

2013 SENATE TRANSPORTATION

SB 2025

2013 SENATE STANDING COMMITTEE MINUTES

Senate Transportation Committee
Lewis and Clark Room, State Capitol

Senate Bill 2025
January 17, 2013
Recording Job Number 17325

Conference Committee

Doris E Perez

Explanation or reason for introduction of bill/resolution:

Relating to extraordinary road use fees, to provide a continuing appropriation; and to provide an expiration date.

Minutes:

Attached testimony:

Chairman Oehlke Opened the hearing on Senate Bill 2025

John Bjornson, Legislative Council, staffed Advisory Commission on Intergovernmental Relations (ACIR). I am here neither for nor against this bill, just to provide background information. Bill came from a study commissioned by ACIR regarding whether county can enact ordinances to issue permits and regulate highway restrictions on their roads (not interstate or state highways). An opinion from the Attorney General said local jurisdictions can retain permit fees but enforcement fees (fines), aka known as extraordinary road use fees, go into the state highway fund. This bill allows local jurisdictions to keep money from extraordinary road use fees, page 1 section 1 lines 16-19, which must be deposited in the general fund of the jurisdiction having authority over the road on which the violation occurred and must be used for the support of the road system of that jurisdiction. In section 2 there is a process whereby a jurisdiction can confiscate the vehicle and any proceeds go to the general fund of the jurisdiction and to be used for the support of the road system of that jurisdiction. There is a four year expiration date on this bill, after which it will be decided to make this a permanent law or not. Counties not concerned with fiscal impact because it would be a positive impact on them. There was no discussion of fiscal note during interim.

Representative Lawrence R Klemin, District 47 Bismarck, Chairman of the State Advisory Commission on Intergovernmental Relations (ACIR). In favor. See attached testimony 1.

Terry Traynor, Assistant Director of the North Dakota Association of Counties. In favor of the bill. See attached testimony 2

Lynn Brackel, Commissioner, Bowman County Commission, Bowman North Dakota Supports Senate Bill 2025 See attached testimony 3.

Brad Darr, Maintenance Division Director at the North Dakota Department of Transportation (DOT) See attached testimony 4 in support of this bill as drafted.

Keith Magnusson, North Dakota League of Cities, this bill makes sense because the fees are for damages to the roads and they should go back to fix those roads that were damaged.

Michael Reitan, Assistant Chief of Police West Fargo, North Dakota. For self. The overweight construction loads use mostly residential streets which are not meant for this kind of traffic and it is very important that we spend time in those areas. It is not so much the collection of the fees but the deterrence factor. We see a positive impact in the community by implementing the weight restrictions. I ask your support for this bill.

Eldon Mehrer Motor Carrier Operations Commander North Dakota Highway Patrol Here to answer questions from the committee In answer to Senator Campbell's question if this law would be an incentive to increase checks in order to generate more money I don't think that will happen because we need some suspicion of probable cause to stop the vehicle, inspect and weight it (like excessive squatting, motor labored going up or down a road). We have in place a ten percent harvest permit which allows a ten percent above actual limitations gross weight.

Senator Flakoll Submitted written explanation of the fiscal note. See attached testimony 5

No additional testimony in support. No additional testimony in opposition.

Chairman Oehlke closed the hearing.

Senator Sinner moved do pass. Senator Armstrong seconded. No discussion.

Do Pass 7-0-0 Carrier Senator Campbell

January 17, 2013 Recording job number 17326 meter 0:03:53

Senator Flakoll moved to reconsider action by which committee passed bill 2025, because of fiscal note bill needs to be rereferred to appropriations. Senator Sitte seconded

Voice vote 7 aye, 0 no

Senator Sinner moved do pass and rerefer to appropriations. Senator Armstrong seconded

Roll call vote: 7 yes 0 no 0 absent or not voting

Floor Assignment: Senator Campbell

FISCAL NOTE
Requested by Legislative Council
12/19/2012

Bill/Resolution No.: SB 2025

- 1 A. **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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$(210,000)		\$(210,000)
Expenditures						
Appropriations						

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

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties		\$210,000	\$210,000
Cities			
School Districts			
Townships			

- 2 A. **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 allows the Extraordinary Road Use Fees collected on local roads to be used in support of the local road system. The money is currently placed in the state highway fund.

- 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.*

Over the first 18 months of this biennium \$156,963.00 has been collected by the NDHP from the counties to meet the current law. This will equate to approximately \$210,000 for the 2011-2013 biennium. This bill would put that money into the local jurisdictions general fund.

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.*

Under this bill, an estimated \$210,000 that was previously placed in the State Highway Fund would now be placed in the general fund of the jurisdiction where the related occurred.

- 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.*

This bill would have no material impact on expenditures.

- 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.*

This bill would have no material impact on appropriations.

Name: Shannon Sauer

Agency: NDDOT

Telephone: 328-4443

Date Prepared: 03/11/2013

**2013 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 Senate Bill 2025**

Senate TRANSPORTATION Committee

Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass

Motion Made By Senator Sinner Seconded By Vice Chairman Armstrong

Senators	Yes	No	Senator	Yes	No
Chairman Dave Oehlke	X		Senator Tyler Axness	X	
Vice Chairman Kelly Armstrong	X		Senator George Sinner	X	
Senator Margaret Sitte	X				
Senator Tim Flakoll	X				
Senator Tom Campbell	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Campbell

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

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
Senate Bill 2025

Senate TRANSPORTATION Committee

Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Reconsider vote 1

Motion Made By Senator Flakoll Seconded By Senator Sitte

Senators	Yes	No	Senator	Yes	No
Chairman Dave Oehlke			Senator Tyler Axness		
Vice Chairman Kelly Armstrong			Senator George Sinner		
Senator Margaret Sitte					
Senator Tim Flakoll					
Senator Tom Campbell					
<i>Voice Vote</i>					

Total (Yes) 7 No 0

Absent 0

Floor Assignment _____

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

**2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
Senate Bill 2025**

Senate TRANSPORTATION Committee

Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass and Re refer to Appropriations

Motion Made By Senator Sinner Seconded By Vice Chairman Armstrong

Senators	Yes	No	Senator	Yes	No
Chairman Dave Oehlke	X		Senator Tyler Axness	X	
Vice Chairman Kelly Armstrong	X		Senator George Sinner	X	
Senator Margaret Sitte	X				
Senator Tim Flakoll	X				
Senator Tom Campbell	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Campbell

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

REPORT OF STANDING COMMITTEE

SB 2025: Transportation Committee (Sen. Oehlke, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2025 was rereferred to the Appropriations Committee.

2013 SENATE APPROPRIATIONS

SB 2025

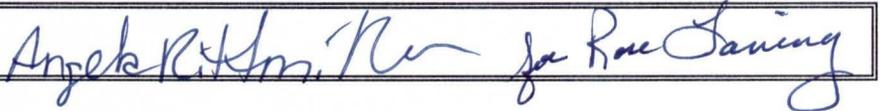
2013 SENATE STANDING COMMITTEE MINUTES

Senate Appropriations Committee Harvest Room, State Capitol

SB 2025
January 28, 2013
Job # 17780

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact sections 39-12-14.1 and 39-12-20 of the North Dakota Century Code, relating to extraordinary road use fees; to provide a continuing appropriation; and to provide an expiration date.

Minutes:

Testimony attached - #1-5

Legislative Council - Brady Larson
OMB - Tammy Dolan

Chairman Holmberg opened the hearing on SB 2025. Roll call was taken. All committee members were present.

John Bjornson, Legislative Council

Provided some background information the bill, he is neither for nor against the bill.

Representative Lawrence R. Klemin, District 47

Testified in favor of SB 2025
Testimony attached # 1

Representative Lawrence R. Klemin - I'm a little puzzled by the fiscal note. The fiscal note shows a decrease in revenue to the state of \$210,000 per biennium and an increase to the counties of \$210,000 per biennium. We did get information from the highway patrol on extraordinary road use fees collected during the last several years. (Provided some statistical numbers)

Lynn Brackel, Commissioner, Bowman County Commission

Testified in favor of SB 2025
Testimony attached # 2

V.Chairman Grinberg - I've heard of hot mix, what is cold mix?

V.Chairman Bowman - Cold mix, we purchase out of Dickinson, it's like hot mix but it's mixed in Dickinson and we can haul it cold, it's not put on like you would normally see with a conveyor that mixes the hot and lays it down. This is hauled by truck from Dickinson to Bowman and then a road grater fills in the deep patches in the large holes in the roads and

that alone costs us \$380,000 and that is the only way that we have to patch the roads like in a chip seal and hot paved roads.

Aaron Birst, Legal Counsel for ND Association of Counties

Testified in favor of SB 2025

Testimony attached # 3

Senator Wanzek - I appreciate comments about commerce side of it. It seems to be fair. To some degree, when you have the enforcer as also the beneficiary there's something about that that makes me a little nervous. I hope we're not overzealous and hindering and harassing trucks at the elevator.

