

2011 HOUSE FINANCE AND TAXATION

HB 1360

2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1360
January 26, 2011
#13447

☐ Conference Committee

Committee Clerk Signature

Mary Bruckner

Explanation or reason for introduction of bill/resolution:

A bill relating to the share of sales tax collections allocated to the state aid distribution fund; and to provide an effective date.

Minutes:

See attached testimony #1, #2

Representative Jerry Kelsh: Sponsor. Support. This bill puts the 4/10 of 1% of sales tax collections up to 6/10 up to the first 1% of sales tax collections into the state aid distribution fund which goes to counties, cities, and some to townships. I think maybe you understand the history I believe it was about in the 90s when this was changed it had been at 6/10 of 1 percent. I know there are a lot of things going to counties in this session but what this would do is add another \$69 million into the state aid distribution fund and that would be permanent. A lot of the things being asked for may not get passed. The history of this was at about the 1965 session we took away personal property tax which at the time which was the person who was out assessing was not very well liked and asked you if you had a new davenport or new bed, how many cows you had, what your combine was worth, etc. and I think people just got sick of it. I think this was a good solution the only thing is it has been brought down to where cities and counties are probably not getting their fair share. You could look back at a time when a combine was worth \$4000 compared to it maybe being worth \$400,000 now. I called the Tax Department to get an estimate on what the difference would have been and they said the records had been destroyed if they had any so they couldn't come up with an estimate of what it would do. Again, I would like this bill to be kept alive just in case some of the other things don't happen. I know the Governor has made some good recommendations but these are subject to change or are subject to the legislature, we don't know for sure if they will all be in place. Both the Association of Counties and the County Commission Association approve the resolution to ask for this. The point I'd like to make is this would be continual funding. This would be funding we don't have to come and beg for every session such as for highways to run the counties to do those things. Yes, the 4/10 has gone up but look what has happened to our healthcare costs in the counties or the road repair costs in the counties, it has almost doubled in the last 10 years. We talk about oil when oil went down but the price was still going up and the reason was it that they learned how to refine more.

Vice Chairman Craig Headland: Do counties use state aid distribution on county roads?

Representative Kelsh: Yes they do. It's put out in a formula and they use it on roads and many other different things to run the county. As you know, every levy is capped. There will be a bill that will allow the rate for healthcare to go up 4 mills because you can't cover it. In Dickey County during the last budgeting session we had trouble even using some out of oasis then we have to go into the general fund. This money from state aid distribution fund which is now about \$134 million would go to help roads. Some of that money would be used for leveraging federal and state dollars.

Representative Dave Weiler: You had mentioned in your remarks that if we passed this the counties would then be able to stop coming every session and begging for money. My question is would the begging stop altogether or just for this issue? You don't have to answer that.

Representative Kelsh: I don't know if the begging would ever stop but it is a burdensome amount of money that it takes to keep the roads up. Back home we have roads and roads under water that aren't being used and needed to be built up and needed gravel. Our county doesn't have gravel that is usable, we haul gravel from Ransom County and the costs are continuing to go up on that. I am just asking that this be kept alive and could be a more uniform area of funding rather than having to come and ask every time. I probably shouldn't use the word begging but as you know that is what it turns into.

Representative Glen Froseth: It seems to me that the \$69 million is ... I thought that each percent of sales tax brought in some were over \$100 million and that would be some over \$500 million and 2/10 of 1 percent doesn't seem like it would be \$69 million if that's the right numbers.

Representative Kelsh: I cannot verify that is accurate but I'm sure the Tax Department could as I'm sure they know how much is brought in. It's a considerable amount of money. I think its \$600 some million now that sales tax brings in and its \$600 million that property tax brings in and \$304 of individual state income tax brings in to the state coffers.

Representative Glen Froseth: This is only 2/10 of 1 percent so this doesn't seem like it would be \$69 million.

Representative Kelsh: I'm not going to argue with the Tax Department.

