

2011 SENATE FINANCE AND TAXATION


SB 2307

2011 SENATE STANDING COMMITTEE MINUTES

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

SB 2307
February 1, 2011
Job # 13760

Conference Committee

Committee Clerk Signature 

Explanation or reason for introduction of bill/resolution:

Relating to county infrastructure fund grants to schools districts to offset oil and gas development impact; and to provide an effective date.

Minutes:

"Attached Testimony"

Chairman Cook opens the hearing on SB 2307.

Senator Warner supports SB 2307. (Attached Testimony A).

Representative Drovdal, District 39, is a co-sponsor and supports SB 2307. (Attached Testimony B). Urges a **DO PASS**.

Senator Hogue asks if we pass bill that has the \$100 million increase to the "Impact Fund" from \$8 million to \$100 million, provides that all of these political subdivisions, that are in these impacted counties, can apply to that "Impact Fund", if we do that, would SB 2307, be necessary?

Representative Drovdal states that "I believe it is" because this portion goes into the regular funding formula, that oil and gas counties go to, and the other bill is only a 2 year bill. The bill, that members of the House have come up with, is a four year bill, but that gives schools, nothing. The bill in the House Finance and Tax is considering tomorrow morning, does not allow the schools to get any additional money, even through a grant program. The governors' bill has some language in it, that there may be an option, but that is a 2 year bill.

Senator Triplett states that Senator Warner explained that you were going to "explain the imputed language" to us. Will this work with the school funding formula or will it just get rolled into imputation anyway?

Representative Drovdal states that is a very good question. When we passed the bill, two years ago, the whole intent was that the grant money would not be included in the imputative value and DPI has included it in all imputative value. That is a secondary issue. We put it in because that was the intent 2 years ago. That caused us a lot of problems in the House discussions on it, on a similar bill. If that gets to be a focus, I would rather have

it out of there. It is not a big amount, when you compute it out; it doesn't make a lot of difference. The argument is that these are one time grants only, so why put it into the funding formula? This is special cause, special needs, above the base, so why is it imputed in there, as a grant program? I would like it to stay in there, but if it causes a bill to "wobble", I would like to see it removed. I really believe that this is a needed bill.

Senator Cook asks, "Is this "imputed language", and is it in any other bills?"

Representative Drovdal states he can't answer that. He doesn't know. I haven't look and don't know of any place. I would have to ask Legislative Council to get an answer for you.

Senator Cook states he would advocate, to this committee, that we take it out of here. It should not be in here. The place, where that issue should be discussed, is certainly in Education, when they do the school funding formula, as to what degree they compute these dollars.

Representative Dvordal states if it is going to cause the SB 2307 to waiver, I would support you on that. My intent is and I have talked to the House Education Committee, that if this bill makes it over, which I think it will, that it will be referred to the Education Committee, to look at it. They will have to decide on the "imputative value" in that Education Committee. If it doesn't have it in there, it will not be referred to the Education Committee.

Senator Cook asks if there is point that we could possibly have too much money for the schools out there? Is there an end to the "appetite?"

Representative Drovdal states "Is there an end to an "appetite" from any state agency or any program, or any government subsidy or subdivision, anywhere?"

Aaron Burst, Association of Counties, speaking for the 17 oil and gas producing counties with regards to SB 2307. We strongly support SB 2307. We have the infrastructure in place, to deliver this service to the school districts, other than it is restricted to vehicles. We think this change would allow us to be more flexible, in giving out those dollars. I understand the Chairman's concern with the "imputation". We felt it necessary, without it, you "give on one hand and take away with another". We thought that's necessary but if that is for the Education Committee, we would certainly agree with the committee. However, you could move this SB 2307 forward, as a vehicle, for that continued discussion. We do have a member of the school district here that can better explain the "imputation formulas" than I can. We want to support the "overall concept" of the bill.