Aaron Birst - We understand that too and that's why this bill became more controversial last session. The only real response I have to that is county commissioners, sheriffs, or other elected officials, and if things get out of whack and of course the legislature would have authority to come in and step in, ideally from the county's perspective we'd prefer this is to revenue zero because everyone gets their permit and doesn't operate from an overweight standpoint. That's why the sunset provision is there.

Senator Gary Lee - I agree it's time to take a look and do this and see how it works. Does the fiscal note make sense to you?

Aaron Birst - It's been hard to get a full grasp of the fiscal note because of the different terminology. If the highway patrol is indicating they have collected \$500,000 a year it's probably somewhere in the middle. (20:13)

V.Chairman Bowman - We have noticed a totally different change since they put in this loading dock down at Gascoyne. Trucks are now are using our county and township roads to get to the depot whereas before they used the highways. The county and township roads were never built for those heavier trucks. This is another tool to use to keep our roads better.

Aaron Birst - Even after this bill is done, we're looking for funding. If we're putting money in, how can we guarantee that we aren't just burning money and then letting it get destroyed?

Senator Robinson - Do they have any indication of what revenue they are generating because of enhanced presence on the roads?

Aaron Birst - I can find out numbers.

Senator Robinson - Long term the investment will be worth it.

Brad Darr, Maintenance Division Director, NDDOT

Testified in favor of SB 2025

Testimony attached 4#

Brad Darr - I prepared the fiscal note.

Chairman Holmberg asked about the fiscal note.

Brad Darr - The \$210,000 in the fiscal note is the number that the local law enforcement collected for extraordinary road use fees that pass through the highway patrol to the DOT.

Ken Yantes, Executive Secretary, North Dakota Township Officers Association
No written testimony.

Ken Yantes - I supports the passage of SB 2025. It just seems like the right thing to do. Those that damage roads should help pay for repair.

Chairman Holmberg asked **Colonel Prochniak, Superintendent of ND Highway Patrol** about the fiscal note.

Colonel Prochniak handed out a chart with the 2012 Overload Fee Collections - see attachment #5.

Colonel Prochniak - The roughly \$200,000 was what our agency transferred. In other words, what was collected at the county level through their enforcement efforts and was transferred it to the highway fund. The \$525,000 was collected from county overload fees by our department. The highway patrol is not looking to be primary on county roads when it comes to the enforcement particularly of overload or motor carrier. We do respond to maybe an unusual request for example a particular road may be abused and they need some help. A county official may contact us, typically the sheriff's department, and say this road is shot, we need your help. We also offer assistance in the spring during road restrictions.

Senator O'Connell - I was always under the impression that the county had to request assistance before you would go on to those roads. You have complete jurisdiction and go any place you want.

Colonel Prochniak - We have complete jurisdiction, I think that's more of a policy issue and respect to the county and law enforcement in that county. We certainly don't have the resources to do that on a regular basis on that county network.

Chairman Holmberg closed the hearing on SB 2025

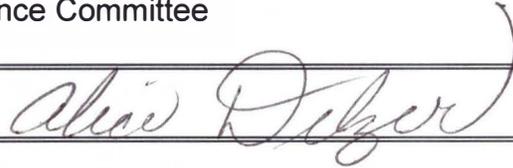
2013 SENATE STANDING COMMITTEE MINUTES

Senate Appropriations Committee Harvest Room, State Capitol

SB 2025
01-30-2013
Job # 17948

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A Bill for an Act to amend and reenact NDCC relating to extraordinary road use fees

Minutes:

You may make reference to "attached testimony."

Chairman Holmberg called the committee to order on Wednesday, January 30, 2013 in regards to SB 2025. All committee members were present except Senator Warner.

Senator Gary Lee: This bill allows an opportunity to look at if it's working ok. If there are some of those things that people had been concerned about of setting up a new cost center for some political subdivision in terms of trying to catch everyone every way they can that's overweight or oversized . As you probably recall there is 3 funding issues with this one is there's a fee that you pay when you buy an overweight or oversize permit, that goes to the political subdivision that sells that fee and then there is a fine that can be levied on you if you violate that permit or you don't have a permit, and that money goes into the tuition fund and eventually goes to schools and then there also can be a civil penalty from anywhere from \$100 to \$6,000 and that's the piece that we are talking about that the Attorney General in 2009 said it couldn't go to the political subdivision, it had to go to the state for state roads. This says it can go to that political subdivision, this fine, and it has to go into a fund where it's for roads in that political subdivision and there is a sunset on it. I think it's a good approach and we should move the bill forward.

Senator Gary Lee Moved Do Pass.

Seconded by Senator Robinson

Chairman Holmberg: We have a motion by Senator Gary Lee and seconded by Senator Robinson on SB 2025. This bill, if this motion passes will go to the Transportation Committee and they will carry the bill on the floor. (He welcomed the seniors from Washburn and explained the process of hearing the bills and passing them out of committee.)

A Roll Call vote was taken. Yea: 12; Nay: 0; Absent 1. Senator Campbell from Transportation will carry the bill. The hearing was closed on SB 2015

FISCAL NOTE
Requested by Legislative Council
12/19/2012

Revised
 Bill/Resolution No.: SB 2025

- 1 A. **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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$(1,260,000)		\$(1,260,000)
Expenditures						
Appropriations						

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

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	Counties				\$1,260,000	
Cities						
School Districts						
Townships						

- 2 A. **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 allows the Extraordinary Road Use Fees collected on local roads to be used in support of the local road system. The money is currently placed in the state highway fund.

- 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 would result in an estimated \$1,260,000 of extraordinary road use fees being placed in the general funds of local jurisdiction's instead of the State Highway Fund.

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.*

Under this bill, an estimated \$1,260,000 that was previously placed in the State Highway Fund would now be placed in the general fund of the jurisdiction where the related violation occurred.

- 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.*

This bill would have no material impact on expenditures.

- 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.*

This bill would have no material impact on appropriations.

Name: Shannon Sauer

Agency: NDDOT

Telephone: 328-4443

Date Prepared: 03/11/2013

Date: 1-30-13

Roll Call Vote# 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. SB 2025

Senate Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass

Motion Made By Lee Seconded By Robinson

Senators	Yes	No	Senator	Yes	No
Chairman Ray Holmberg	✓		Senator Tim Mathern	✓	
Co-Vice Chairman Bill Bowman	✓		Senator David O'Connell	✓	
Co-Vice Chair Tony Grindberg	✓		Senator Larry Robinson	✓	
Senator Ralph Kilzer	✓		Senator John Warner		
Senator Karen Krebsbach	✓				
Senator Robert Erbele	✓				
Senator Terry Wanzek	✓				
Senator Ron Carlisle	✓				
Senator Gary Lee	✓				

Total (Yes) 12 No 0

Absent 1

Floor Assignment trans Campbell

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

REPORT OF STANDING COMMITTEE

SB 2025: Appropriations Committee (Sen. Holmberg, Chairman) recommends DO PASS
(12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2025 was placed on the
Eleventh order on the calendar.

2013 HOUSE TRANSPORTATION

SB 2025

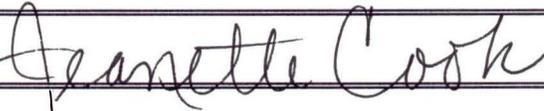
2013 HOUSE STANDING COMMITTEE MINUTES

House Transportation Committee Fort Totten Room, State Capitol

SB 2025
03-07-13
Job # 19557

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL relating to extraordinary road use fees; to provide a continuing appropriation; and to provide an expiration date.

Minutes:

Attachments 1-6

Chairman Ruby opened the hearing on HB 2025.

Vice Chairman Owens chaired the meeting while Chairman Ruby was in another hearing.

John Bjornson, Legislative Council, introduced and explained the bill. He stated that Legislative Council staff is neither for nor against the bill. He summarized that the bill is an attempt to have extraordinary road use fees, that are generated as a result of enforcement actions on local roads, be deposited in the local jurisdiction's general fund for the use of the local road system. (8:00)

Vice Chairman Owens: Were the two bills last session about where the money goes?

John Bjornson: That is correct. There was a lot of discussion last session about extraordinary road use fees, but the directive was to just put the fees into the general fund and not to be used for road purposes.

Vice Chairman Owens: You mentioned something about the settlement at the point of fining. This doesn't change that, does it?

John Bjornson: No it doesn't. There is also a fine that can be imposed. All fines pursuant to our constitution have to go into the common Schools Trust Fund. This is a civil fee, or settlement, that is not bound by that provision. This is about where the money goes. The interim committee felt that if there was damage to state roads, the money be used to support the state roads.

Vice Chairman Owens: Where the money goes is based on the category of road, is that correct?

John Bjornson: That is correct.

Representative Drovdal: Does the county have to have a home rule charter?

John Bjornson: Yes, any city or county that can impose the fee can then keep the fee.

Representative Drovdal: Why is there an increase on the fiscal note?

John Bjornson: I think that Department of Transportation could answer that.