Representative Kaldor: Support. A couple sessions back I introduced a bill that would have gone up to 5/10 of a percent. You will get some history and information from the Association of Counties on the impact but I want to recount just a couple of things that we experienced in the rural areas. The transportation study of the Upper Great Plains Transportation Institute has recently completed indicates that we have serious deficiencies throughout North Dakota in terms of building our roads and keeping them maintained. When we get behind it costs us much more to catch up again. One of the tools is represented by what we have before us today and is not the silver bullet that will cure all the ills or as been stated to stop the begging but it is an important one because it demonstrates our commitment to more permanency. In 1997 the legislature made a very good move in a positive direction for the counties by putting it into permanence the 4/10 of

a cent. Up until that time the legislature had been appropriating the level of funding that would be distributed to the counties. As a member of the appropriations committee in the late 80s and early 90s I sat in on those discussions at that time. It was always difficult and under the circumstances that we were in at that time we had financial challenges that we can't hardly imagine today. Nevertheless, that agreement probably should have gone a little bit further than it did and that's why I think today we have the ability to go further and we have the right to ask for this and we have the justification to support it. I told this story two years ago, when I was a kid my dad was the township assessor in our little township and he used to take me with him on his visits to farms. I think the reason he took me along was because it was a little bit easier to break the ice with the farmer he was dealing with. He knew that he might be getting a tall tale or he might be getting some complaints if it was just he and the farmer face to face. I think I was the guy travelling along keeping the guys honest and to keep them from arguing with each other. My dad hated that job. It was a representative from my district I think it was Representative Doorknocker who instigated the change that repealed the person property tax and replaced it with one cent of sales tax. Here we are many years later at 4/10 of a percent and the pressure that we are applying on our roads and bridges in the counties and townships is much greater than it was at that time. We hauled grain to the elevator in a 100 bushel truck. If you think about what is going on today and what it takes to get our product to market and the cost it bears on our counties and townships is remarkable. I think this is not the silver bullet but it is one piece of a larger effort to improve the ability of our counties and townships and local subdivisions of government to maintain the infrastructure that we hold so dear.

Representative Bette Grande: Distributed testimony from the City of Fargo. Please refer to attached testimony #1.

Terry Traynor, Assistant Director of ND Association of Counties: Please refer to attached testimony #2.

Vice Chairman Craig Headland: Can you explain to the committee where the state aid distribution funds go because it has been inferred here that counties use this money to fix roads but I don't really believe that to be the case, at least not in my county.

Terry Traynor: Originally every single taxing fund in the county received its proportionate share of state aid distribution. When the legislature restructured it in 1997 the legislative leadership at that time mandated that all of that money went to the county general fund because at that time the fear was that there was an incentive to raise your property tax to leverage increased state aid and they didn't want that built into the formula. They wanted it to all go to the general fund and then be allocated out of there by the county commissioners. They have the discretion to put it into whatever fund they want. According to the reporting that was mandated in 2012 last session for counties to report on their highway expenditures about \$17 million of state general funds, which I can only assume is this money, was dedicated to roads for the calendar year.

Vice Chairman Craig Headland: Can you explain what general expenses are generally paid with general fund dollars? I think its employee salaries and the like.

Terry Traynor: That's a difficult question because every county is a bit unique. Obviously the courthouse staff; the recorder, the clerk of court, the state's attorney, the sheriff, the jail, etc. a lot of that must come out of the general fund because they don't have dedicated levies for that. However, there is a social service component to the general fund and there is a highway component to the general fund, those are allowable uses for the general fund. So every county is a bit different. Some counties budget their health costs for the highway employees out of the highway fund because they don't have room in the general fund so there is different variations depending on what the needs of that particular county are.

