

2015 SENATE APPROPRIATIONS

SB 2033

2015 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Harvest Room, State Capitol

SB 2033
1/27/2015
Job # 22579

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to appropriation of a portion of state oil and gas tax revenue exceeding forecasted amounts for distribution in the second year of the biennium to supplement oil and gas gross production tax funding to political subdivisions.

Minutes:

Attachments: #1

Legislative Council - Chris Kadrmas
OMB - Nick Creamer

Chairman Holmberg called the committee to order on SB 2033. Roll Call was taken. All committee members were present.

Senator Richard Wardner, District 37, Chairman of Interim Committee: This bill came out of Interim Energy Development and Transmission committee, the bill puts a trigger on if revenues are at a certain level, then money would be kicked out into political subs in oil country. This needs to be kept in perspective with other legislation that has been proposed.

Tim Dawson, Legislative Council: (2:10) Staff the Interim Development and Transmission committee a couple bills from the EmPower Commission, and this is one of them. If the first 6 months of oil and gas income exceed the legislative forecast at the end of session by 20% then \$200M of SIIF (Strategic Investment and Improvements Fund) fund goes to cities and counties. By March of 2016, it's procedural. If you look at the bill itself, you can see first paragraph relates to the first process. The second paragraph is the meat of the bill. If oil and gas production tax and extraction tax revenues exceed the legislative forecast as determined under this section by 20%, the state treasurer shall allocate funds provided by legislative appropriation (section 2) and provides \$200M from SIIF fund. In April of 2016, the allocation under this section must be made in proposition to the allocations made under political subdivisions. This is the city and county formula funding and the next paragraph does not away from any funding they would receive.

Senator Mathern: (4:25) What would happen in the case where the amount of money available is over the 20% was less than \$200M. Is this a proportional allocation or does it require \$200M or nothing?

Tim Dawson: It is \$200M or nothing.

Senator Mathern: I'm just wondering why if the committee would have an unanticipated \$100M, why wouldn't we move that out versus having to have \$200M.

Senator G. Lee: The formula that they're using in the code, is that the one where it uses the cities are the hub cities and counties are the oil producing counties, the 17 based on that definition of so many dollars of production? 5:51

Tim Dawson: I'm not exactly sure what bill had what in it, but this is that the formula funding in the statutes that they get so many.

Senator G. Lee: It's the hub cities and the counties in oil country?

Tim Dawson: Yes.

Alan Anderson, Commissioner, Department of Commerce: (See attachment #1) Testified in favor of SB 2033.

Chairman Holmberg: (9:47) As I read the language, are we assured that 20% of the forecasted revenue is always going to be above \$200M? Is it possible that is under \$200M? If it's under \$200M and we give up \$200M, then aren't we giving out more than this contemplates? I don't understand that, is there any assurance that 20% of that will be at least \$200M?

Alan Anderson: It will be dependent on what the formula change is. When we were doing it with the 25%, you would have the \$200M in there for that allocation. But you are correct, it is dependent on what you end up with for a formula change.

Senator Wanzek: When it was deliberated in the interim, we were probably anticipating a much higher oil price. Now with a lower oil price, wouldn't this trigger kick in sooner? Wouldn't we get to that 20% over a much lower revenue faster if we were anticipating the prices we were last summer?

Alan Anderson: The trigger will be dependent on a couple of things: (1) the price of oil and (2) the other is the formula change that you make because it will be dependent on how much money is in the SIIF. It takes a long time before you start to fill that SIIF fund so I think that all has to be considered when you're looking forward. The idea is just to try and get some kind of lever for all of you. So if you have a lot of money that is going into the SIIF, you'll have it kicked to the local communities if you don't have a higher formula percentage.

Chairman Holmberg: We'll hear testimony, but we will not rush to judgment on passing the bill out until clearer picture of what's happening.

Senator Carlisle: You're in favor of the surge bill going out west right at \$1.1B; you're in favor of the new 60/40 which is over in the house and you're in favor of this bill.

Alan Anderson: As EmPower chairman, yes. EmPower is supportive of the surge, they are supportive of the formula change, they didn't go on record on saying 60/40 but an increase to the locals and dependent on that, making sure you have some trigger mechanism to help allocate if needed.