Vice Chairman Owens: The \$156,000 is for 18 months. They extrapolated it out to \$210,000 for a biennium.

Representative Schatz: If there is an overweight load that goes from a city highway, goes onto a county highway, and then gets pulled over on a state highway. How would this work then?

John Bjornson: The site of the violation is where the money would go. (14:00)

Representative Klemin, District 47, testified in support of SB 2025. He provided written testimony and included a list that shows membership of the Advisory Commission on Intergovernmental Relations and an article from the Bismarck Tribune. See attachment #1.

Vice Chairman Owens: Why was a sunset clause added to this?

Representative Klemin: The commission thought that it would be better to have a sunset clause so that we could take another look to see if the distribution formula was being applied properly.

Chairman Ruby: Do you know how many confiscated vehicles there are in a year?

Representative Klemin: I have no idea. In the process the owner of the vehicle is given the opportunity to pay the extraordinary road use fees. If they do not want to do that and chose to go to court, that vehicle is confiscated and held. If the fee is not paid and the court decides that the fee should be imposed, the overweight vehicle can be sold to satisfy the fee. How often that might happen, I would suppose would depend on the worth of the vehicle.

Representative Gruchella: Is anything in this bill that increases the authority of the locals to enforce the existing statutes?

Representative Klemin: No, they can just impose the statute that way it is.

John Bjornson: Representative Drovdal asked who can issue permits. Any local jurisdiction that has roads can issue permits to operate on the roads exceeding the weight limits.

Terry Traynor, Assistant Director of the North Dakota Association of Counties, testified in support of SB 2025. He provided written testimony. It includes a diagram to show the Over-weight/Over-dimension Permits and Penalties Revenue Flow. (24:00) See

attachment #2. He stressed that in this bill it is very clear that any damage payment goes to the roads.

Representative Vigesaa: If a violation occurs on a township road, do the fees then go to the township?

Terry Traynor: That is my interpretation of the law. The State's Attorney would be responsible to make sure that the funds are directed to the right location.

Chairman Ruby: Do you think this will be incentive for the counties to get their own scales and enforce this more?

Terry Traynor: It might be if they have greater control of the fines and can use them. (28:00)

Dana Larsen, PE, Ward County Engineer, testified to support SB 2025. He provided written testimony. See attachment #3 (32:35)

Representative Fransvog: In your example, if you would have been able to issue a permit and road damage would have occurred, would the repairs have been made to the road?

Terry Traynor: In a permit there are notes that state that if there is damage to a road, they would be required to help repair the road. Typically, if they get a permit we would send them on a different road that would be better. The permits are used to coordinate the movements, so the roads aren't damaged.

Chairman Ruby: \$210,000 is not a lot of money when it is spread over all the counties. Do you see a step up in enforcement if this bill passes?

Terry Traynor: It is not enough money to fix our roads. That is why we are supporting the other bill with money to fix our roads. I don't picture our sheriff getting more zealous, but it will allow some funds to come back and help fix the road.

Chairman Ruby: Would the fine be the same if the county issued it or the Highway Patrol did?

Terry Traynor: Yes, we have even worked on uniformity between the counties on permits.

Keith Magnuson, League of Cities, supports SB 2024. (40:15) He stated that he really thinks this bill really makes sense. He agrees with previous testimony that has done a good job of explaining the bill.

Brad Darr, Maintenance Division Director, at the North Dakota Department of Transportation, testified in support of SB 2025. He provided written testimony. See attachment #4.

Chairman Ruby: Are you saying that the fiscal note could actually be higher?

Brad Darr: The Highway Patrol did the enforcement on the local system, so that number is higher. Our thought were that if the locals were doing more enforcement, then the Highway Patrol would be back on the state system collecting that same amount of money, so it wouldn't be a negative to the department.

Chairman Ruby: Does the \$500,000 include the \$210,000, or was it additional?

Brad Darr: It was additional. We are assuming that they would be collecting more on the state system.

Representative Weisz: Why was the \$500,000 not part of the fiscal note? Under the bill those funds would also go to the local jurisdiction no matter who collected them. Why are we making the assumption that there will be more county enforcement and less Highway Patrol enforcement? It would not necessarily shift. Based on the bill counties might be calling the Highway Patrol more often for enforcement.

Brad Dar: I made the assumption, but you could be correct.

Chairman Ruby: Do you agree that the \$500,000 should be added to the fiscal note?

Brad Dar: I'm not sure. It could go either way.

Mike Reitan, Assistant Chief, West Fargo Police Department, provided the committee with written testimony in support of SB 2025. See attachment #5.

There was no further testimony in support of SB 2025.
There was no opposition to SB 2025.

Major Dave Kleppe, Chief of Staff with North Dakota Highway Patrol, testified in a neutral capacity on SB 2025 and provided a handout with 2012 Overload Fee Collections from the Highway Patrol. See attachment # 5.

Chairman Ruby asked the intern to request an updated fiscal note through Legislative Council.

Representative Heller: Why do you call this a fee rather than a fine?

Major Dave Kleppe: It is actually a civil fee based on the way that the statute reads. Some of the fees are considered statutory fees, and some are criminal penalties. It does not go into the Schools Common Trust Fund.

Representative Drovdal: Where does the \$525,000 go today?

Major Dave Kleppe: It actually goes into the State Highway Fund.

Ken Yantas, Executive Secretary the North Dakota Township Officers Association, member of ACIR, spoke in a neutral capacity on SB 2025. We think this bill will be a deterrent to damage on the roads.

House Transportation Committee

SB 2025

03-07-13

Page 5

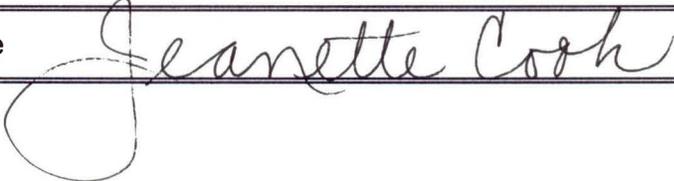
There was no further testimony on SB 2025.
The hearing was closed on SB 2025.

2013 HOUSE STANDING COMMITTEE MINUTES

House Transportation Committee Fort Totten Room, State Capitol

SB 2025
03-14-13
Job # 19959

Conference Committee

Committee Clerk Signature 

Minutes:

Revised fiscal note.

Chairman Ruby brought SB 2025 back before the committee.

A revised fiscal note was distributed.

Chairman Ruby: We questioned the effect of the extraordinary road use fees. We were right; it was over a \$1,050,000 in reduction. This bill allows the counties to keep funds that were as a result of an overweight fee in their jurisdiction. It is a civil fee.

Representative Delmore: Why did the fiscal note take such a drastic jump?

Chairman Ruby: They were only counting a certain number of them (fees). We requested a revised fiscal note because the Department of Transportation's own testimony was off, and the chart from Colonel James Prochniak showed more dollars being used for this. It made us see that there will be more dollars going to the counties, which is the purpose of the bill. The dollars will come out of the State Highway Fund. This is a policy shift. This is the first time that they (local jurisdiction) get to keep the penalty fees in addition to the permit fees.

Representative Gruchella: Some of the locals had gotten into the business of buying scales and enforcing the road limits. Then there was a ruling that said that they couldn't keep the money. After that, there has been very little policing of the heavy weight fees on the township and county roads. If we are really concerned about road preservation, this will be a good move.

Chairman Ruby: In my area, they did buy a portable scale.

Representative Heller moved a DO PASS on SB 2025.
Representative Sukut seconded the motion.

Representative Weisz: I will resist the motion. I think it is interesting when they say, if we don't get the money we won't do the enforcement. Then they turn around and say how

much it costs for the damage to the roads. This body has had a policy for a long time that we are leery of giving the ability to the local jurisdictions to collect fees. I don't question the need for more infrastructure dollars in counties and townships. We are putting a tremendous amount of money in infrastructure.

Chairman Ruby: On the other hand, we did pass out a speed limit bill that allows cities the flexibility to go more on their own. There is some reasoning behind some local enforcement and control of their own roads.

Representative Kreun: The comment was made here that we still have the ability to vote for the local law enforcement if they don't act responsibly. The potential is there to abuse this, but the potential is there to take care of it too.

Representative Sukut: Based on where we are at in western North Dakota and our law enforcement people, the dollars are not what people are going to be looking at. We are going to be looking at the roads that are getting ripped up and torn. These are the roads that are going to take some people from where they are at, and put them on the roads to put some effort into stopping the over weights that are going on those roads. I think the money will help because it will help to buy the scales, but the driving force in western North Dakota is going to be the roads and trying to take care of them. It is move in the right direction for us.

**A roll call vote was taken. Aye 7 Nay 6 Absent 1 The motion carried.
Representative Gruchella will carry SB 2025.**

FISCAL NOTE
Requested by Legislative Council
12/19/2012

Revised
 Bill/Resolution No.: SB 2025

- 1 A. **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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$(1,260,000)		\$(1,260,000)
Expenditures						
Appropriations						

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

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties		\$1,260,000	\$1,260,000
Cities			
School Districts			
Townships			

- 2 A. **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 allows the Extraordinary Road Use Fees collected on local roads to be used in support of the local road system. The money is currently placed in the state highway fund.