Connie Sprynczynatyk, League of Cities: Support. The state aid fund as we know it today has significantly changed in the 1997 session. It isn't just personal property tax replacement. It is the reaction of a statewide measure initiated measure, I think it was 1978, which was approved something like 74%, it was a revenue sharing measure. I think it was based on 5% of all state sales use excise and income tax; it was a very broad measure. The legislature got into the habit of appropriating and as you can see from Terry's chart it was a pretty flat appropriation for several biennia. Terry and I and Ken Yantes from the townships and a number of us worked back in the 1997 legislative session and worked with the legislature to put those several sources into one spot. Legislative leadership was particularly focused on making this clear and simple. Now the portion that Terry said goes to the counties is shared with the townships in the same proportion that they were getting. I remember we had to use 1996 budget numbers because that was the most current and complete data available. The cities shared their portion with park districts in relation to what they were getting back in 1996. There was a real attempt to simplify it and roll it all into one and base it on population. If you look at the specific law you will see that cities have population categories and they share a particular percentage based on the last population. Counties have a way more simplified plan for their segment in state law. Bottom line, this buys down property taxes. I just talked to Cindy Hemphill from the City of Minot how many mills that buys down in Minot and her calculation for the most recent budget cycle would be 13 mills so it is a significant source of revenue in the general fund and is deeply appreciated. If you want to know where cities spend most of their general fund I have budget charts back in the office and I would be happy to provide them to the committee. The preponderance of money from the general fund city by city by city even if they have a volunteer fire department goes to public safety which would be police, fire, emergency, and communications. If you want to know how much is spent on roads specifically I can tell you right now that I don't know but I could try and get it for you. I want you to know that cities and park districts are appreciative of this funding partnership. It does buy down property taxes.

Ken Yantes, Executive Secretary of ND Township Officers Association: Support. What is good for the counties is usually what is good for the townships. We contract with the counties and if they didn't have the funding we would probably pay a whole lot more for our services. We support this bill.

Representative Jerry Kelsh: I just wanted to clarify Representative Headland's question about the general fund. Road and general fund in a county are the same funds. You have another road and bridge fund which is a little different fund. Road and general fund are for the maintenance of non-federal roads, if I remember right. I believe the mill levy for these

two funds is 22 mills. There are many dollars from the state aid distribution fund that goes into roads.

Vice Chairman Craig Headland: That is true but some counties do not levy that county road fund that is part of the general fund.

Representative Jerry Kelsh: I guess I can't answer for that what some counties do but I know our county did.

Representative Glen Froseth: I'd like clarification on what exactly does the percent of sales tax bring in on a biennium? Could you verify the fiscal note?

Blaine Braunberger, ND Tax Department: One thing with this state aid fund is that it doesn't just cover the sales tax revenue so that is why your numbers will not agree. It does cover other receipts besides just the sales tax.

Representative Glen Froseth: You mean excise taxes?

Blaine Braunberger: It also covers the motor vehicle excise tax revenue and it would be the gross receipts taxes; the farm machinery and alcohol beverage areas.

Chairman Wesley R. Belter: No further testimony. Closed hearing on HB 1360.

2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1360
January 26, 2011
#13472

☐ Conference Committee

Committee Clerk Signature

Mary Bruckner

Explanation or reason for introduction of bill/resolution:

A bill relating to the share of sales tax collections allocated to the state aid distribution fund; and to provide an effective date.

Minutes:

No attachments.

Chairman Wesley R. Belter: This was Representative Kelsh's bill which would increase the distribution fund from 40 to 60%. I would entertain a motion.

Vice Chairman Craig Headland: Made a motion for a DO NOT PASS.

Representative Bette Grande: Seconded.

Representative Shirley Meyer: If we are seriously interested in property tax relief here is a great way to do it. We can sit and pretend that these counties aren't needing or wanting money or have too much or use it unwisely but we heard the testimony and if we want true tax relief this would be a good start.

A roll call vote was taken: YES 10 NO 2 ABSENT 2

MOTION CARRIED—DO NOT PASS.

Representative Dwight Wrangham will carry HB 1360.

