing, and even determining North Dakota's future quality of life. NDDAC feels that rationalizing and streamlining the funding as found in SB 2177 moved North Dakota in that direction and we ask your support.

Thank you.

Senators Lee and Fiebiger,

I'm contacting you on behalf of the City of Fargo regarding the transit funding portion of SB 2177. The hearing on this transportation funding bill will be on Thursday at 9:00, and I wanted to let you know that public transportation funding for our bus system is extremely important. This bill, along with the proposed DOT appropriations bill, would increase funding for all transportation by \$120 million, with public transportation receiving an increase from \$5.7 million to \$7.8 million for the two year biennium.

Fargo has identified a need for three new bus routes to serve areas in south Fargo where there is no bus service.

- West Acres to the Microsoft and Osgood area.
- K-Mart to the neighborhoods south of 32nd Ave. South.
- North-south on 25th St. from the 52nd Ave. S. commercial areas to 13th Ave. S

The cost of these three new routes will be over \$600,000 a year. The proposed increase in transit funding would provide Fargo about \$100,000 a year, so if matched with federal funding, one of these needed routes may be possible next year. Fargo already contributes about \$800,000 of local general fund money for public transportation, and has also raised bus fares this year. There have also been large increases in the costs of providing transit for persons with disabilities.

The Federal Transit Administration provides North Dakota with \$8 million a year in funding for public transportation. Grants are provided to the State, Fargo, Bismarck, and Grand Forks. Of these funds, Fargo receives \$1.7 million a year. There are local match requirements (50% for operating and 20% for capital) for these funds, and so state and local funds are needed to match all available federal funds.

Higher gas prices, a concern for the environment, and a growing number of college students have increased ridership on the Fargo bus system. Ridership increased over 25% last year. Because of this increased ridership, there have been requests for service in newer south side neighborhoods, and the city of Fargo needs State of ND money to help pay for these routes.

I won't be able to attend your hearing, so if you have any questions, please feel free to contact me. Thank you for your time and consideration. Senator Lee, thank you for sponsoring this bill.

Jim Gilmour, Director of Planning and Development
City of Fargo
200 N. 3rd St.
Fargo, ND 58102

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E-mail - jgilmour@cityoffargo.com
Website - www.cityoffargo.com/Planning

The new formula provides a vision for the future of transportation. The Upper Great Plains Institute and several groups including: Association of Counties, League of Cities, Township Officers, Transit, Associated General Contractors organization, North Dakota Motor Carriers Association and the NDDOT worked together to create a formula to provide funding to meet transportation needs across the state.

Mr. Chairman, this concludes my testimony and I would be happy to answer any questions the committee may have. Thank you.

*Pages 1-6 also
given to Senate
Transportation
(Francis Ziegler)*

Companion
2177 bill

#2

SB 2012

SEE SENATE APPROPRIATIONS FOR THIS TESTIMONY UNDER SB 2012

TESTIMONY BEFORE THE SENATE APPROPRIATIONS COMMITTEE

2009-2011 Biennium Budget

Prepared by
NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
BISMARCK, NORTH DAKOTA

DIRECTOR
Francis G. Ziegler, P.E.

JANUARY 2009