- 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 would result in an estimated \$1,260,000 of extraordinary road use fees being placed in the general funds of local jurisdiction's instead of the State Highway Fund.

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.*

Under this bill, an estimated \$1,260,000 that was previously placed in the State Highway Fund would now be placed in the general fund of the jurisdiction where the related violation occurred.

- 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.*

This bill would have no material impact on expenditures.

- 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.*

This bill would have no material impact on appropriations.

Name: Shannon Sauer

Agency: NDDOT

Telephone: 328-4443

Date Prepared: 03/11/2013

Date: 3-14-13
 Roll Call Vote #: 1

**2013 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2025**

House Transportation 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 Heller Seconded By Sukut

Representatives	Yes	No	Representatives	Yes	No
Chairman Dan Ruby		✓	Rep. Lois Delmore	✓	
Vice Chairman Mark Owens		✓	Rep. Edmund Gruchalla	✓	
Rep. Rick Becker		✓	Rep. Kylie Oversen	✓	
Rep. David Drovdal		✓			
Rep. Robert Frantsvog	✓				
Rep. Brenda Heller	✓				
Rep. Curtiss Kreun	✓				
Rep. Mike Schatz	A				
Rep. Gary Sukut	✓				
Rep. Don Vigesaa		✓			
Rep. Robin Weisz		✓			

Total (Yes) 7 No 6

Absent 1

Floor Assignment Gruchalla

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

REPORT OF STANDING COMMITTEE

SB 2025: Transportation Committee (Rep. Ruby, Chairman) recommends DO PASS
(7 YEAS, 6 NAYS, 1 ABSENT AND NOT VOTING). SB 2025 was placed on the
Fourteenth order on the calendar.

2013 TESTIMONY

SB 2025

TESTIMONY OF REP. LAWRENCE R. KLEMIN
SENATE TRANSPORTATION COMMITTEE
SENATE BILL 2025
JANUARY 17, 2013

Mr. Chairman and members of the Senate Transportation Committee, I am Lawrence R. Klemin, Representative for District 47 in Bismarck. I also serve as Chairman of the State Advisory Commission on Intergovernmental Relations (ACIR).

The ACIR is a statutory commission consisting of 12 members, including 4 members of the Legislature, 2 members appointed by the ND League of Cities, 2 members appointed by the ND Association of Counties, 1 member appointed by the ND Township Officers Association, 1 member appointed by the ND Recreation and Park Association, 1 member appointed by the ND School Boards Association, and 1 member appointed by the Governor.

During the 2011-2012 interim, the ACIR was assigned a study by Legislative Management relating to motor vehicle permit fees, including overweight and overwidth permit fees charged by cities and counties. SB 2025 was introduced as a result of this study.

Under North Dakota law in Chapter 39-12, there are weight and size limitations for the operation of vehicles on interstate, state and local highways, streets, and roads. However, state and local authorities are authorized to issue permits for vehicles exceeding the weight and size limitations. Every peace officer and the ND Highway Patrol are authorized to weigh vehicles or to have them driven to the nearest scales to be weighed. Penalties can be imposed for operating a vehicle without a permit or for exceeding the weight and size limitations provided by law or contained in a permit. The vehicle can be impounded and stored pending a civil action brought by the local state's attorney to collect the fees for the "extraordinary use" of the roads. The owner or driver of the vehicle is given the opportunity to voluntarily pay the "extraordinary road use fees" rather than go to court.

SB 2025 covers the disposition of the extraordinary road use fees. Under existing law, all of the extraordinary road use fees that are collected are required to be deposited with the State Treasurer for the credit of the state highway fund. All of the money collected goes to the state highway fund, even if the violation occurred on a local road and even if the enforcement was done by a local peace officer.

Testimony received by the ACIR during the interim study indicated that the current statutory distribution of all extraordinary road use fees into the state highway fund is inequitable and counterproductive to the proper enforcement of state and local laws. Local roads and streets are being extensively impacted by overweight vehicles, particularly in the western part of the state. Yet none of the extraordinary road use fees

collected can be used to repair or maintain local roads and streets. Although the political subdivisions are allowed to retain the local permit fees, the amount of damage to local roads is significantly greater than the amount of the permit fees collected. The state receives the benefit of local enforcement and receives the civil penalties for violation of local size and weight restrictions.

The ACIR recommended SB 2025 to allow local political subdivisions, including counties, cities, and townships, to receive the extraordinary road use fees collected on local roads and streets and to also receive the proceeds of sales of confiscated vehicles that have violated local size and weight restrictions, provided that the money can only be used for the support of the local road system. The bill also contains a sunset date of June 30, 2017, in order to require a further legislative review of this distribution formula.

SB 2025 provides a fair method for distributing the extraordinary road use fees. I encourage this committee to give favorable consideration to SB 2025.

Testimony 1 page 3

North Dakota Legislative Council

Advisory Commission on Intergovernmental Relations

Interim Committee Studies and Assignments

(12 members)

2044 § 3 Study motor vehicle permit fees, including overweight and overwidth permit fees charged by cities and counties

Study local government structure, fiscal and other powers and functions of local governments, relationships between and among local governments and the state or any other government, allocation of state and local resources, and interstate issues involving local governments (NDCC § 54-35.2-02)

Group Housing Ordinances

- [Billings County Zoning](#)
- [Billings County Zoning Amendment](#)
- [Dickinson Ordinance](#)
- [Divide County](#)
- [Dunn County Application](#)
- [Dunn County Development Code](#)
- First Health District
- [Glen Ullin](#)
- [Golden Valley County Zoning](#)
- [Golden Valley Temporary Crew Housing](#)
- Mercer County
- [Mountrail County](#)
- [Williston](#)

Chairman

- [Representative Lawrence R. Klemin \(R\)](#)

Vice Chairman

- [Representative Brenda Heller \(R\)](#)

Legislative Council Staff

- John Bjornson

Legislative Members

- [Representative Thomas Beadle \(R\)](#)
- [Representative Ron Guggisberg \(D\)](#)

Citizen Members

- Don Frye, *Mayor of Carrington*
P.O. Box 501
Carrington, ND 58421
- Shawn Kessel, *Dickinson City Administrator*
99 Second Street E
Dickinson, ND 58601
- Jon Martinson, *North Dakota School Boards Association*
P.O. Box 7128
Bismarck, ND 58507-7128
- Scott Ouradnik, *Slope County Commission*
202 West Avenue
Amidon, ND 58620
- Richard Riha, *Burleigh County State's Attorney*
514 East Thayer Avenue
Bismarck, ND 58501-4413
- Mike Schwartz, *President of the Board of Commissioners, Bismarck Parks and Recreation District*
818 North First Street
Bismarck, ND 58501
- Kenneth Yantes, *North Dakota Township Officers*
P.O. Box 104
Brockton, ND 58321-0104

Designee

Governor's Designee
Brandi Pelham

Committee Meetings

August 16, 2012 - 9:00am

Committee Documents

- [Notice](#) (8kb)
- [Agenda](#) (8kb)
- [Minutes](#) (42kb)

February 21, 2012 - 9:00am

Committee Documents

- [Notice](#) (8kb)
- [Agenda](#) (8kb)
- [Minutes](#) (45kb)

December 8, 2011 - 9:00am

Committee Documents

- [Notice](#) (8kb)
- [Agenda](#) (8kb)
- [Minutes](#) (46kb)

September 7, 2011 - 9:00am

Committee Documents

- [Notice](#) (19kb)
- [Agenda](#) (9kb)
- [Minutes](#) (51kb)