Senator Carlisle: In light of what's going on when we get new projections, there will be a lot of things on the table.

Alan Anderson: I think that's correct because if you do the 60/40 or a very high level, I'm not sure trigger is needed because at the time the thought was the trigger would kick more of that out to the local communities. If you're doing the 60/40 you're already doing that.

Pam Sharp, Director, OMB: (14:48) The Governor's priorities are to help cities and oil counties. However, we are not in favor of this bill. The trigger is problematic. We don't know what the forecasted price of oil will be. There's potential that there won't be much money in SIFF fund. If the money goes to the cities and counties, there would not be money available for statewide needs. If something happens, then the money is off the table and not available to be used statewide.

Senator Carlisle: You brought up the SIFF fund, under the present day oil prices what is the backfill on the replenishment of SIFF fund? My understanding is that it replenishes itself so where are we at in numbers as of last week or two.

Pam Sharp: When we proposed executive forecast, we were assuming it would have have available for appropriation for next biennium at about \$1.3B. We believe that at least \$200M is going to be taken off the table if that small trigger goes into effect. A lot of it also depends on what happens with this legislature and how much the balance of the SIFF fund you appropriate. If you appropriate it all, then it's dependent on going through the buckets next biennium and filling up. In addition to the flow through the buckets, what used to be the Land and Mineral's Trust Fund also earned some revenue for that fund as well. It's hard to tell what everything's going to be when we don't know what the price of oil is going to be.

Senator Carlisle: With the Surge bill there are only so many times you can go to the well with that fund under the present day prices.

Pam Sharp: What you have in this surge bill that you passed out to this committee actually takes all the money out of the SIFF fund.

Chairman Holmberg: Would you be supportive of this committee waiting for a while on this particular bill to see how things are looking? We are under no obligation to pass it over to the house--we can sit on it.

Pam Sharp: I think that is appropriate.

Senator Bowman: The surge bill funding is money we're short of for years and is money to help us catch up. The formula change is to try to reconcile that shortfall over the next twenty years in the oil industry. If the SIFF fund builds enough to trigger this back, that would be a win/win for everyone in the state. That means there's a tremendous amount of

production and there's a good price in the oil and everyone benefits from that. I think it's imperative that we hold on to this and see where we're at until after we're done with the formula change and the surge change. We don't want to shortchange the state but at the same time, we haven't caught up since 1953. We're trying to figure out a way to where we don't get into a problem like we did in the 1980s when it all broke.

Pam Sharp: I agree, there are a lot of moving parts. We're fully supportive of being fair to the political subdivisions. So I think it's appropriate to hold onto the bill.

Chairman Holmberg: Senator Wardner, are you adverse to us holding this bill for a while?

Senator Wardner: When this bill was brought forth on the EmPowerment Committee, the 60/40 and the surge were not even being thought of and talked about. So we do have all three before us and I don't think we have all three. I'm doing to ask you to hold the bill until we see how some of this other stuff shakes out. If we lose the Surge and we lose the formula, at least we'd want this bill. It's alternatives that we've got going forward to take care of some of those shortcomings.

Chairman Holmberg closed the hearing on SB 2033.

2015 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee
Harvest Room, State Capitol

SB 2033
2/16/2015
Job # 23916

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act regarding Oil and Gas gross production tax funding to political subdivisions (Do Not Pass)

Minutes:

"Click to enter attachment information."

Chairman Holmberg called the committee to order on Monday, February 19, 2015 in regards to SB 2033. All committee members were present. Chris Kadrmass, Legislative Council and Tammy Dolan, OMB were also present.

Senator Wanzek moved a do not pass. 2nd by Senator Kilzer.

Senator O'Connell asked why we don't pass this.

Chairman Holmberg stated what we can do is dispose of it right now but hold off on the committee report because they are having the hearing this week. Any more discussion?

Call the Roll on a Do Not Pass on SB 2033.

A Roll Call vote was taken. Yea: 10; Nay: 3; Absent: 0.

Senator Wanzek will carry the bill. The hearing was closed on SB 2033.

