

2013 HOUSE FINANCE AND TAXATION

HB 1210

2013 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1210
January 28, 2013
Job #17825

Conference Committee

Committee Clerk Signature

Mary Buckler

Explanation or reason for introduction of bill/resolution:

A Bill relating to payments in lieu of taxes to a school district for which the property tax base was diminished by acquisition of property for a flood control project.

Minutes:

Amendments #1, Testimony #2

Vice Chairman Headland: Opened hearing on HB 1210.

Chairman Belter: Introduced bill. Distributed amendments #1. In the event there is a flood project and if there is a school district that loses revenue due to that project and if there are state funds issued by the state water commission it would require the school district be reimbursed for that loss of property. During the last legislative session I had brought amendments to appropriations to deal with that particular issue and at that time they were rejected. In conversations at that time with Senator Fischer he stated that generally whenever a project incurs losses to any taxing authority the project reimburses that. We have now had a situation where the state board of equalization has lowered the property valuations of a school district because of a project and consequently the citizens of that school district have to pick up that additional cost. With the amendments that have been added to this it would require the school district be reimbursed for any loss caused by any proposed project.

Representative Klein: The money would be coming out of the water commission?

Chairman Belter: Yes because if we are sending out state funds for projects which we have been doing then it would require the water commission to take the funds from that reimbursement to reimburse that school district for the loss.

Representative Froseth: Would this continue forever or is there a sunset on here? More than likely the loss of the property along the river would be compensated for by an expansion or annexation into the city by those people or property owners that had to move out or lose their property. They more than likely expand up somewhere else within the city limits which would broaden the tax base.

Chairman Belter: I would have to go back and look at what case history is on other projects but I know in the case in our area we had the Maple River Dam project and part of

the taxing authority to finance that is keeping the local entities that were adversely affected tax wise keeping them whole so it would be my intent that any project would keep any district whole because of a loss of valuation due to a project.

Vice Chairman Headland: Further testimony in support of HB 1210?

Steve Hall, Superintendent of Kindred School District: See attached testimony #2.

Representative Klein: What happens to the people who own homes in that area? Can they sell them?

Steve Hall: Right now it's really a dead zone. That area has been very difficult if at all for anyone to refinance, sell, or do anything with the properties in the last two years.

Representative Froseth: The bill specifies that its property that has been taken over by the state or federal government. Is all that property that is earmarked to be behind the dam or in front of the dam to be taken over by the state? The fiscal note indicates the fiscal impact is unknown but in your situation that is going to amount to 23% of your levy and it will amount to quite a bit of money. Do you have an approximate dollar amount?

Steve Hall: I think the amendment changes that so it's a decrease in valuation rather than purchase price.

Chairman Belter: The amendments take care of the decrease in valuation as well as the question of acquisition. Right now it's the issue of the devaluation of the property.

Representative Kelsh: Why wasn't there consideration given to other taxing entities that were also impacted by the proposed diversion projects and school districts?

Steve Hall: That's a big concern of ours. Other entities did not come forward and ask for that reduction. The city of Oxbow came forward and pursued that so were granted this past fall. We are very concerned about what the next entity that may come forward and the impacts that may have on the school district. This whole diversion project has created a lot of unanswered questions and unknowns and has held a lot of people at bay for a long time. There is a high potential for others to come forward.

Representative Schmidt: If there's a magnitude of beneficiaries from this project in the Fargo area and if those benefits are significant why shouldn't the beneficiaries of this project make that payment instead of the rest of North Dakota?

Steve Hall: Are you talking about the Fargo area beneficiaries that are benefiting from this project?

Representative Schmidt: I'm talking about all of those who benefit from this project. If the benefit cost analysis is such that there are significant benefits why shouldn't those who are benefiting not pay for this instead of the rest of North Dakota?

Steve Hall: We've attempted to ask that question from the diversion authority officials and the Cass County officials and they have told us they would not.

Representative Zaiser: Why wasn't a special assessment given to those people that directly benefit such as those people who live alongside the river because the river if this goes through will be stabilized and they won't have to buy future flood insurance and all kinds of other things. What are your thoughts of a special assessment of the beneficiaries?

Steve Hall: I'm not sure what the thinking is on that. We didn't have a voice in that impacted area to express those concerns. We tried to voice our concerns many times.

Representative Hatlestad: Would you anticipate a loss in your student body if this goes through? Can you project what kind of a cost that would be to you?