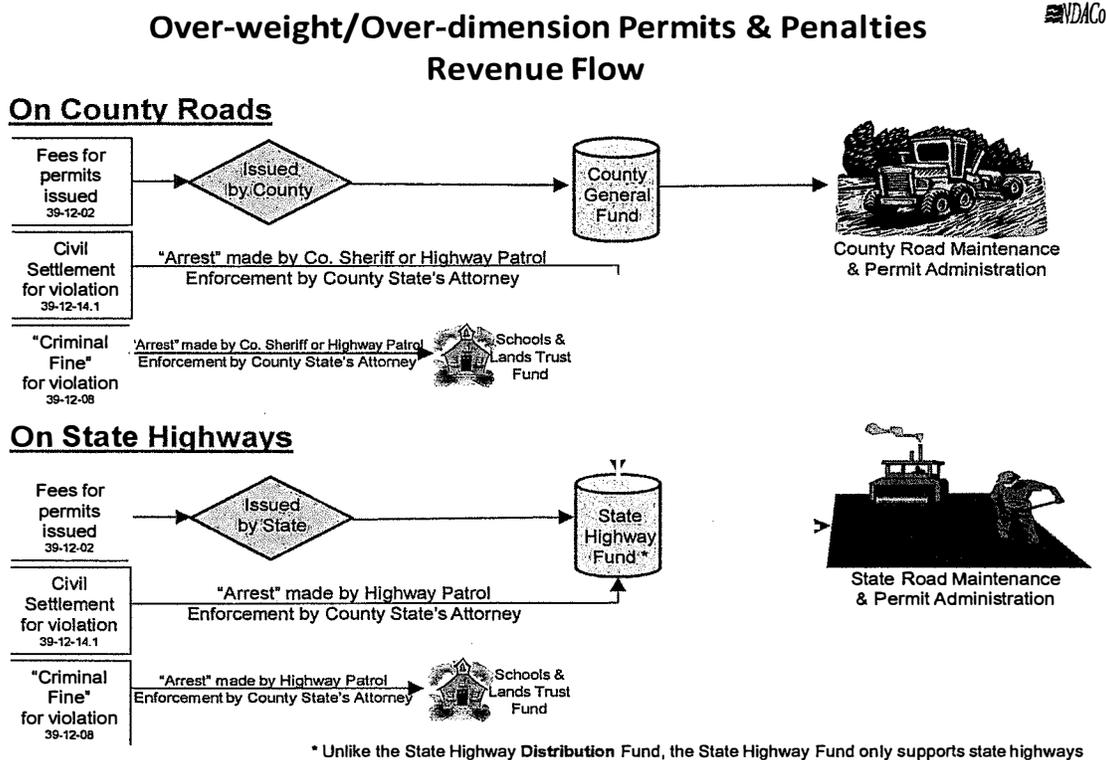
Committee Memorandums

- [Supplementary Rules of Operation and Procedure of the North Dakota Legislative Management](#) (17kb)
- [Advisory Commission on Intergovernmental Relations - Background Memorandum](#) (37kb)
- [Motor Vehicle Permit Fees - Background Memorandum](#) (49kb)

Testimony to the
Senate Transportation Committee
 Prepared January 17, 2013
 by Terry Traynor, Assistant Director of the
 North Dakota Association of Counties

Regarding: SB2025 – Extraordinary Road Use Fees

Mr. Chairman and members of the committee, the Association of Counties is in full support of Senate Bill 2025. I believe that the members of this committee understand well what the bill addresses, however I have included a Revenue Flow chart below to help illustrate exactly why counties are in support.



The Century Code allows the state and its various local road authorities to establish and enforce weight restrictions on their respective roads, within an overall statewide framework. To facilitate the commerce of our state, these road authorities have the ability to issue permits allowing vehicles exceeding their particular weight restrictions to travel on their own roadways. The fees associated with those permits go to benefit the specific road systems used.

When an over-weight vehicle is driven on a road without proper permitting, a fine is levied which goes (as all fines do according to the Constitution) to the schools and lands trust fund –

regardless of where the offense occurs. These fines are not addressed by this bill – nor do we wish them to be addressed.

There is however, an additional civil settlement that can be levied to compensate the road authority for the damage done by that unpermitted overweight vehicle. Currently, regardless of which road is damaged, this civil settlement (or extraordinary road use fee) goes into the special fund for STATE highway use only. SB2025 corrects this by redirecting the penalty to be used for the protection and repair of the roads of the authority where the offense occurred.

We believe this is most appropriate and equitable for the taxpayers supporting those specific road authorities. We urge a Do Pass recommendation.

Testimony 3

**COUNTY OF BOWMAN
BOARD OF COUNTY COMMISSIONERS**

**Post Office Box 439
104 First Street NW
Bowman, ND 58623
701-523-3130**

January 17, 2013
Senate Transportation Committee
Sen. Dave Oehlke, Chairman

The Bowman County Commission would like to thank you for this opportunity to provide some information as to the importance of the passage of Senate Bill 2025.

The county provides the officer, vehicle and scale to enforce the laws of the county. The county is responsible to repair the damages to the county roads. Bowman County spent \$1 Million on cold mix alone in addition to the man hours to make the repairs. The county does not receive any of the fees for issuing a violation of the county laws. In addition Bowman County is also protecting the state road system by enforcing the laws before the vehicles enter the state road system.

Bowman County supports Senate Bill 2025. The legislation is needed to maintain the county road system for the residents of Bowman County.

Thank you for your time and favorable consideration.

Lynn Brackel, Commissioner
Bowman County Commission
lbrackel@ndsupernet.com

Testimony 4

**SENATE TRANSPORTATION COMMITTEE
January 17, 2013
9:00 a.m. - Lewis and Clark Room**

**North Dakota Department of Transportation
Brad Darr, Maintenance Division Director**

SB 2025

Mr. Chairman and members of the committee, I'm Brad Darr, Maintenance Division Director at the North Dakota Department of Transportation (DOT). Thank you for providing me the opportunity to testify in support of this bill today.

The Department had the opportunity to testify on this bill before the Advisory Commission on Intergovernmental Relations last year. We support the bill as drafted.

Thank you Mr. Chairman, This concludes my testimony.

Testimony 5 page 1
SB 2025

Flakoll, Tim

From: Darr, Brad W.
Date: Thursday, January 17, 2013 10:57 AM
To: Campbell, Tom S.; Flakoll, Tim
Cc: Kleppe, Maj. David A.
Subject: SB 2025
Attachments: HP documentation of county fees.pdf

Senators,

Glenn Jackson mentioned that you would like a little better explanation of the fiscal note.

The ND Highway Patrol (NDHP) receives the fees from the counties that are to be deposited in the Highway fund. The information is attached.

This is how I came up with the number provided:

Fiscal 7/1/11- 6/30/12 \$95,135.00

Fiscal 7/1/12- 12/31/12 \$61,827.50

Total actual \$156,962.50 Since that was only 18 months of the biennium I extrapolated the number to 24 months making it \$210,000.

As mentioned this is only the money the County's collected, provided to the HP and were placed into the highway fund. The other numbers discussed are fees the HP collected.

For Kleppe with the NDHP is willing to answer any additional questions you may have he is copied with this email and his number is 328-4346.

Thank you,

Brad Darr
NDDOT Maintenance Division Director
701-328-4443

Testimony 5 page 2
 SB 2025

**North Dakota Highway Patrol
 Permit Cash Receipts Collected from County Officers**

	<u>County</u>	<u>Amount</u>
Fiscal 7/1/09 - 6/30/10	Barnes County	\$13,400.00
	Dunn County	<u>\$ 655.00</u>
	TOTAL FISCAL 2010	\$14,055.00
Fiscal 7/1/10 – 6/30/11	Benson County	\$ 2,770.00
	Bowman County	\$ 880.00
	Burleigh County	\$ 4,610.00
	Dickey County	\$ 3,000.00
	Mercer County	\$ 655.00
	Mountrail County	\$32,100.00
	Stutsman County	<u>\$ 380.00</u>
	TOTAL FISCAL 2011	\$44,395.00
Fiscal 7/1/11 – 6/30/12	Barnes County	\$10,320.00
	Burke County	\$22,650.00
	Burleigh County	\$ 6,280.00
	Bowman County	\$ 715.00
	Cass County	\$ 4,800.00
	Dickey County	\$ 3,180.00
	Dunn County	\$18,000.00
	LaMoure County	\$ 950.00
	Mountrail County	\$12,250.00
	Pembina County	\$ 2,300.00
	Richland County	\$ 6,200.00
	South Central (Barnes, Stutsman, LaMoure, Dickey)	\$ 3,790.00
	Stutsman County	<u>\$ 3,700.00</u>
	TOTAL FISCAL 2012	\$95,135.00

TOTALS FOR FISCAL YEARS 2010, 2011 & 2012 --		
	Barnes County	\$23,720.00
	Benson County	\$ 2,770.00
	Bowman County	\$ 1,595.00
	Burke County	\$22,650.00
	Burleigh County	\$10,890.00
	Cass County	\$ 4,800.00
	Dickey County	\$ 6,180.00
	Dunn County	\$18,655.00
	LaMoure County	\$ 950.00
	Mercer County	\$ 655.00
	Mountrail County	\$44,350.00
	Pembina County	\$ 2,300.00
	Richland County	\$ 6,200.00
	South Central (Barnes, Stutsman, LaMoure, Dickey)	\$ 3,790.00
	Stutsman County	<u>\$ 4,080.00</u>

TOTAL FOR FISCAL YEARS 2010, 2011 & 2012 **\$153,585.00**

North Dakota Highway Patrol
Permit Cash Receipts Collected from County Officers
7/1/2012 - 12/31/2012

County	Amount
Barnes County	1,100.00
Cass County	13,327.50
Dickey County	3,325.00
Dunn County	10,860.00
LaMoure County	1,825.00
Mountrail County	4,500.00
Richland County	13,535.00
South Central	10,775.00
Stutsman County	2,085.00
Ward County	495.00

Total for 7/1/2012 - 12/31/2012

61,827.50

95,135

156,962.50

2210,000

Rep. Lawrence Klemm
SENATE APPROPRIATIONS
JAN. 28, 2013
SB 2025 #1

TESTIMONY OF REP. LAWRENCE R. KLEMIN
SENATE TRANSPORTATION COMMITTEE
SENATE BILL 2025
JANUARY 17, 2013

Mr. Chairman and members of the Senate Transportation Committee, I am Lawrence R. Klemm, Representative for District 47 in Bismarck. I also serve as Chairman of the State Advisory Commission on Intergovernmental Relations (ACIR).

