

2013 SENATE FINANCE AND TAXATION

SB 2037

2013 SENATE STANDING COMMITTEE MINUTES

Senate Finance and Taxation Committee Lewis and Clark Room, State Capitol

SB 2037
1/15/2013
Job Number 17190

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact sections 57-51.1-07.5, 57-64-02, and 57-64-03 of the North Dakota Century Code, relating to deposits of the state's share of oil and gas taxes and property tax relief through allocation of state funding to school districts for mill levy reduction grants; to provide an appropriation; to provide for a transfer; and to provide an effective date.

Minutes:

Testimony Attached

Chairman Cook opened the hearing on SB 2037.

John Walstad, Legislative Council gave an overview of the bill.

Chairman Cook - If the school district at the local level made a decision to increase their mills by what they would be allowed to do here, only half of the cost of that increase would go to the voters in that school district.

John Walstad - That is correct.

Chairman Cook - Have you looked at the fiscal note?

John Walstad - The note on this one indicates that the appropriation that was plugged in during the interim the estimate has apparently been adjusted a bit and the expenditures indicate about \$396 million of that amount is what would be needed for this program. So, the appropriation in this draft could be reduced by about \$7 million and still cover what the anticipated cost would be.

Chairman Cook - The difference in the expenditures between the 2 fiscal notes, I'm looking at both 2037 and 2036, it's just a little less than \$1 million. I assume that is what the speculate the cost of this...

John Walstad - Additional levy authority and additional match. I was kind of surprised the difference isn't bigger than it is.

Chairman Cook - I am too.

Senator Dotzenrod - That 12% limit that applies to the local increases, is that in the bill? Is that in a different section?

John Walstad - It's in 57-50-14 that is the long standing general fund levy limit for school districts, the 185 mill limit that was there and was what the rule was before this program. That levy the limit is 185 mills or 12% in dollars above last year's levy until you hit 185 mills. So if your not at 185, 12% in dollars is the most you can raise your levy as a school district.

Senator Dotzenrod - I'm interested in this 12% because if we get school districts that end up through a combination of changes with local mill levies that are very low the 12% only applies to the local, if I understand the 12% right it's only going to apply to that portion that's left after state aide and state support is taken out. So you could have a school district, I don't know how we are going to end up when session is over but you could have local mill levies that are quite low, conceivably depending on which plans we adopt. Right now we've gotten the 185 down to 100-110 if we put some more state support in there we could be ending up with local mill levies of 50 or 40 or 30 or something like that.

John Walstad - 60 would be a good number

Senator Dotzenrod - So the 12% if it's applied to 185 mills can give the schools quite a bit of latitude to move, but the 12% if applied to 60 mills or smaller numbers that really doesn't give the school the kind of ability adjust to, if that 12% were applied to the number when the law was created.

John Walstad - I don't know if that was a question but is a good point and that is something that I think you all should keep an eye on. If a major change is made in property tax relief and a transition is put in place where we buy down another 50 or 60 mills of relief that 12% is based on last year's levy in dollars which would have been at a much higher rate so at 50 mill levy 12% in dollars from 110 is probably about a 25% increase at that lower level. Obviously someone's going to have to draft some sort of an adjustment to redo the math there so that that 12%, if that is what legislators think is appropriate so that 12% stays 12% based on where the levy ends up.

Vice Chairman Campbell - How many schools approximately aren't getting the max now that this would affect?

John Walstad - I don't recall the numbers.

Jerry Coleman, Department of Public Instruction - The number of school districts that are getting the full 75 mills, that is 102. Those that are between 60-75 mills, that is 45 school districts and the remainder, we have 181 total would be below that 60 mills. I provided the tax department the numbers for the fiscal note. I believe the number for the appropriation, the 403, I think we provided that way early to the taxation committee and then as we got newer taxable valuation we reset that, that went down to 395 and in the process of finalizing the taxable valuation collection for taxable year 2012 which will be the basis for the first year of the biennium so these numbers will need to be updated at some point.