Steve Holen, Superintendent of Schools for McKenzie County School District #1 in Watford City. Member of the ND Oil Producing Counties, Executive Committee, representing school districts. We are tied now with additional funds. We had our 35% in gross production tax formula. That would have directly come to us now goes to the infrastructure fund for grant programs. As far as the "imputation" goes, I agree with that statement. If that money had flowed directly to us, as it normally did, as it does now up to the cap, it should be "imputed". When we were taken out of the game and not given any

direct access to that money, and have to ask for it as a grant, that is when I believe the "imputation" went away. I think that is consistent with school districts, if you get a grant to offset a cost that is not necessarily revenue. I do believe the intent, probably not to "impute" that money, due to the grant nature of the program, it was not specified. So as a school district, we have the capacity to go in and ask for that. We like to think that our 35%, that was taken and should have with the townships, but the restriction at that time, might have been somewhat more valid. Two years later, the impacts are more than busses. We need the capacity, locally, to cover costs.

Chairman Cook asked, "You mentioned the 600+ students getting paid on 543 students due to the school aid goes back to the previous year's student count, correct?"

Steve Holen responds, "That is correct. We are paid by the spring ADM (Average Daily Membership). We left last year with 540 kids approximately.

Chairman Cook asks, "The whole issue of "imputation" is what replaced the old mill levy deduct, that we use to have to provide equity in our state funding for schools, correct?"

Steve Holen states "That is absolutely correct and the "imputation factor" it took our oil and gas production tax money, and calculated it into the taxable evaluation". That is where the "imputation" and more equity, in counting that money as revenue, that wasn't done through the mill levee deduct.

Chairman Cook states that he recalls last session we passed 1304 and it was from the sponsors originally that we kept school districts whole, as far as 35%, not any went down but we had more money available for townships. That was where the money was needed.

Steve Holen states, "That is correct". A couple of things did happen with the 35%, which basically means, whatever we were getting before, we weren't going to lose. The reality is that it didn't happen. The infrastructure fund kicks in after the first million dollars not when the school district hits the cap. I think is it being addressed in another bill on the House side. All we are asking for is an "equal leg in the game". If we come as a school district that leases busses right now, I can't get any money. It is bussing, it is transportation. I need to be able to build my transportation infrastructure. I need to build a new shop so I can maintain these busses. I can't do it. It is too simplistic and we were not addressed fairly, in that regard, as a public entity, that needs some access to these dollars.

Senator Triplett states that the framework of the bill is that the 35% would be for townships or school districts or other infrastructure needs. Do you have a sense that there would be a good level of cooperation, between school districts and townships and county commissions, in terms of sorting out, what the local needs are and give school districts this expanded role?

Steve Holen states "I do and I think that school districts are taking a "leap of faith" that we are going to come into this grant process and be an equal partner." There are road issues etc. that garner a lot of attention. I think, most schools understand, we live in these areas, these are our areas, we live in these townships, and we have kids that go to school in these townships. We don't want to take money away from roads, that we travel everyday and

have to get school kids from. That is not our issue. I think local counties are put in that position for a reason. In my county, the cooperation is very high level.

Senator Dotzenrod asks, "I would like to know what your local mill levee is and if this law had been in affect two years ago, could you give me examples of what you would have requested?"

Steve Holen states that they are at 105 mills. One hundred ten is the cap, which was changed at the last session. Yes, we are restricted, somewhat, and property tax reduction was a great thing. People don't really understand, for us one mill is worth about \$12,000. So if I raise my cap, \$60,000 is not going to cure a lot of problems for my school district. We have a low evaluation, due to the land itself, and 40% isn't taxed to begin with, as far as federal land. We would ask for, in the last session, is that we have 31 busses in our district and we cover 1679 sq. miles. We need transportation infrastructure, we don't have a bus barn facility, we don't have a mechanic that deal with us and right now we are competing with an oil field, where a diesel mechanic, is busy and making lots of money, that a school district can pay him to fix our buses. We would put that money into transportation infrastructure and facilities that meet our own needs.

No opposing testimony for SB 2307.

Ken Yantis, Executive Secretary of 6000 township offices across the state of ND.

My opinion is that there is a lot of help needed on those roads, out there. I have neutral testimony on SB 2307, however. I think the county commissioners are very responsible people. It is important to understand that we have to get the school first on those roads.

Senator Triplett states that she knows we can't mix and match these bills but you are aware of the large increase in the governor's budget for roads across the state? Assuming, the state makes that big "up kick" in commitment to roads, specifically. If we take care of roads, in a different place, than is there problems with taking care of the schools, to the extent, that the grant program would allow it?

Ken Yantis states he would hope the governor's budgets figures would go through and we take care of it. If it does, I am not sure of the amount of degree of help, that is going to be out there and what area it is. I hope that it goes through, and if it does, I think we are going to be in pretty good condition.