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During the 2011-2012 interim, the ACIR was assigned a study by Legislative Management relating to motor vehicle permit fees, including overweight and overwidth permit fees charged by cities and counties. SB 2025 was introduced as a result of this study.

Under North Dakota law in Chapter 39-12, there are weight and size limitations for the operation of vehicles on interstate, state and local highways, streets, and roads. However, state and local authorities are authorized to issue permits for vehicles exceeding the weight and size limitations. Every peace officer and the ND Highway Patrol are authorized to weigh vehicles or to have them driven to the nearest scales to be weighed. Penalties can be imposed for operating a vehicle without a permit or for exceeding the weight and size limitations provided by law or contained in a permit. The vehicle can be impounded and stored pending a civil action brought by the local state's attorney to collect the fees for the "extraordinary use" of the roads. The owner or driver of the vehicle is given the opportunity to voluntarily pay the "extraordinary road use fees" rather than go to court.

SB 2025 covers the disposition of the extraordinary road use fees. Under existing law, all of the extraordinary road use fees that are collected are required to be deposited with the State Treasurer for the credit of the state highway fund. All of the money collected goes to the state highway fund, even if the violation occurred on a local road and even if the enforcement was done by a local peace officer.

Testimony received by the ACIR during the interim study indicated that the current statutory distribution of all extraordinary road use fees into the state highway fund is inequitable and counterproductive to the proper enforcement of state and local laws. Local roads and streets are being extensively impacted by overweight vehicles, particularly in the western part of the state. Yet none of the extraordinary road use fees

collected can be used to repair or maintain local roads and streets. Although the political subdivisions are allowed to retain the local permit fees, the amount of damage to local roads is significantly greater than the amount of the permit fees collected. The state receives the benefit of local enforcement and receives the civil penalties for violation of local size and weight restrictions.

The ACIR recommended SB 2025 to allow local political subdivisions, including counties, cities, and townships, to receive the extraordinary road use fees collected on local roads and streets and to also receive the proceeds of sales of confiscated vehicles that have violated local size and weight restrictions, provided that the money can only be used for the support of the local road system. The bill also contains a sunset date of June 30, 2017, in order to require a further legislative review of this distribution formula.

SB 2025 provides a fair method for distributing the extraordinary road use fees. I encourage this committee to give favorable consideration to SB 2025.

North Dakota Legislative Council

Advisory Commission on Intergovernmental Relations

Interim Committee Studies and Assignments

(12 members)

2044 § 3 Study motor vehicle permit fees, including overweight and overwidth permit fees charged by cities and counties

Study local government structure, fiscal and other powers and functions of local governments, relationships between and among local governments and the state or any other government, allocation of state and local resources, and interstate issues involving local governments (NDCC § 54-35.2-02)

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- Glen Ullin
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- [Mercer County](#)
- [Mountrail County](#)
- [Williston](#)

Chairman

- [Representative Lawrence R. Klemin \(R\)](#)

Vice Chairman

- [Representative Brenda Heller \(R\)](#)

Legislative Council Staff

- John Bjornson

Legislative Members

- [Representative Thomas Beadle \(R\)](#)
- [Representative Ron Guggisberg \(D\)](#)

Citizen Members

- Don Frye, *Mayor of Carrington*
P.O. Box 501
Carrington, ND 58421
- Shawn Kessel, *Dickinson City Administrator*
99 Second Street E
Dickinson, ND 58601
- Jon Martinson, *North Dakota School Boards Association*
P.O. Box 7128
Bismarck, ND 58507-7128
- Scott Ouradnik, *Slope County Commission*
202 West Avenue
Amidon, ND 58620
- Richard Riha, *Burleigh County State's Attorney*
514 East Thayer Avenue
Bismarck, ND 58501-4413
- Mike Schwartz, *President of the Board of Commissioners, Bismarck Parks and Recreation District*
818 North First Street
Bismarck, ND 58501
- Kenneth Yantes, *North Dakota Township Officers*
P.O. Box 104
Brocket, ND 58321-0104

Designee

Governor's Designee
Brandi Pelham

Committee Meetings

August 16, 2012 - 9:00am

Committee Documents

- [Notice \(8kb\)](#)
- [Agenda \(8kb\)](#)
- [Minutes \(42kb\)](#)

February 21, 2012 - 9:00am

Committee Documents

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- [Motor Vehicle Permit Fees - Background Memorandum \(49kb\)](#)

**COUNTY OF BOWMAN
BOARD OF COUNTY COMMISSIONERS**

SB 2025 #2
1-28-13

**Post Office Box 439
104 First Street NW
Bowman, ND 58623
701-523-3130**

January 28, 2013 *Appropriations*
Senate Transportation Committee
Sen. Ray Holmberg, Chairman

The Bowman County Commission would like to thank you for this opportunity to provide some information as to the importance of the passage of Senate Bill 2025.

The county provides the officer, vehicle and scale to enforce the laws of the county. The county is responsible to repair the damages to the county roads. Bowman County budgets \$1 Million for road maintenance on 275 miles of county roads. Cold mix alone costs the county \$380,000 a year. The county does not receive any of the fees for issuing a violation of the county laws. In addition Bowman County is also protecting the state road system by enforcing the laws before the vehicles enter the state road system.

Bowman County supports Senate Bill 2025. The legislation is needed to maintain the county road system for the residents of Bowman County.

Thank you for your time and favorable consideration.

Lynn Brackel, Commissioner
Bowman County Commission
lbrackel@ndsupernet.com

Testimony to the
Senate Appropriations Committee
 Prepared January 28, 2013
 by Aaron Birst, Legal Counsel for the
 North Dakota Association of Counties

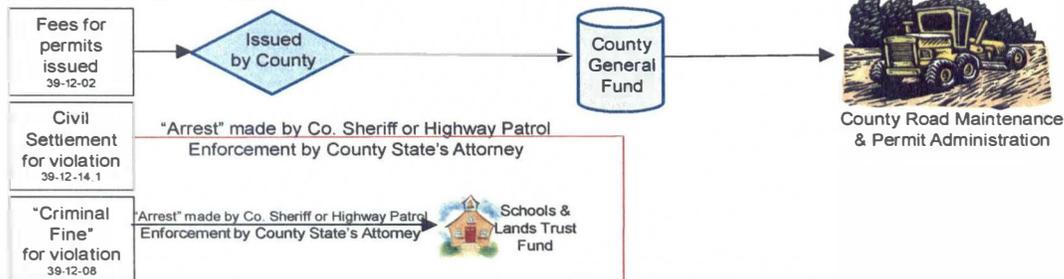
Regarding: SB2025 – Extraordinary Road Use Fees

Mr. Chairman and members of the committee, the Association of Counties is in full support of Senate Bill 2025. I believe that the members of this committee understand well what the bill addresses, however I have included a Revenue Flow chart below to help illustrate exactly why counties are in support.

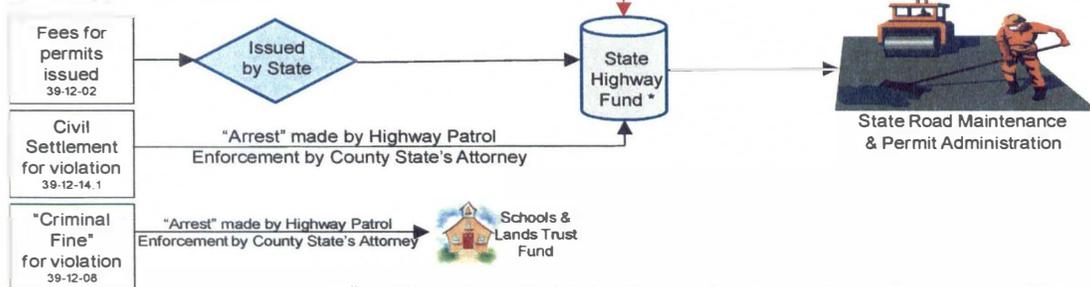
Over-weight/Over-dimension Permits & Penalties Revenue Flow



On County Roads



On State Highways



* Unlike the State Highway Distribution Fund, the State Highway Fund only supports state highways

The Century Code allows the state and its various local road authorities to establish and enforce weight restrictions on their respective roads, within an overall statewide framework. To facilitate the commerce of our state, these road authorities have the ability to issue permits allowing vehicles exceeding their particular weight restrictions to travel on their own roadways. The fees associated with those permits go to benefit the specific road systems used.