Steve Hall: I see a significant loss. We have 125 students that are living in that area. There's discussion on the possibilities of ring dikes and other things and even if that happens we are still going to have a reduction because not everybody lives within that protected area. The loss of property values within that 23% of affected area is significant for us even if students stay within a protected area our expenses for our district are still going to stay up. It's a guess on the loss of the students which is only going to affect the rest of our taxpayers because we are still going to have to educate the rest of the students that are there and we need to fund our operating budget. I don't know what that number would be; there are so many unknowns in this.

Representative Marie Strinden: Who is buying out all of the private property that isn't a school district or other government entity?

Steve Hall: I believe it's from the diversion authority and that group is the one that is going to have to buy out.

Chairman Belter: Is there any other testimony in support of 1210? Is there any opposition to 1210? Any neutral testimony? If not we will close the hearing on HB 1210.

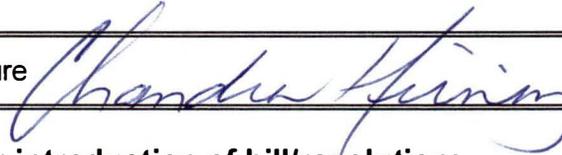
2013 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1210
February 6, 2013
Job 18430

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A Bill relating to payments in lieu of taxes to a school district for which the property tax base was diminished by acquisition of property for a flood control project.

Minutes:

Attached amendments #1

Chairman Belter: Distributed amendment, attachment #1. Reviewed amendment 13.0470.03001, distributed during the January 28, 2013, hearing. Explained amendment 13.0470.03002, distributed today, as requested by Rep. Schmidt.

Representative Schmidt made a **motion to adopt the amendment 13.0470.03002**. Representative Dockter seconded the motion.

Representative Kelsh: I appreciate what the bill is trying to do to make that school district whole. I'm wondering if we're asking the wrong parties to be making up the difference. The impact of the Fargo diversion project is so that it leaves more land free to be developed. I think that those people who are profiting from the ability to develop that land should be the ones to step up and make up the difference for that lost valuation, rather than the flood control authority.

Chairman Belter: I'm not sure who you would define as the beneficiary of it. Would it be the whole city of Fargo or only the portion of Fargo in the flood plain? The Fargo Water Authority has not yet made any decisions what the assessment districts are.

Representative Kelsh: I understand that there are two alternatives that were proposed. Even though the Flood Authority has not made a decision, they have a definite preference for one plan over the other. That includes more land that will be outside of the flood plain open for development that will benefit a relatively small number of developers. What we're doing here is socializing the cost and privatizing the profit.

Representative Zaiser: The real beneficiaries for the existing property owners are those who live in the expensive houses right along the river. They used to have to pay flood insurance. If this diversion were to go through, they would no longer have to pay flood insurance, and the water is never going to deviate in depth. I had suggested that they pay a special assessment because they are the primary beneficiaries; they're at the lowest

elevations. If there is a true beneficiary, it's the people who live alongside the river. Rep. Kelsh is right, too, that the developers of the undeveloped land that would also be protected are beneficiaries.

Representative Schmidt: In the flood control projects paid for by the federal government, it's the project sponsors that would be responsible for doing it. Then they would in turn tax or put specials against that group you mentioned. From the way I view this, the flood control project authority is the project sponsor. After they pay, then they go back to those individuals you mentioned and put special assessment on them to pay that. I agree with you. I was thinking this is the mechanism to do that.

Voice vote on adoption of 13.0470.03002 amendment. **Motion carries.**

Representative Headland made a **motion to adopt amendment 13.0470.03001**. Motion seconded by Representative Hatlestad.

Voice vote on adoption of 13.0470.03001 amendment. **Motion carries.**

Representative Dockter made a **motion to do pass as amended**. Seconded by Representative Drovda.

Representative Kelsh: I think I am going to vote no on the do pass. There has not yet been made a decision as to which way they are going to go. I wonder if passing something like this would influence one way or another. I think that decision should be made by the people of the eastern edge of North Dakota. I don't know that we can start down the road of reimbursing school districts for possible land loss and tax revenue. Gave examples.

Chairman Belter: It has pretty much been standard practice that when you have a flood control project, those hurt by the project are compensated. Gave examples. This is more than Fargo; it's any project. Whenever you have a project, you cannot expect the people who are getting hurt by the project to have to bear the cost of that project. That is what is happening here because of the property valuations.

Representative Schmidt: Has the local entity has already selected an alternative?

Unidentified speaker: According to the last plan, I think they've selected.

Representative Schmidt: Under that premise, since the project sponsor has selected the alternative, and that alternative is not the national economic development alternative but a locally preferred alternative, I think we in perfect prevue to do this. Had that alternative not been selected, then I would question this.

