

FISCAL NOTE
Requested by Legislative Council
01/12/2019

Bill/Resolution No.: SB 2223

- 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.*

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

	2017-2019 Biennium	2019-2021 Biennium	2021-2023 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).*

Senate Bill 2223 creates the Health and Human Services Stabilization Fund and amends NDCC 57-51.1-07 to allocate 5% of oil extraction tax revenue into the fund and reduce the current percentage going into the state general fund share to 25%.

- 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 of SB 2223 creates the Health and Human Services Stabilization Fund and sets the conditions regarding expenditures from the fund.

Section 2 of the bill amends section 57-51.1-07 to allocate 5% of oil extraction tax revenue to this newly created Health and Human Services Stabilization Fund and reduce the percentage going into the state's general fund share from 30% down to 25%.

Based on the current Legislative oil and gas forecast for the 2019-2021 biennium, this 5% allocation of oil extraction tax revenue would result in roughly \$80M being deposited into the Health and Human Services Stabilization Fund. Although the corresponding reduction is coming from the State's general fund share bucket, the actual reduction would be in the allocations to the Strategic Investment and Improvements Fund (SIIF). This is because amounts allocated to the State's general fund share bucket are combined with gross production tax revenue and used to fill various buckets. Under this same forecast of revenue, all general fund and statutorily capped funds prior to the final SIIF bucket will be filled. This means that the reduction in funds going into this bucket will cause SIIF to be reduced by the same \$80M.

There is no fiscal impact of this bill included above because the changes made by this bill would cause roughly \$80M to move from one special fund (SIIF) to the newly created special fund therefore resulting in a net zero change to the other funds columns shown above.

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 or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

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Date Prepared: 01/14/2019

2019 SENATE FINANCE AND TAXATION

SB 2223

2019 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

SB 2223
1/23/2019
Job # 31261

- Subcommittee
 Conference Committee

Committee Clerk: Alicia Larsgaard

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact a new section to chapter 57-51.1 of the North Dakota Century Code, relating to a health and human services stabilization fund; to amend and reenact section 57-51.1-07 of the North Dakota Century Code, relating to allocation of moneys in the oil extraction tax development fund; and to provide a continuing appropriation.

Minutes:

Attachments: 1

Chairman Cook: Called the hearing to order on SB 2223.

Senator Judy Lee, District 13, West Fargo: Introduced SB 2223. See attachment #1. **(3:15)** We are one of two states that have the same care and same compensation concepts. We supported the idea that people should not have to spend their private resources faster, because the state is not fully supporting the cost of those who are in a facility on Medicaid. **(3:32)** This has been a critical problem. It isn't just that we should do stuff based on the matching funds only. I could not be more in agreement with looking at what the right thing is to do. These services have to be provided; whether its vulnerable children at the Anne-Carlsen center, or if its residents in a skilled care facility. We need to make sure it is provided. Therefore, it is important that we have stable support. **(4:43)** I will stand for questions.

Chairman Cook: Are you creating a bucket?

Senator Lee: I am creating a bucket. There is a limit on the bucket. I hope you see that the bucket doesn't just get bigger and bigger. If you have a better idea of how to do this, I invite you to think about those kinds of things. This was such a big deal. After the allotment, we have not even come close to recouping what is going on. With the current budget showing a 1% increase each year for some of these programs, they can't survive. We have to deal with the current budget right now and that is a separate issue. What's happening is the various service providers in the workforce areas have to compete with the private sectors for workers and certified nurse assistants in the nursing homes. At home, I can get to Target in 6 minutes where there is a big sign when I walk in saying that the starting wage is \$12.50. You can either do that or you can say "Do you want fries with that?" It is an easier job and you get paid more than working with people with adult size bodies and child needs who even kick you. It isn't just long term care; we are talking about mental health and behavioral health

services that would also be sustained, not increased. Whatever we will budget, would be a secure amount of money that the providers and that we could count on for the people we know in these facilities. I recall, before I was here, when our schools did not get what they were told they were going to get. Teachers were laid off and changes were made to deal with the reduced funding. These facilities can't do that because there are state and federal rules that require a certain amount of staffing. It is a challenge. This will be a way to stabilize that funding. When we recognize the value in that resource and being able to stabilize our budget. I feel the same way about the Legacy Fund but this isn't coming from that. We should be looking at it in part as a way to stabilize our budget appropriations so we don't have to worry about big disparities if there is a drop in the economy.

Chairman Cook: Any further testimony in support? Any testimony opposed? Any neutral testimony?

Senator Dotzenrod: Maybe someone here can answer my questions. I am looking on page 1 line 18 where they use the 15% term of the General Fund appropriation for the Dept. of Health and Human Services. For the budget period we have coming up, the fiscal note shows 80 million. I don't know is that gets up to the 15%. It appears to me that no money could be spent out of this fund until it goes over 15% of what is set aside for the Dept. of Health and Human Services. It looks to me like during the course of this next biennium, money would be flowing into this trust fund but none could be spent. Do I understand that right?

Chairman Cook: I am not sure, but we will be before we act on this bill.

Chairman Cook: Closed the hearing on SB 2223.

2019 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

SB 2223
1/28/2019
Job #31587

- Subcommittee
 Conference Committee

Committee Clerk: Alicia Larsgaard

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact a new section to chapter 57-51.1 of the North Dakota Century Code, relating to a health and human services stabilization fund; to amend and reenact section 57-51.1-07 of the North Dakota Century Code, relating to allocation of moneys in the oil extraction tax development fund; and to provide a continuing appropriation.