When an over-weight vehicle is driven on a road without proper permitting, a fine is levied which goes (as all fines do according to the Constitution) to the schools and lands trust fund –

regardless of where the offense occurs. These fines are not addressed by this bill – nor do we wish them to be addressed.

There is however, an additional civil settlement that can be levied to compensate the road authority for the damage done by that unpermitted overweight vehicle. Currently, regardless of which road is damaged, this civil settlement (or extraordinary road use fee) goes into the special fund for STATE highway use only. SB2025 corrects this by redirecting the penalty to be used for the protection and repair of the roads of the authority where the offense occurred.

We believe this is most appropriate and equitable for the taxpayers supporting those specific road authorities. We urge a Do Pass recommendation.

SENATE APPROPRIATIONS COMMITTEE

January 28, 2013

9:00 a.m. – Harvest Room

North Dakota Department of Transportation

Brad Darr, Maintenance Division Director

SB 2025

Mr. Chairman and members of the committee, I'm Brad Darr, Maintenance Division Director at the North Dakota Department of Transportation (DOT). Thank you for providing me the opportunity to testify in support of this bill today.

The Department had the opportunity to testify on this bill before the Advisory Commission on Intergovernmental Relations last year. We support the bill as drafted.

Thank you Mr. Chairman, This concludes my testimony.

#5

Senate Bill 2025
Senate Appropriations Committee
Submitted by
James Prochniak, NDHP

January 28, 2013

2012 Overload Fee Collections

Overload Type	Location Type	2012		
		Qty	Original \$*	Actual \$**
	<i>Interstate</i>	52	\$24,025.00	\$24,025.00
<i>Fixed</i>	<i>State</i>	296	\$478,740.00	\$472,140.00
	<i>County</i>	33	\$176,630.00	\$176,630.00
<i>Portable</i>	<i>Interstate</i>	101	\$66,905.00	\$66,905.00
	<i>State</i>	1033	\$1,568,812.00	\$1,560,742.00
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Totals		1682	\$ 2,704,632.00	\$ 2,689,962.00

2012

Totals	Location Type	Qty	Original \$*	Actual \$**
	<i>Interstate</i>	154	\$91,505.00	\$91,505.00
	<i>State</i>	1355	\$2,087,232.00	\$2,072,562.00
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	Totals	1682	\$ 2,704,632.00	\$ 2,689,962.00

#1

TESTIMONY OF REP. LAWRENCE R. KLEMIN
HOUSE TRANSPORTATION COMMITTEE
SENATE BILL 2025
MARCH 7, 2013

Mr. Chairman and members of the House Transportation Committee, I am Lawrence R. Klemin, Representative for District 47 in Bismarck. I also serve as Chairman of the State Advisory Commission on Intergovernmental Relations (ACIR).

The ACIR is a statutory commission consisting of 12 members, including 4 members of the Legislature, 2 members appointed by the ND League of Cities, 2 members appointed by the ND Association of Counties, 1 member appointed by the ND Township Officers Association, 1 member appointed by the ND Recreation and Park Association, 1 member appointed by the ND School Boards Association, and 1 member appointed by the Governor.

During the 2011-2012 interim, the ACIR was assigned a study by Legislative Management relating to motor vehicle permit fees, including overweight and overwidth permit fees charged by cities and counties. SB 2025 was introduced as a result of this study.

Under North Dakota law in Chapter 39-12, there are weight and size limitations for the operation of vehicles on interstate, state and local highways, streets, and roads. However, state and local authorities are authorized to issue permits for vehicles exceeding the weight and size limitations. Every peace officer and the ND Highway Patrol are authorized to weigh vehicles or to have them driven to the nearest scales to be weighed. Penalties can be imposed for operating a vehicle without a permit or for exceeding the weight and size limitations provided by law or contained in a permit. The vehicle can be impounded and stored pending a civil action brought by the local state's attorney to collect the fees for the "extraordinary use" of the roads. The owner or driver of the vehicle is given the opportunity to voluntarily pay the "extraordinary road use fees" rather than go to court.

SB 2025 covers the disposition of the extraordinary road use fees. Under existing law, all of the extraordinary road use fees that are collected are required to be deposited with the State Treasurer for the credit of the state highway fund. All of the money collected goes to the state highway fund, even if the violation occurred on a local road and even if the enforcement was done by a local peace officer.

Testimony received by the ACIR during the interim study indicated that the current statutory distribution of all extraordinary road use fees into the state highway fund is inequitable and counterproductive to the proper enforcement of state and local laws. Local roads and streets are being extensively impacted by overweight vehicles, particularly in the western part of the state. Yet none of the extraordinary road use fees

collected can be used to repair or maintain local roads and streets. Although the political subdivisions are allowed to retain the local permit fees, the amount of damage to local roads is significantly greater than the amount of the permit fees collected. The state receives the benefit of local enforcement and receives the civil penalties for violation of local size and weight restrictions.

The ACIR recommended SB 2025 to allow local political subdivisions, including counties, cities, and townships, to receive the extraordinary road use fees collected on local roads and streets and to also receive the proceeds of sales of confiscated vehicles that have violated local size and weight restrictions, provided that the money can only be used for the support of the local road system. The bill also contains a sunset date of June 30, 2017, in order to require a further legislative review of this distribution formula.

SB 2025 provides a fair method for distributing the extraordinary road use fees. I encourage this committee to give favorable consideration to SB 2025.

North Dakota Legislative Council

Advisory Commission on Intergovernmental Relations

Interim Committee Studies and Assignments (12 members)

2044 § 3. Study motor vehicle permit fees, including overweight and overwidth permit fees charged by cities and counties

Study local government structure, fiscal and other powers and functions of local governments, relationships between and among local governments and the state or any other government, allocation of state and local resources, and interstate issues involving local governments (NDCC § [54-35.2-02](#))

Group Housing Ordinances

- [Billings County Zoning](#)
- [Billings County Zoning Amendment](#)
- [Dickinson Ordinance](#)
- [Divide County](#)
- [Dunn County Application](#)
- [Dunn County Development Code](#)
- [First Health District](#)
- [Glen Ullin](#)
- [Golden Valley County Zoning](#)
- [Golden Valley Temporary Crew Housing](#)
- [Mercer County](#)
- [Mountrail County](#)
- [Williston](#)

Chairman

- [Representative Lawrence R. Klemin \(R\)](#)

Vice Chairman

- [Representative Brenda Heller \(R\)](#)

Legislative Council Staff

- John Bjornson

Legislative Members

- [Representative Thomas Beadle \(R\)](#)
- [Representative Ron Guggisberg \(D\)](#)

Citizen Members

- Don Frye, *Mayor of Carrington*
P.O. Box 501
Carrington, ND 58421
- Shawn Kessel, *Dickinson City Administrator*
99 Second Street E
Dickinson, ND 58601
- Jon Martinson, *North Dakota School Boards Association*
P.O. Box 7128
Bismarck, ND 58507-7128
- Scott Ouradnik, *Slope County Commission*
202 West Avenue
Amidon, ND 58620
- Richard Riha, *Burleigh County State's Attorney*
514 East Thayer Avenue
Bismarck, ND 58501-4413
- Mike Schwartz, *President of the Board of Commissioners, Bismarck Parks and Recreation District*
818 North First Street
Bismarck, ND 58501
- Kenneth Yantes, *North Dakota Township Officers*
P.O. Box 104
Brockel, ND 58321-0104

Committee Meetings

August 16, 2012 - 9:00am

Committee Documents

- [Notice \(8kb\)](#)
- [Agenda \(8kb\)](#)
- [Minutes \(42kb\)](#)

February 21, 2012 - 9:00am

Committee Documents

- [Notice \(8kb\)](#)
- [Agenda \(8kb\)](#)
- [Minutes \(45kb\)](#)

December 8, 2011 - 9:00am

Committee Documents

- [Notice \(8kb\)](#)
- [Agenda \(8kb\)](#)
- [Minutes \(46kb\)](#)

September 7, 2011 - 9:00am

Committee Documents

- [Notice \(19kb\)](#)
- [Agenda \(9kb\)](#)
- [Minutes \(51kb\)](#)

Committee Memorandums

- [Supplementary Rules of Operation and Procedure of the North Dakota Legislative Management \(17kb\)](#)
- [Advisory Commission on Intergovernmental Relations - Background Memorandum \(37kb\)](#)
- [Motor Vehicle Permit Fees - Background Memorandum \(49kb\)](#)

Designee

Governor's Designee
Brandi Pelham

Most trucks overweight in oil patch

Law enforcement in the oil patch continue to find overweight loads during a recent commercial vehicle inspection on local roadways in the Stanley, Parshall and New Town area.

The North Dakota Highway Patrol and the Mountrail County Sheriff's Department conducted an inspection Feb. 27 and checked 14 semi trucks and found 10 of those in excess of legal weight allowances. The operators were assessed fines totaling \$22,500.