Chairman Cook closes the hearing on SB 2307.

2011 SENATE STANDING COMMITTEE MINUTES

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

SB 2307
2/8/2011
Job Number 14183

Conference Committee

A. Bittner

Explanation or reason for introduction of bill/resolution:

Relating to county infrastructure fund grants to schools districts to offset oil and gas development impact

Minutes:

Committee Work

Chairman Cook opened discussion on SB 2307.

Chairman Cook – Committee, last session when we did the oil infrastructure money in HB 1304 if you recall, there was a mechanism put in there to allow counties to send money to schools for school buses. The whole intent of that was so that money would not be imputed, it was in fact imputed. This bill is to take out the restriction that it can only be used for busses and to expand it for school district purposes and to make it clear that it was not to be imputed. I can tell you that we will be getting a bill from the House, HB 1458 dealing with oil infrastructure dollars and that this language is in there also. I would think it would be in our best order just so we don't have 2 vehicles floating around and one going over to them, that we would simply put this to rest for now and we will deal with it after crossover in the full bill.

Senator Dotzenrod – I'm not sure how this process is going to exactly unfold. We will get that bill over here and I don't know if it says exactly what this says or if it's something close to what this says. We can always, as a committee, amend that bill in any way we want when it gets over here. I'm just wondering if it's a little early to let this bill die. I like this, I like what's in here, and I'd like to see this get in to the final product.

Chairman Cook – Why should this money not be imputed?

Senator Dotzenrod – My understanding of what they are going to ask for, they are going to ask for a single injection of dollars into that school district to cover a specific purpose related to an impact. Imputed money to me, I think of all the things that come together that support the school over time, those should be imputed. They've got some expenses out there that occur to them largely because of an influx of students, something they need to get done that is going to affect them. If it wasn't onetime expenses I'd probably feel different but I think I look at this as covering those schools that have got to really deal with something that hits them. They've got an impact and they are going to ask for this money to fix it and help deal with it.

Chairman Cook – Describe what you consider a onetime expenditure.

Senator Dotzenrod – What we heard in the testimony is that some of these schools are going through fairly dramatic rises in their enrollment. There's a delay in the funding that comes to accommodate their growth. If they could get some money upfront and request it, just because we provide this doesn't mean that they are going to get the money, but they are going to have the right then to make a request and convince somebody at the county level that they need it, if they can make their case, they may be able to deal with some of these new students, and get some teachers, and get possibly some extra room. It probably doesn't mean a brand new building but it probably means some additional space.

Chairman Cook – I think this issue is going to be before us this half and is going to be before us in the second half, and we will see it in HB 1458.

Senator Dotzenrod – I guess we can all assume that HB 1458 is going to pass in the House. It's not loaded with controversy; it's pretty much something that needs to get done and that they are going to pass it.

Chairman Cook – I think we could bet money that HB 1458 goes to the Governor. It's just a matter of what will be underneath the title.

Senator Oehlke – I'll move a Do Not Pass.

Seconded by **Vice Chairman Miller**.

Senator Triplett – I just wanted to second what Senator Dotzenrod was saying about process. I think it is interesting that the previous bill we discussed, we thought it necessary to have 2 vehicles, one from each side to indicate the level of support for income tax for example so that we could make sure that our position was well heard in a policy discussion in Conference Committee, but now this bill, there's no need to have a separate vehicle, we'll just wait for whatever the House wants to do. I think it would be nice if we had some consistency in terms of how we think about these things. Given that we needed 2 vehicles for the income tax bill, I think we should have 2 vehicles for this one too so that there is a Senate statement out there when it goes to the Conference Committee.

Chairman Cook – I wish there was only one bill for the income tax too and I hope that maybe they will kill theirs and we will have one.

Chairman Cook – We have a motion for a Do Not Pass on SB 2307. Ask the clerk to take the roll. (5-2-0)

Carried by **Chairman Cook**.

FISCAL NOTE

Requested by Legislative Council
01/25/2011

Bill/Resolution No.: SB 2307

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

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

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

This bill expands eligibility for county infrastructure grants to school districts beyond school bus replacement to any oil and gas development impact. The amendments also exclude any impact funding received from consideration in the income tests in the state school aid formula.