FISCAL NOTE
Requested by Legislative Council
01/19/2011

Bill/Resolution No.: HB 1360

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			(\$69,000,000)	\$69,000,000		
Expenditures						
Appropriations						

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

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).*

HB 1360 increases the amount of sales and motor vehicle excise tax revenue that gets allocated to the state aid distribution fund.

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.*

If enacted, SB 1360 is expected to increase state aid distribution fund revenues and decrease state general fund revenues by an estimated \$69 million in the 2011-13 biennium.

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:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	01/25/2011

Did not receive Fiscal Note from library
before bill was voted on.

REPORT OF STANDING COMMITTEE

HB 1360: Finance and Taxation Committee (Rep. Belter, Chairman) recommends DO NOT PASS (10 YEAS, 2 NAYS, 2 ABSENT AND NOT VOTING). HB 1360 was placed on the Eleventh order on the calendar.

2011 TESTIMONY

HB 1360

Testimony #1

House Finance and Taxation Committee

Honorable Chairman Wes Belter & Members of the Finance and Taxation Committee

Legislative Testimony on House Bill 1360 - City of Fargo

January 25, 2011

The City of Fargo supports HB 1360 due to the positive impact it will have on our state aid distribution funds and the budget relief it will provide in future fiscal years. Currently, our state aid distribution payments of \$ 3.7 million make up about 5% of our overall General Fund revenues. It is a critical component of our overall revenue sources and budget development due to its predictability and growth over the past several years.

The proposed increase in the funding rate will help the City retain nineteen public safety officers currently funded by Federal grant programs. Fargo currently employs seven police patrol officers and twelve firefighters funded by Federal grant programs. The programs will end in the next two years and we will have to make key strategic decisions on how to retain these employees into our budget. Needless to say this is a large number of full time employees to simply absorb during such a short timeline. The impact of absorbing these employees into State or local funding sources is \$1.1 million per year. The increased funding derived from this bill would be directed to fund basic public safety services which were previously funded by federal grant programs. It would be difficult to not fund these positions in light of the continued growth in Fargo and the fact that they have already been hired since our federal grants were approved.

The State Aid Distribution funding has been increasing each year due to the fact that the statewide distribution pool is increasing because of the State's strong economy, however, we find that other significant local revenue sources such as building permits, traffic fines and investment income have not increased but rather have fallen over the past three fiscal years making it much more difficult to balance our overall operating budgets. Fargo's General Fund budget growth for 2011 was just 1.4% overall which is a significant decline in our budget growth due to the revenue declines noted above. The increase in State Aid will help us to retain our talented pool of city workers and who continue to support the needs of our community.

We would urge a **DO PASS** recommendation on this bill. Thank you for the opportunity to present our testimony.

Testimony #2

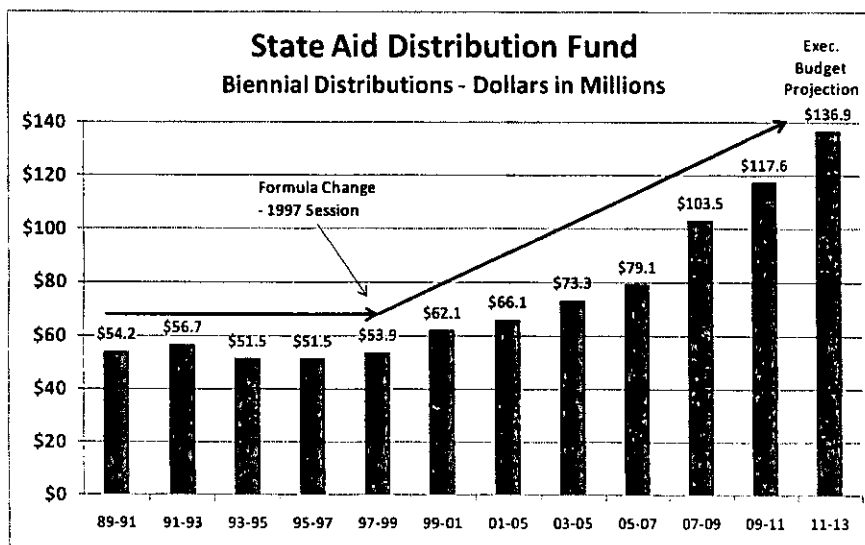
**Testimony To The
THE HOUSE FINANCE & TAXATION COMMITTEE
Prepared January 26, 2011 by
Terry Traynor, Assistant Director
North Dakota Association of Counties**