Chairman Cook - How did you determine the dollar amount needed for the fix?

Jerry Coleman - I looked at the numbers and made an educated guess.

Chairman Cook - Well according to the numbers you just gave us there is 106 school districts not getting the 75?

Jerry Coleman - 102 are getting the full 75; we have 181, so we've got 80 to account for. Half of those are in that 60-75 mill range and we're in an unusual situation in ND where taxable valuations are rising very rapidly. We did our budget projections on a 12.26% increase for this taxable year and from what I'm seeing that that will probably be over 14% increase in taxable valuation and because the mill rates are applied against that, valuations are going down.

Chairman Cook - So the 79 school districts that are below 75 mills, did you in your fiscal note speculate half of them would take advantage of it or all of them or a third?

Jerry Coleman - I don't remember the specifics, I probably took a look at it in terms of, if those that were within 10 mills of that cap I probably focused on those.

Chairman Cook - The way this is drafted these particular school districts could do this every year. Is that correct? It's not just a one-time adjustment.

Jerry Coleman - I believe that's true until they got to the 75 mills. I would think that those that felt they needed to do that that would probably be what they would do. But they have to have a local match to get the match from the state. The way I read it is for each mill they put on the state will match a half of that.

Vice Chairman Campbell - Since they have to have over 110 mills now to qualify for the maximum, and since the property values have increased so the mill levy is going down, could that encourage some school districts or places to increase unwise spending to get that? Is that an incentive for them maybe, not accusing that is going on, but could it create an artificial incentive to get the maximum to do some unconditional spending?

Jerry Coleman - It could.

Jon Godfreed, Greater ND Chamber of Commerce - See attached testimony 1 in support of SB 2037

Vice Chairman Campbell - Tax payers that don't understand it, and it's not on there, and then why did my taxes go up if the state gave tax relief, and that is a good point, I'd like to see that.

Jon Godfreed - I think it speaks directly to some of the issues with the buy down program itself. When it's tied to mills and your valuation increase, you've got an automatic inflator there.

Josh Askvig, AARP of ND - Briefly spoke of their general support of the bill.

Terry Traynor, Association of Counties - We are in support of property tax relief and we have been very pleased with the simplicity of the current mill levy buy down. We too have reservations about the growth and sustainability but it's been very straightforward and easy to administer and very effective.

Chairman Cook - Earlier I mentioned there was 4 bills that came out of the interim committee, you testifying in support of all 4 of them or is this the one you support the best?

Terry Traynor - This is the one our group has felt is the most straightforward and easiest to administer.

Senator Dotzenrod - This issue of tax statements going out from the counties to the tax payers and the taxpayers not being able to see anything on that statement that indicates that the state made a contribution to lower their taxes, have the counties thought anything through, has this come up in resolutions or discussions on the leadership level? Have the counties tried to figure out how they can get to this problem and get that notice on the statement some way?

Terry Traynor - That has come up, particularly during the measure 2 debate. It was great with the 3 years as long as it was one of the three years but once it fell off it was easy to forget about. We are happy and we encourage Cass County to go in the direction of adding that to their statement. They are somewhat unique in the fact that they control their software. They have software developers that can manipulate that and create that. They are about the only one in the state that has that capability. The rest is commercial software working with vendors. Generally it gets costly. However there is a great deal of interest with the response that Cass County has received.

Senator Triplett - As a former county commissioner I almost hate to ask you this, because I know that something as small as adding an extra piece of paper into an envelope can create problems, but given your comment about the standardized software that doesn't accommodate, is there a possibility that the Association of Counties could develop a generic statement that could be suggested to all counties to print on a separate piece of paper that could be included with the tax statements to the effect of that even just that the state has in recent years increased its support of education from 49% to 72% or 80% whatever it ends up being at the end of the session?