Date: 2-16-15
 Roll Call Vote #: 1

**2015 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2033**

Senate Appropriations Committee

Subcommittee

Amendment LC# or Description: _____

- Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Wanzek Seconded By Kilzer

Senators	Yes	No	Senators	Yes	No
Chairman Holmberg	✓		Senator Heckaman		✓
Senator Bowman	✓		Senator Mathern	✓	✓
Senator Krebsbach	✓		Senator O'Connell		✓
Senator Carlisle	✓		Senator Robinson	✓	
Senator Sorvaag	✓				
Senator G. Lee	✓				
Senator Kilzer	✓				
Senator Erbele	✓				
Senator Wanzek	✓				

Total (Yes) 10 No 3

Absent _____

Floor Assignment Wanzek

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

REPORT OF STANDING COMMITTEE

SB 2033: Appropriations Committee (Sen. Holmberg, Chairman) recommends DO NOT PASS (10 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). SB 2033 was placed on the Eleventh order on the calendar.

2015 TESTIMONY

SB 2033

SB 2033
1-27-15
#1

DEPARTMENT OF COMMERCE TESTIMONY ON SENATE BILL 2033
JANUARY 27, 2015, 9:00 A.M.
SENATE APPROPRIATIONS COMMITTEE
HARVEST ROOM
SENATOR RAY HOLMBERG, CHAIRMAN

ALAN ANDERSON – COMMISSIONER, ND DEPARTMENT OF COMMERCE

Good morning, Mr. Chairman and members of the committee, my name is Alan Anderson and I serve as the Commissioner for the North Dakota Department of Commerce, as well as chairman of the EmPower North Dakota Commission.

On behalf of the EmPower ND Commission, I am here today to speak in favor of Senate Bill 2033. This is a bill that was recommended by the Commission and approved by the interim Energy Development and Transmission committee. A complete list of bills recommended and supported by the Commission is below:

- Senate Bill No. 2032 – Oil and Gas Development Strategic Planning Authority.
- **Senate Bill No. 2033 – Oil & Gas Tax Trigger Mechanism.**
- Senate Bill No. 2034 – Oil Gathering Pipelines Sales Tax Exemption.
- Senate Bill No. 2035 – Value-Added Energy Facility Sales Tax Exemption.
- Senate Bill No. 2036 – Coal Beneficiation.
- Senate Bill No. 2037 – Wind Energy Incentives & New Coal Mine Sales Tax Exemption.

Senate Bill 2033 creates a trigger mechanism to provide additional funds to areas impacted by oil and gas development in circumstances where oil and gas tax revenue is significantly greater than anticipated.

The idea behind this is that the legislature provides funding based upon what is known during the legislative session. In some instances, the oil and gas activity may become faster paced than anticipated which results in more tax revenue as well as more impacts to local communities. This mechanism would provide some of that additional tax revenue back to the local communities.

Section 1 of SB 2033 includes the trigger mechanism. The State Tax Commissioner is to review the oil and gas production and extraction tax revenues during the first six months of the biennium – a period of July through December 2015. The Tax Commissioner would certify whether or not the actual revenues exceeded the legislative forecast by twenty percent or more. If revenues did exceed the forecast by twenty percent or more, the State Treasurer will distribute the funding among the eligible political subdivisions in April 2016. This allocation will be done proportionally to the aggregate amounts of oil and gas production tax revenue that they received during the prior 6 months.

Section 2 of the bill is the contingent appropriation. This would provide \$200 million from the Strategic Investment and Improvements fund if the trigger revenues are reached.

Section 1 of the bill would be placed in statute, but the process would require legislative appropriation each biennium.

I would like to recognize that this legislation was drafted prior to the Governor including a 60/40 split for oil production taxes in the executive budget recommendation. This significant increase in the share of the taxes going to local communities has the effect of automatically providing additional funds if revenues exceed projections. While I could still see a role for a trigger mechanism, I could also understand if legislators determined that the 60/40 split was sufficient.

Mr. Chairman and members of the Appropriations Committee, I respectfully request your favorable consideration of Senate Bill 2033. That concludes my testimony and I am happy to entertain any questions.