REGARDING HOUSE BILL No. 1360

Thank you Chairman Belter and committee members for the opportunity to submit testimony regarding HB1360 on behalf of county government. County officials are pleased that the Legislature is willing to examine the revenue and costs of county government in their effort to continue its efforts toward sustainable property tax relief.

The State Aid Distribution Fund is one of the cornerstones of the fiscal relationship between the State and local government, and has been a critical interest of county officials since its replacement of the unpopular personal property tax in 1969.

As a number of you are well aware, this Fund has struggled throughout its thirty-year history, and until 1997 was never fully-funded as provided by law. Through the exceptional efforts of some of you here, some past legislative leaders, and many local government officials, a major change was crafted in the 1997 Session.



That change replaced the long-standing 6-tenths of the first penny of sales & use tax as the Fund's revenue source, with 4-tenths. County officials accepted that significant policy change with the promise of a permanent continuing appropriation that allowed the fund to rise and fall with the economy of the State.

While it was a risk, looking back, it was a risk well worth taking. As the chart indicates, since that time this fund has grown at a rate at least equaling inflation. Although the increases in mandated social service costs, criminal prosecution expenditures, jail expansion, etc. have at times exceed that rate of growth, the current formula is far superior to the pre-1997 situation that left the fund stagnant for a decade or more.

We appreciate the important relationship this fund represents, and are committed to working with the Legislature to examine whether this is an appropriate vehicle for property tax relief. As a reference point, a \$34 million increase to counties equates to almost 16 mills statewide.