Terry Traynor - Certainly we will consider that. Several counties do that now and include a separate sheet. The experience has been however, my utility bill, I always gets additional things, I pull out the bill to pay it and most people don't read those extras. Particularly when they aren't specific to my tax, how does that change that? It's something that can be done, and is being done in some, and we encourage that, but I don't know how effective it is.

Brandt Dick, HMB School District - I am representing one of those districts that have been somewhat unhappy with the mill levy buy down. We got caught with a 60 mill levy buy down. So, we do appreciate the opportunity to get back some of those mills. In my particular situation representing Hazelton - Moffit - Braddock we would not probably be able to take advantage of this for the next biennium. We did increase the 12%, our local taxable valuations went up 18-20% and so we are at 98 mills right now. To get to that 110 and go

beyond the 12% wouldn't limit us to get to that point. Even though we are in support I don't think we would be able to take advantage over this next biennium if property values continue to increase as we have seen the last couple years but I do thank you for that 12% because that is a discussion point for small schools. We are in the situation where we have been seeing some declining enrollment so right now what's out there and what presently we have seen a great decrease in state funding for our school district.

Chairman Cook asked for more testimony in support. Then testimony opposed.

Chairman Cook closed the hearing on SB 2037.

Marcy Dickerson - This was not a school funding situation. The people who benefitted from the 75 mill buy down were the tax payers, not the school. The school gets the same amount of money as if it had levied at 75 mills, or 58 mills, or whatever it got. The formula does kind of tie the schools to what they levied back in 2008 and does prevent them, circumstances change, and maybe they really do need more funding than they needed at that time so I have no problem with helping them get a little more than what the otherwise would have.

Chairman Cook - Basically a school board can make a decision to raise their mills by 5 mills and they just raise state dollar requirements by 2.5 mills.

Marcy Dickerson - Yes

Chairman Cook - School boards can make decisions that affect the appropriation of this bill.

Marcy Dickerson - Yes I agree with that.

Senator Dotzenrod - I will move a **Do Pass**.

Seconded by **Senator Oehlke**.

Roll Call Vote 2-4-1

Vice Chairman Campbell - I'll move a **Do Not Pass**.

Seconded by **Senator Burckhard**.

Roll Call Vote 4-2-1

Carried by **Chairman Cook**.

FISCAL NOTE
Requested by Legislative Council
12/19/2012

Bill/Resolution No.: SB 2037

- 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						
Expenditures			\$396,422,720			
Appropriations			\$403,407,000			

- 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			
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).*

SB 2037 updates the oil and gas tax revenues that goes into the property tax relief sustainability fund and makes some changes to the mill levy reduction grant program.

- 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.*

Section 1 provides for an inflationary increase in oil and gas tax revenues deposited in the property tax relief sustainability fund to \$403,407,000 for the 2013-15 biennium. The bill also provides for excess levy authority to allow school districts to recover lost mill levy authority. For each mill the district levies over 110 mills, the mill levy reduction grant will be increased by 1/2 mill. The combined levies (general fund levy and mill levy reduction grant rate) cannot exceed 185 mills. The projected cost is \$395,622,720 plus the state's cost for the excess levy utilized, which is estimated at \$400,000 annually, or \$800,000 for the 2013-15 biennium. The combined total cost for the biennium is estimated at \$396,422,720.

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.*

- 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.*

Section 4 contains a State General Fund appropriation of \$403,407,000 for the 2013-15 biennium. The Executive Budget contains revenues sufficient to meet the current law level of mill levy reduction grants (MLRG) and funding to expand the MLRG program.

