

2011 HOUSE FINANCE AND TAXATION

HB 1070

2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee Fort Totten Room, State Capitol

HB1070
January 11, 2011
12751

☐ Conference Committee

Committee Clerk Signature

Mary Bruckner

Explanation or reason for introduction of bill/resolution:

A Bill relating to county infrastructure fund grants to school districts to offset oil and gas development impact; and to provide an effective date.

Minutes:

Representative David Drovdal: Sponsor of bill. Support. See attached testimony (#1).

Mr. Steve Holen, Superintendant McKenzie County Schools, Watford City: We do appreciate what's going on in our area. We've lived through declining enrollments for many years and to have increasing enrollment by all means is not a bad situation but it does bring some challenges. School districts have been left out of oil and gas funding the last few sessions. The 35% now goes into the infrastructure fund; we do not receive that directly. We have to ask the county for it. The restriction on buses I can understand. We have 31 buses in our fleet, 1679 square miles, so we understand the impact we have on our transportation system. We feel it; however, there are more than that. I think that's the theme right now. There are more issues in roads in our county; there are more issues in buses for schools. We are seeing increasing enrollment. We are paid off of 543 ADM students. Our current enrollment is 616 so there are 73 students times \$3779.00 per pupil that we're not receiving and having to make up for that in local dollars. We have had to hire two staff members due to class issues, multiple supplies and facing some spacing issues. Having more students is great but we are having issues. We are being paid off the spring ADM and oil and gas revenues could help make up that difference. We are also seeing challenges the narrowness for the transportation for buses, we have a housing issue that is major. We have teachers who are rolling over into retirement, we have to recruit new people in some are out of state, and there's no place to live. I have districts in our area who have taken upon themselves to build their own housing as a solution and in my mind the infrastructure funds could be used for this. It's a direct impact to us and it's not bussing. Other examples are mechanical work. The challenge right now is trying to solve our own problem by fixing our transportation infrastructure to some degree but it if doesn't follow into that narrow definition of just a bus we can't ask the county for that revenue. These are things we really need to have addressed and we are not receiving more income. What is being proposed now allows the cities and counties access to one time dollars. You'll notice schools are not part of that. We are part of the infrastructure in western North Dakota. The age of the worker coming in is that of having children. The recent study done in our area showed the median age going down to 30-34 years old. These families are coming in with

children who need to be placed in the school system. We think we are an integral part of keeping this going for North Dakota and we are in lieu of money to help do this. We don't think it's appropriate to be left out of that mix anymore. We have these needs, they are substantial. They helped our bussing issue but we're more than just buses. We have some major infrastructure to do. The last study we looked at 55% increase in school age children in our areas. For our school district, we went from 600 to 900 students. In that case it's great but at the same time we need some of that in lieu of money to help this happen. This should not come at the backs of our property taxpayers and we don't receive the property taxes off most of this anyway. The imputation factor I do not believe was the intent the last session to have this money imputed. It is given to the county for specific impact issues so I do not believe this should be counted against the district as far as revenue. I hope that gets clarified and hope that being part of this legislation as well. In closing I strongly support 1070. I think it's crucial for our western North Dakota schools. I'm also a member of the North Dakota Oil and Gas for Counties and visited with our school districts. This is crucial for us to keep up with what's going on. I have a district that leases out their bussing system. They can't ask for money from the infrastructure fund. They don't purchase a bus they actually lease it out to a company for that. So this narrow description was fine for a session but it needs to be changed. I ask for your consideration in doing so by supporting this bill.

Representative Shirley Meyer: Just so that I'm clear on this, the monies will still flow to the infrastructure fund and yet this bill will just allow for more impacts other than bussing?

Mr. Holen: That is correct. The same structure will still in place. All the monies will flow to the infrastructure fund but what this allows us as a district is to come to our commissioners and ask for something that is not a school vehicle or the specific repair of a school vehicle. We could ask for funding in help with our housing issue and staff members for the increase in new students. This bill would allow us to come in and leave it at the local level and commissioners can decide what the impact is for funding.

Representative Lonny B. Winrich: Under the current law are you required to impute the funds you get from the oil impact fund to the taxable valuation?

Mr. Holen: Yes, that is what was told to us. Basically what happens is that we make the expense for the bus and the county reimburses us for that expense. When that revenue is taken from the county, DPI has told us you called that as county revenue. The county revenues are now by definition of law what is being imputed. DPI didn't have a lot of direction with that they just say its county revenue we're taking it in and counting it. Yes, at this time it is being imputed.