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

The amendments do not adjust the formula allocating funds to the county infrastructure fund so the amendments have no direct fiscal impact on general or other funds.

Any fiscal impacts will be indirectly related to the allocation of available funding:

1. Townships are also eligible for impact grants so there will be additional competition for the same pool of funds.
2. Exclusion of impact funding from imputed taxable valuation has an indirect impact on the state school aid formula. Currently 70% of any revenue sources distributed to school districts through the county are considered in the imputed taxable valuation calculation. Imputed taxable valuation per student establishes the threshold for triggering equity adjustments to formula payments. Districts below 90% of the state average receive additional formula funding, districts above 150% of the state average receive less formula funding.

Because of the dynamics of the formula, a precise impact cannot be determined without knowing the total amount of additional funding that will be received by each individual school district.

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.*

Name:	Jerry Coleman	Agency:	Public Instruction
Phone Number:	328-4051	Date Prepared:	01/25/2011

Date: 2-8-11
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2307

Senate Finance and 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 Oehlke Seconded By Senator Miller

Senators	Yes	No	Senators	Yes	No
Dwight Cook - Chairman	X		Jim Dotzenrod		X
Joe Miller - Vice Chairman	X		Connie Triplett		X
Randy Burckhard	X				
David Hogue	X				
Dave Oehlke	X				

Total (Yes) 5 No 2

Absent 0

Floor Assignment Senator Cook

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

REPORT OF STANDING COMMITTEE

SB 2307: Finance and Taxation Committee (Sen. Cook, Chairman) recommends DO NOT PASS (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2307 was placed on the Eleventh order on the calendar.

2011 TESTIMONY

SB 2307

Testimony on Senate Bill 2307
Senate Finance and Taxation Committee
Senator John Warner
1 February 2011

Mr. Chairman, Members of the Committee

Current law found in Section 57-51-15 allows that the board of county commissioners may allow some of the oil and gas development impact funds which come to the counties to flow through to townships for damaged roads and to school districts for vehicles which have been damaged or deteriorated because of travel on damaged roads.

This bill recognizes that school districts may have significant needs relative to oil development that go beyond transportation issues. These needs are not spelled out in the bill but may include such things as temporary classrooms or renovations to existing classrooms and other facilities to accommodate larger class size or other needs.

The language beginning on line 15 recognizes that these would be one time grants and not part of the normal funding stream for education and so should properly be excluded from consideration as revenue for purposes of determining imputed taxable valuation.

Mr. Chairman, members of the committee, this preserves the mechanism which exists in current law that puts the county commissions in charge of determining priorities within their counties but expands the range of options that they have to address needs at the local level.


Feb 1, 2011

Chairman Cook and member of the Senate Finance and Tax Committee. For the record I am David Drovdal, Representative from District 39. I am a co sponsor of SB 2307

SB 2307 revisits the oil impact infrastructure fund grant program to schools in the affected area. As you may or may not recall during the last legislative session we capped the dollar amount that when to school district and sent any dollar amount over that cap to the county to be deposited into a infrastructure grant program. School districts could apply for the fund to offset the impact that oil development had to their schools. We then turned around and limited them to apply for only school buses or school bus repair. In the heat of the moment sometimes things sound better than they turn out to be. I can think of a number of things that impact school because of the development of oil and gas. Let's say that enrollment goes up by 30 students. The state pays about \$3800.00 per student which would be \$114,000 but the districts don't get any of these dollars the first year. The district will have to provide teachers, supplies and space for that year. It is also a fact that cost for all the employees is higher because of competing with high paying jobs in the oil field. When the district finds additional teachers the district may have to help provide housing because of the increase in housing rent due to competition from oil field workers. Many school districts have had increases in student numbers, the difference is that usually the increase is reflected in property tax values increasing because of the activity responsible in bring the new students. In regard to oil the property tax is the inlieu dollars that the state is getting.

Road

Two years ago the focus was on the damage caused by oil exploration. There were around 40 rigs drilling, the price of oil was under the trigger price and rigs were leaving the state. Today we are approaching 200 rigs with more on the way. Every service provided by a individual, company or government is stretched to the limit. Impact is on everything. SB 2307 allow the school districts to ask the county for oil impact grants funds and let the county commissioner decide if the request is caused by oil impact.



I ask for your favorable consideration for SB 2307 and would be glad to answer any questions.

David Drovdal