Minutes:

Attachments: 0

Chairman Cook: Called the committee to order on SB 2223. This creates a brand new bucket. The bucket sits before the extraction tax comes to be distributed to the state buckets. It is on top of the chart. It takes the \$80 million out. It would reduce the amount of dollars that are to be distributed into the state buckets and would reduce the SIF fund by \$80 million. We have some constitutional buckets; Energy Conservation Grant Fund, Renewable Energy Development Fund, and Resource Trust Fund, Foundation and Stabilization Fund, and Common Schools Trust Fund. Those we all passed. I do not know if we want to create a fund for social services and that is obviously the intent of the bill.

Senator Patten: That \$80 million would be reduced someplace else? Could you help me understand the impact on that? I would assume it would replace other funding some place.

Chairman Cook: Human Services' money, the vast majority of it, comes from the federal government. I think there is about \$4 billion total budget and a little over \$1 billion is General Fund obligations, appropriated through the appropriation committee every session we are here. She says "Money in the health and human service stabilization fund are appropriated and may be expended upon the order of the governor only to offset reductions and state general fund appropriations." When everyone had to cut their budget, this \$80 million could be used to subsequent that.

Senator Kannianen: Thinking back to the 2016 allotments; I understand the sponsor and her ties to the one specific budget. If this would've been in place in 2016, that budget wouldn't have been spared but every other budget would of have to been cut more to compensate for the \$80 million that was for the general rainy day fund.

Senator Patten: Would we encourage the formation of a bucket for everybody?

Chairman Cook: I think there would be a need to for next session.

Senator Dotzenrod: On page 1 of the bill, we have this number 1 on line 15 and number 2 on line 18. Number 2 says that if the amount of money in this fund exceeds 15% of the general fund appropriations for the dept. of health and the dept. of human services, the legislature can transfer funds. In number 1, it looks like it is upon the order of the governor to upset reductions. That isn't dependent upon hitting a certain dollar amount in the fund. That is in the first biennium if there was \$80 million. Under number, 1 the governor would be able to take some of that and transfer it but not the legislature. It looks like that \$80 million would have to be several bienniums worth of contributions before it got up to the amount where the legislature would be able to transfer.

Chairman Cook: I think you are right on. It is about \$170 million.

Senator Patten: Moved a Do Not Pass.

Senator Kannianen: Seconded.

Senator Unruh: Was the sponsor the only one that testified on the bill?

Chairman Cook: Yes.

Senator Dotzenrod: Over the years of working with Senator Lee, I remember her getting upset and saying that we prioritize potholes over people. I do understand where she is coming from because when the allotments come, the programs lose federal money because we don't put up the usual match. If we could find a way not to have to do those allotments, it would have a benefit. I am going to try to help her out here and vote for it.

Senator Unruh: I understand the people over potholes argument, but we also have funds like the budget for legal counsel for indigents. We have a constitutional obligation to provide them with funds and they get hurt by things like allotments as well. They have to figure it out within their budgets. I do not think it is irresponsible for us to expect the same from the Department of Human Services.

A Roll Call Vote Was Taken. 5 yeas. 1 nay, 0 absent.

Motion Carried.

Senator Unruh will carry the bill.

Date: 1-28-19
Roll Call Vote #: 1

2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2223

Senate Finance and Taxation 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 Patten Seconded By Kannianen

Senators	Yes	No	Senators	Yes	No
Chairman Cook	✓		Senator Dotzenrod		✓
Vice Chairman Kannianen	✓				
Senator Meyer	✓				
Senator Patten	✓				
Senator Unruh	✓				

Total (Yes) 5 No 1

Absent 0

Floor Assignment Unruh

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

REPORT OF STANDING COMMITTEE

SB 2223: Finance and Taxation Committee (Sen. Cook, Chairman) recommends DO NOT PASS (5 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). SB 2223 was placed on the Eleventh order on the calendar.

2019 TESTIMONY

SB 2223

1/23 SB 2223 #1 pg. 1

(For Lee, Judy)

Scratch Pad for: SB 2223

SB 2223 is a response to the impact of the inconsistency of funding for human services and health care as ND's resources vary. During those times of diminished income to the state, the needs of the people served did not diminish, and it is very hard for our friends and neighbors, as well as service providers, to cope with the loss of support.

SB 2223 would establish a health and human services stabilization fund with an allocation from the oil extraction tax development fund to work in the same way as the foundation aid stabilization fund, ensuring that the budgeted funds will be available.

Sec. 1 describes the fund which could be expended by the governor to offset reductions in state general funds appropriations. When the fund exceeds 15% of the general fund appropriation for DHS and DoH, the legislative assembly may transfer or appropriate the excess to health-related and human services-related purposes.

Section 2 states how the money is currently allocated through this biennium with the allocation after July 31, 2019 specified beginning on page 3, line 10 and stating on page 4 that, in addition to current allocation of funds, 25%, rather than 30%, will be allocated to general fund and 5% will be allocated and credited to the health and human services stabilization fund.

The importance of stable funding sources for our most vulnerable children and adults is critical. The establishment of this fund would at least enable continuing support as budgeted, when the economy takes a turn. An additional significant impact is the loss of the federal matching funds, when state general funds are reduced, as it was in the recent allotment. Skilled care facilities experienced the 5% reduction in state funds. Since we have rate equalization in ND, which means that private pay residents cannot pay more than what the state pays through Medicaid, the bills to private payers was reduced by 5%. In addition, the federal funds match was dropped by 5%. That means a 15% reduction in funding for the skilled care facilities. The providers have done their best to continue to care for the residents, but any reserves they had have been significantly reduced.

I ask for a favorable review of SB 2223 to stabilize the funding for health and human services purposes. It is an important priority for us.