Representative Glen Froseth: You said something I wasn't sure if I understood. You said with your increase in students you do not get the foundation aid payment for them? Does that not come this school year but you'll get it a year later or how does that work?

Mr. Holen: That is correct. The per pupil payments are made on spring average daily memberships so all school districts across the state are now being paid on what they reported on the school earnings on what they reported on last school year. So we ended the year at 543 students. It's irrelevant its per pupil payments what we have now. We will

get paid on those this spring in our 2011 funding so there is a year behind. For 95% of the school districts this works great, most of them have declining enrollment. Those that are increasing this don't work as well obviously with the situations in the western part of the state. So there is a year lag. We will get paid for them but it will be a year lag before we get that payment.

Chairman Wesley R. Belter: Has there been any discussion in the education funding formula that we attempt to correct this problem your facing because this not only is taking place here in oil country but there are rapidly growing urban schools that face the same dilemma. I was just wondering if that's been a discussion at all with the education funding.

Mr. Holen: It has. It was done this way until the new format is used now for the per pupil payment. With equity payments we had the option of either a fall or spring payment, whichever was larger. That was eliminated two sessions ago. Now everything is made in the spring. I don't think there's any logistical challenges to that it's just a matter of when they looked at the time they wanted to make it universal and for most school districts this worked well. If you look at West Fargo and some of those districts certainly they also receive that. The double negative for us is that West Fargo may be growing; they're getting some of that property tax revenue to bring that in. Western North Dakota now only we have a year lag but we're not seeing the property tax coming in. A district like mine has been capped for many years. We are getting less oil revenue now than we did five years ago. But we're also seeing more impacts.

Mr. Greg Boschee, President of Oil and Gas Producing Counties: We stand in support of 1070. I want to thank Steve, you did a wonderful job answering all the questions but if you have any of me I am here too.

Vice Chairman Craig Headland: The last person mentioned that there are no new property tax revenues coming to the school district and I'm wondering if you could answer where are these families living if there's no new property tax revenue?

Mr. Boschee: I guess that's one of the problems but we're trying to get housing. Most of them are temporary housing at this time. There's a lot of stuff going on trying to get permanent housing which will help the situation.

Mr. Holen: Most of what we're getting in right now is temporary housing; rentals for the most part. Property taxes for a person coming into our area for oil and gas industries building a \$300,000 home aren't really occurring. At some point it might. Right now we're dealing with families living in transitional housing, rental housing and so forth. That part hasn't increased our property tax in general.

Representative Dave Weiler: How are the man camps taxed as far as property taxes?

Representative David Drovdal: The man camps, in state law, we have no definition for man camps. They do not fit under the description of homes or mobile homes. There's been a bill that's been introduced that's going to try and define man camps so that the cities and counties its located in can put a property tax or fee on their so they can recover some of the expenses for providing the services. As of this time there's nothing in the Century

Code to be able to put a property tax on man camps and that's where some of the income is.

Representative Dave Weiler: Wouldn't they be something like a hotel or commercial to where the owner of the man camps has to pay some kind of tax?

Representative David Drovdal: According to the Tax Department and their attorneys they do not qualify under anything so we do have a bill coming in to address that situation.

Ms. Bev Nielson, School Board Association: We are certainly in support of our school districts that are impacted in this way being eligible for impact grants for additional space that is needed, portable units, those types of things, particularly one time project expenses. We get a little concerned if it's for staff and salaries because that of course is on-going expense. So if the funding stream isn't there that can cause some issues. But we definitely think they should be eligible to apply for these grants and should have consideration from the county to get that money. When it comes to exempting the money from the imputed valuation goes back to when the equity formula was written and all county sources of income, all sources of income are imputed. Now having said that, if we're talking about a onetime grant for a project and it's not an ongoing expense of the district I'm sure the formula committee will have to look at how it might impact the imputation. If it's going to be ongoing stream of income that is considered in lieu of property tax then it is imputed into the formula because it's the same who get the property tax it's just in lieu of property tax. So I think the formula committee will have to take a look at that and give you some further information on how it would impact the imputations. At this point, anything in lieu of property tax is imputed.

Representative Glen Froseth: Isn't there provisions in Department of Education in that they can forward those per pupil payments in an emergency situation? I know our school has felt an increase and a lot of these transit workers come in after school starts. You don't have an accurate school starts before the term starts. We had to split a couple elementary grades at the time school started and then we had to find a couple new teachers, new classrooms, new supplies and everything and the funding isn't there to take care of this impact. Isn't there a way that those per pupil payment funding could be forwarded in an emergency situation so they don't have to wait until the next school year?