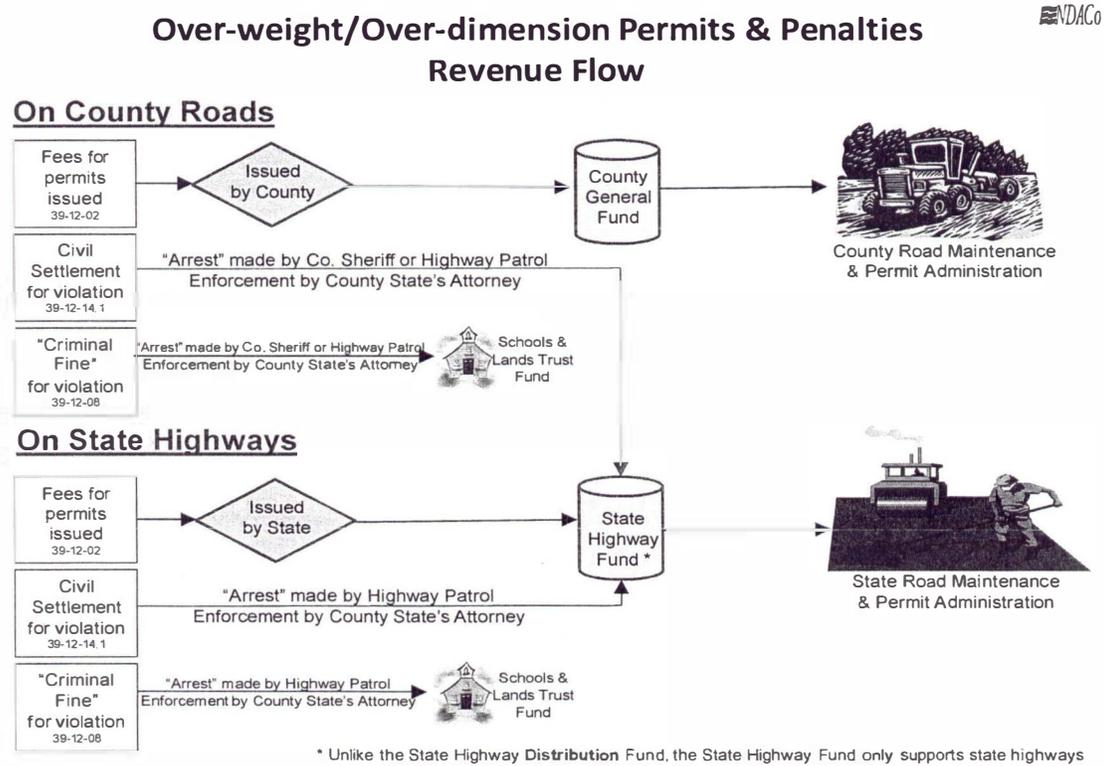
Another 12 commercial vehicles were inspected for compliance with state and federal rules and 13 violations were found, including for driver qualifications.

Overweight commercial trucks deteriorate road conditions and cause safety problems and expensive repairs, according to the agencies. They say they plan to continue weight enforcement inspections to protect county and state roadways.

Testimony to the
House Transportation Committee
 Prepared March 7, 2013
 by Terry Traynor, Assistant Director of the
 North Dakota Association of Counties

Regarding: SB2025 – Extraordinary Road Use Fees

Mr. Chairman and members of the committee, the Association of Counties is in full support of Senate Bill 2025. I believe that the members of this committee understand well what the bill addresses, however I have included a Revenue Flow chart below to help illustrate exactly why counties are in support.



The Century Code allows the state and its various local road authorities to establish and enforce weight restrictions on their respective roads, within an overall statewide framework. To facilitate the commerce of our state, these road authorities have the ability to issue permits allowing vehicles exceeding their particular weight restrictions to travel on their own roadways. The fees associated with those permits go to benefit the specific road systems used.

When an over-weight vehicle is driven on a road without proper permitting, a fine is levied which goes (as all fines do according to the Constitution) to the schools and lands trust fund –

regardless of where the offense occurs. These fines are not addressed by this bill – nor do we wish them to be addressed.

There is however, an additional civil settlement that can be levied to compensate the road authority for the damage done by that unpermitted overweight vehicle. Currently, regardless of which road is damaged, this civil settlement (or extraordinary road use fee) goes into the special fund for STATE highway use only. SB2025 corrects this by redirecting the penalty to be used for the protection and repair of the roads of the authority where the offense occurred.

We believe this is most appropriate and equitable for the taxpayers supporting those specific road authorities. We urge a Do Pass recommendation.

Testimony Regarding Senate Bill 2025
Prepared by: Dana G Larsen, PE, Ward County Engineer

Chairman Ruby and Committee members, I would like express my support for Senate Bill 2025, which was developed by the Advisory Commission on Intergovernmental Relations (ACIR) and would allow the “extraordinary road use fees” to be kept by the county where the overweight vehicle violation occurred. Currently when a Sherriff’s Deputy stops a truck that is hauling more than the posted limit on a county road, they are fined and those dollars will go back to the State. These fees do not come back to the county and the costs to repair the damage done to the roads are not off set.

An example that happened a couple of years ago, we received a call from a farmer that a large semi hauling a very large pay loader was stuck in our county road and had destroyed the road. I went down to check it out and yes there was a semi hauling a 988 pay loader stuck on the road. The loader itself weighed almost 120,000 lbs. and the truck and trailer would have weighed around 180,000 lbs. They had driven down 8 miles of county gravel road the day after a two day rain event and had left ruts the entire way. I called the highway patrol to see if they could come and weighed the unit, but no regulatory units were in the area and the sheriff’s department did not have scales at the time. The driver of the transport off loaded the loaders and drove away and left the load on an approach.

We were not able to cite the unit for overload because we were not able to have an officer weigh the unit. When the owner of the load wanted to move the loader he was required to get a permit, and we required them to move when the road was dry. The contractor who was working on a mining reclamation project had to move additional equipment into the project site. They were permitted, but required to move on different roads or when road conditions were good. We requested that the contractor pay to fix the road that was damaged by the overweight truck, but he did not feel he was at fault because he had contracted with a trucking company to move the unit and they are who we should go after. In the end, the road was repaired and the county was not reimbursed.

Since that time our sheriff’s office has invested in scales and is doing enforcement on our roads. If the same situation occurred, we would be able to cite the trucking company for exceeding the load limits by almost 100,000 lbs. However, those fees would go to the State and Ward County would once again be repairing the road without additional dollars to offset the damage if this bill is not passed.

I would ask that the committee members, to please support SB 2025 and allow the fees from overweight trucks to be kept by the county to repair the county roads that were damaged and I thank you for your time.

#4

HOUSE TRANSPORTATION COMMITTEE
March 07, 2013
9:00 a.m. – Fort Totten Room

North Dakota Department of Transportation
Brad Darr, Maintenance Division Director

SB2025

Mr. Chairman and members of the committee, I'm Brad Darr, Maintenance Division Director at the North Dakota Department of Transportation (DOT). Thank you for providing me the opportunity to testify in support of this bill today.

The Department had the opportunity to testify on this bill before the Advisory Commission on Intergovernmental Relations last year. We support the bill as drafted.

The department prepared a fiscal note:

2011-13 biennium: \$210,000 (Includes only funding from enforcement done by counties.) The funds the Highway Patrol collected on local roads is not included. (Approximately \$500,000)

Thank you Mr. Chairman, this concludes my testimony.

#5

Transportation Committee
Senate Bill 2025
Testimony of Mike Reitan, Assistant Chief, West Fargo Police Department

Good Morning

Chairman Ruby, Vice Chair Owens and members of the Committee, for the record my name is Mike Reitan, Assistant Chief of the West Fargo Police Department. I am testifying today in support of Senate Bill 2025.

The City of West Fargo has experienced significant development and growth. Many new housing and business developments continue to be built. Many miles of new roadway and curb and gutter have been installed. The new infrastructure must be protected from abuse of overweight vehicles to ensure it maintains its maximum usable life.

The threat to our roadways is not the farmer hauling grain to market or the over the road trucker taking his load across country. The threat is a local one brought on by the contractors hauling equipment, concrete and building supplies to and from their job site. Many of the trucks never make onto the state or Federal roadway system.

Our issue with overweight vehicles is a local issue that begins locally and stays locally. The damage is done to our residential roads. It is with that purpose the fees collected should remain local to address the repair of the roadways. I ask you to please vote yes on Senate Bill 2025.

Thank you for your time this morning.

#6

Senate Bill 2025
House Transportation Committee
 Submitted by
James Prochniak, NDHP

March 7, 2013

2012 Overload Fee Collections

		2012		
Overload Type	Location Type	Qty	Original \$*	Actual \$**
<i>Fixed</i>	<i>Interstate</i>	52	\$24,025.00	\$24,025.00
	<i>State</i>	296	\$478,740.00	\$472,140.00
	<i>County</i>	33	\$176,630.00	\$176,630.00
<i>Portable</i>	<i>Interstate</i>	101	\$66,905.00	\$66,905.00
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