Name: Kathryn L. Strombeck

Agency: Office of Tax Commissioner

Telephone: 701.328.3402

Date Prepared: 12/27/2012

Date: 2-11-13
 Roll Call Vote #: 1

**2013 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2037**

Senate Finance & Taxation 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 Senator Dotzenrod Seconded By Senator Oehlke

Senators	Yes	No	Senator	Yes	No
Chairman Dwight Cook		X	Senator Jim Dotzenrod	X	
Vice Chairman Tom Campbell		X	Senator Connie Triplett	X	
Senator Joe Miller					
Senator Dave Oehlke		X			
Senator Randy Burckhard		X			

Total (Yes) 2 No 4

Absent 1

Floor Assignment _____

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

Date: 2-11-13
 Roll Call Vote #: 2

**2013 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2037**

Senate Finance & Taxation 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 Senator Campbell Seconded By Senator Burckhard

Senators	Yes	No	Senator	Yes	No
Chairman Dwight Cook	X		Senator Jim Dotzenrod		X
Vice Chairman Tom Campbell	X		Senator Connie Triplett		X
Senator Joe Miller					
Senator Dave Oehlke	X				
Senator Randy Burckhard	X				

Total (Yes) 4 No 2

Absent 1

Floor Assignment Senator Cook

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

REPORT OF STANDING COMMITTEE

SB 2037: Finance and Taxation Committee (Sen. Cook, Chairman) recommends DO NOT PASS (4 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). SB 2037 was placed on the Eleventh order on the calendar.

2013 TESTIMONY

SB 2037

Testimony of Jon Godfread
Greater North Dakota Chamber of Commerce
SB 2037
January 15, 2013

Mr. Chairman and members of the committee, my name is Jon Godfread and I am here today representing the Greater North Dakota Chamber of Commerce, the champions for business in North Dakota. GNDC is working on behalf of our more than 1,100 members, to build the strongest business environment in North Dakota. GNDC also represents the National Association of Manufacturers and works closely with the U.S. Chamber of Commerce. As a group we stand in support of SB 2037.

To provide some background the GNDC was the primary association that led the charge in defeating Measure 2 in the last primary election, that Measure would have abolished property taxes in North Dakota. We intimately understand the property tax issues in our state and were a part of numerous debates and conversations surrounding this topic. We heard from owners of all classes of property and relied heavily on our members to defeat that measure.

There are things we like in SB 2037, particularly the fact that the relief outlined addresses all classes of property. We feel this is the only place to start the discussion on property tax relief, as all three classes of property have played an essential role in helping North Dakota to its current budget surpluses and thus should be included in any property tax relief discussions.

However, we have strong reservations about the sustainability and understandability of the current program. Currently the mill levy buy down program is tied directly to mills, specifically education mills. As valuations increase across our state, the result on this program is an automatic inflator and thus increases the cost of the projected buy down. SB 2037 speaks to the challenges of equity within this program; any adjustment to the formula has shown to produce winners and losers, which is again why we urge this body to consider alternatives. Admittedly, we do not have a better solution to offer at this time, but are investigating the possibility of using the money and injecting it directly into the school funding formula, but we encourage this body to look for an alternative to the mill levy buy down program and would be happy to assist in any way possible in those discussions.

Secondly, there is a great lack of understanding as to how this program works; we experienced this during our measure 2 debates. Many citizens in our state do not understand or have simply forgotten that the state is buying down property taxes for property owners in our state, since 2009. We feel this body needs to address this issue by adjusting the property tax statement and in essence show the citizens of North Dakota just how much the state is paying in local taxes. Additional clarity and transparency is needed to help citizens understand just where our tax dollars are going and who they need to talk to, in order to address their concerns.

We support SB 2037 in that it addresses all classes of property. While this is a proper starting point for the property tax relief discussion, we feel that given the state's current economic explosion, its budget surpluses, and the outcry from the citizens and businesses of North Dakota, the amount of property tax relief offered should be larger. We will have a proposal coming forward that will offer an additional \$540M in property tax relief. We feel that presently the state has the money to address one of the largest concerns of the citizens and businesses of North Dakota.

Thank you for the opportunity to appear before you today in support of SB 2037, I urge you to consider the concerns I have laid out and would enjoy the opportunity to continue the discussion on how our state address property tax relief. I would be happy to answer any questions.