PROJECTED GROWTH OF STATE AID DISTRIBUTION FUND

#2 p. 2

COUNTY	EXEC. BUDGET PROJECTIONS		EXEC. BUDGET PROJECTIONS		PROJECTIONS BASED ON HB1360	
	Biennial Revenues 2007-09 Rural Gross	Biennial Revenues 2007-09 County Net	Biennial Revenues 2009-11 Rural Gross	Biennial Revenues 2009-11 County Net	Biennial Revenues 2009-11 Rural Gross	Biennial Revenues 2009-11 County Net
Biennial Growth		23.46%		13.58%		16.37%
ADAMS	457,956	421,341	520,124	478,539	605,265	556,873
BARNES	1,228,568	1,072,083	1,395,348	1,217,620	1,625,758	1,416,937
BENSON	855,013	757,083	971,082	859,858	1,139,042	1,000,611
BILLINGS	303,077	303,077	344,220	344,220	400,566	400,566
BOTTINEAU	871,819	765,167	990,169	869,040	1,161,293	1,011,296
BOWMAN	516,911	464,738	587,082	527,827	683,184	614,229
BURKE	426,072	360,493	483,512	409,430	563,126	476,452
BURLEIGH	3,963,594	3,770,843	4,501,657	4,282,740	5,236,550	4,983,798
CASS	6,512,665	6,031,118	7,396,767	6,849,849	8,607,572	7,971,127
CAVALIER	661,264	575,713	751,020	653,867	873,957	760,901
DICKEY	745,371	655,354	846,556	744,319	985,132	866,160
DIVIDE	429,797	359,801	486,142	408,644	568,048	475,536
DUNN	549,431	549,431	624,017	624,017	726,164	726,164
EDDY	472,854	416,595	537,044	473,148	624,955	550,599
EMMONS	615,634	598,468	699,435	679,711	813,928	790,975
FOSTER	563,874	484,819	640,421	550,633	745,254	640,769
GOLDEN VALLEY	397,185	348,626	451,104	395,952	524,947	460,767
GRAND FORKS	3,806,680	3,522,998	4,323,441	4,001,250	5,031,161	4,656,229
GRANT	480,485	460,212	545,711	522,686	635,041	608,246
GRIGGS	472,582	410,113	536,736	465,787	622,596	542,033
HETTINGER	469,039	410,453	532,712	466,173	619,913	542,482
KIDDER	472,491	418,482	536,632	475,291	624,475	553,094
LaMOURE	649,445	566,572	737,608	643,485	856,350	748,820
LOGAN	432,068	411,494	490,722	467,355	571,058	543,858
McHENRY	766,264	675,605	870,285	767,319	1,012,746	892,924
McINTOSH	530,355	528,343	602,351	600,067	700,953	698,294
McKENZIE	743,554	685,107	844,492	778,111	982,730	905,482
McLEAN	1,111,651	1,029,826	1,262,559	1,169,626	1,468,232	1,361,086
MERCER	1,080,004	1,080,004	1,226,616	1,226,616	1,427,406	1,427,406
MORTON	1,070,461	1,866,651	2,124,378	2,120,051	2,472,126	2,467,090
MOUNTRAIL	824,764	728,561	936,726	827,464	1,090,062	962,915
NELSON	559,877	493,186	635,881	560,137	739,971	651,828
OLIVER	409,994	409,994	465,651	465,651	541,876	541,876
PEMBINA	1,077,205	915,269	1,223,436	1,039,518	1,423,705	1,209,681
PIERCE	647,083	610,741	734,925	693,650	855,228	807,197
RAMSEY	1,242,376	1,116,885	1,411,030	1,268,504	1,642,007	1,476,150
RANSOM	757,452	664,564	860,277	754,779	1,001,099	878,332
RENVILLE	459,501	396,115	521,878	449,888	607,307	523,532
RICHLAND	1,523,845	1,346,607	1,730,709	1,529,411	2,014,015	1,779,766
ROLETTE	1,318,674	1,290,266	1,497,685	1,465,421	1,742,847	1,705,301
SARGENT	619,014	538,167	703,045	611,223	810,129	711,277
SHERIDAN	377,746	345,742	429,025	392,677	499,254	456,956
SIOUX	589,764	586,093	669,825	665,656	779,471	774,620
SLOPE	292,125	259,776	331,782	295,041	386,092	343,338
STARK	1,743,915	1,743,915	1,980,654	1,980,654	2,304,874	2,304,874
STEELE	427,526	365,172	485,503	414,745	565,046	482,636
STUTSMAN	1,709,372	1,532,468	1,941,421	1,740,502	2,259,220	2,025,411
TOWNER	483,664	428,368	549,322	486,519	639,242	566,160
TRAILL	1,072,079	954,246	1,217,615	1,083,786	1,415,932	1,261,195
WALSH	1,257,761	1,121,154	1,428,435	1,273,352	1,662,961	1,481,791
WARD	3,458,335	3,165,403	3,925,285	3,595,110	4,572,484	4,183,607
WELLS	685,871	601,065	774,979	682,660	906,493	794,408
WILLIAMS	1,607,496	1,433,653	1,825,716	1,628,274	2,124,574	1,894,812
COUNTY TOTAL	55,603,030	51,048,022	62,151,209	57,977,853	73,488,668	67,468,466
TOWNSHIP	0	4,555,008	0	5,173,356	0	6,020,202
CITY/CITY PARK	47,940,768	47,940,788	54,448,808	54,448,808	63,361,738	63,361,738
TOTAL DISTRIBUTED	103,543,817	103,543,817	117,600,017	117,600,017	136,850,406	136,850,406