Ms. Bev Nielson: Only if we didn't have to live within an appropriation. When they redid the formula it was determined even though we knew for growing districts there would be a one year lag, that the only way to guarantee what the appropriation should be for foundation aid is to base it on a solid number which was the actual spring enrollment. In the past, it was either or, whichever got you more money, but then we went into the year never quite knowing and adjustments had to be made all during the year. This was just cleaner and simpler and easier to attach an appropriation to. There was considerable discussion about the impact on growing districts and it was acknowledged and yet the decision was made that the better way to go was on a solid number which was on the spring. So yes, there is a year lag and districts do have to deal with that. From what I know there is no emergency money, we live within the appropriation itself.

Representative Bette Grande: 2010-11 school year, I all of a sudden have more students that I wasn't assessed to and so I've gone without payment to them. But I start my 2011-12 school year and now I'm getting payment for those students. Is there a bonus check to pay for the year prior or do I just go without that?

Ms. Bev Nielson: What happens is there isn't a bonus check it's just that your total foundation aide for the following year is based on the number of students you had the previous year. So if you had many more students like they did then your foundation for the following year would be that much larger. Now the schools with declining enrollment benefit from this because they may have fewer students but they're paid on what it was last year which was more. The final decision was made on where can we get a solid number to compute it on for the entire year and that's why they chose spring enrollment. Even though it benefited some and it made for others a bit of a struggle but it gave us a solid number to work with.

Representative Bette Grande: Just so I'm clear, there is no makeup money for having spent that money on those kids that previous year but we also don't make the school districts pay back money they should not have received?

Ms. Bev Nielson: Correct. It's based on your previous year, your following year's total payment.

Chairman Wesley R. Belter: Along that line would you say that probably the reason why the way the formula is because we probably had more schools in the declining enrollment phase instead of the other way?

Ms. Bev Nielson: Maybe because there was less objection at the time but from my prospective it was a solid number we could work with for the appropriations.

Chairman Wesley R. Belter: No other testimony in support of 1070. No opposition to 1070 and no neutral testimony. Closed HB1070.

Committee Work:

Chairman Wesley R. Belter: Any comments on the bill? I don't have a problem with it. I wonder if we don't have a deeper problem from the very fact that from an education standpoint we have to be counting students in the other direction.

Representative Shirley Meyer: When we worked on revamping this formula the legislative intent of the bill, I don't believe it was to be interpreted that they could just get monies for buses and funding. And the DPI chose this interpretation. We heard this during the interim quite often and they think this is just the fix to that. And really wouldn't affect too much in the way of school funding.

Chairman Wesley R. Belter: If no further comments on this bill I would entertain a motion on this bill.

Representative Shirley Meyer: Recommend a DO PASS.

Representative Patrick Hatlestad: Seconded.

Chairman Wesley R. Belter: Any discussion? Recommend a DO PASS on 1070.

Roll Call Vote taken:

12 YES 0 NO 2 ABSENT

The motion carried-**DO PASS**.

Representative Glen Froseth will carry HB 1070.

FISCAL NOTE

Requested by Legislative Council
12/16/2010

Bill/Resolution No.: HB 1070

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:	12/28/2010

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

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1070

House 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 Rep. Meyer Seconded By Rep. Hatlestad

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter	✓		Scot Kelsh	✓	
Vice Chair. Craig Headland	✓		Shirley Meyer	✓	
Glen Froseth	✓		Lonny B. Winrich	✓	
Bette Grande	✓		Steven L. Zaiser	✓	
Patrick Hatlestad	✓				
Mark S. Owens	AB				
Roscoe Streyle	✓				
Wayne Trottier	✓				
Dave Weiler	✓				
Dwight Wrangham	AB				

Total (Yes) 12 No 0

Absent 2

Floor Assignment Rep. Froseth

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

REPORT OF STANDING COMMITTEE

HB 1070: Finance and Taxation Committee (Rep. Belter, Chairman) recommends DO PASS (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1070 was placed on the Eleventh order on the calendar.

2011 TESTIMONY

HB 1070

(-/-/-/-)

#1

Chairman Belter and members of the House Finance and Tax Committee. For the record I am David Drovda, Representative from District 39. I am the prime sponsor of HB 1070.

HB1070 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 went to school districts and sent any dollar amount over that cap to the county to be deposited into an 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. In the heat of the moment somethings sounds better than they turn out to be. I can think of a number of things that impact schools 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.

HB 1070 allows the school districts to ask the county for oil impact grants funds and let the county commissioners decide if the request is caused by oil impact.

I ask for your favorable consideration for HB 1070 and would be glad to answer any questions.

David Drovda