Representative Zaiser: I agree with the chairman. I'm not so sure it has been finalized.

Roll call vote on motion for a do pass as amended. Motion carries: 12 yes, 2 no, 0 absent.

Carrier: Representative Schmidt

2013 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1210
February 18, 2013
Job #19126

Conference Committee

Committee Clerk Signature

Mary Bruster

Explanation or reason for introduction of bill/resolution:

A Bill relating to payments in lieu of taxes to a school district for which the property tax base was diminished by acquisition of property for a flood control project.

Attached amendments #1

Minutes:

Representative Schmidt: Made a motion to reconsider our actions whereby we passed 1210.

Representative Drovdal: Seconded.

Representative Schmidt: As I was preparing my floor speech for HB 1210 I noticed there was some language in there that we should have amended out but we didn't. Made reference to the attached amendment.

Vice Chairman Headland: Just for clarification the amendment that was just proposed will work off the engrossed version which you may not have in your file.

Chairman Belter: Yes it does that on the engrossed version 4000.

Vice Chairman Headland: Made a motion to further amend with the 04001 amendments.

Representative Trottier: Seconded.

VOICE VOTE: MOTION CARRIED.

Chairman Belter: What are your wishes?

House Finance and Taxation Committee
HB 1210
February 18, 2013
Page 2

Vice Chairman Headland: Made a motion for a Do Pass as Amended.

Representative Schmidt: Seconded.

ROLL CALL VOTE: 11 YES 2 NO 1 ABSENT

Representative Schmidt will carry this bill.

2013 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1210
February 25, 2013
Job #19450

Conference Committee

Committee Clerk Signature

Mary Bruker

Explanation or reason for introduction of bill/resolution:

A Bill relating to payments in lieu of taxes to a school district for which the property tax base was diminished by acquisition of property for a flood control project.

Minutes:

Attached amendments #1 and marked up version of bill #2.

Chairman Belter: Distributed amendments and marked up version of the bill. See attached #1 and #2. We need a motion to reconsider our actions whereby we passed HB 1210.

Representative Klein: Made a motion to reconsider our actions.

Representative Owens: Seconded.

VOICE VOTE: MOTION CARRIED.

Chairman Belter: Explained amendments 5001. The reason for the amendments was because the bill was it could have been interpreted that the city of Fargo that they would have had to compensate for property acquired within their own school district and that's not what I wanted in the bill because I don't want the city of Fargo to have to compensate for any buyouts. Any questions?

Vice Chairman Headland: Made a motion to move the 5001 amendments.

Representative Owens: Seconded.

VOICE VOTE: MOTION CARRIED.

Chairman Belter: What are the committee's wishes on 1210?

Representative Klein: Made a motion for a Do Pass as Amended.

Representative Schmidt: Seconded.

ROLL CALL VOTE: 11 YES 2 NO 1 ABSENT

MOTION CARRIED FOR DO PASS AS AMENDED.

Representative Schmidt will carry this bill.

FISCAL NOTE STATEMENT

Senate Bill or Resolution No. HB 1210

This bill or resolution appears to affect revenues, expenditures, or fiscal liability of counties, cities, school districts, or townships. However, no state agency has primary responsibility for compiling and maintaining the information necessary for the proper preparation of a fiscal note regarding this bill or resolution. Pursuant to Joint Rule 502, this statement meets the fiscal note requirement.

Becky Keller
Senior Fiscal Analyst

FISCAL NOTE
Requested by Legislative Council
01/15/2013

Bill/Resolution No.: HB 1210

- 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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 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.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 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).*

This bill requires the Water Commission to make payments in lieu of taxes to school districts adversely affected by diversion channel projects.

- 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.*

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.*

The fiscal impact of this bill is unknown. There are multiple areas in the State that could be affected by diversion projects, the largest of these being the proposed projects around Fargo and Minot. Both projects will be locally owned and constructed and would receive cost share assistance from the State Water Commission. Because these projects have not been constructed we do not know which properties would be acquired or what the appropriate mill levy rate would be for these properties.

- 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: David Laschkewitsch

Agency: ND State Water Commission

Telephone: (701) 328-2750

Date Prepared: 01/17/2013

February 6, 2013

VJR
2/7/13
1082

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1210

Page 1, line 9, replace "state water commission" with "flood control project authority"

Page 1, after line 11, insert:

"1."

Page 1, line 12, replace "acquired" with ":

a. Acquired"

Page 1, line 13, after "entity" insert: "for a flood diversion channel project; or

b. Assigned a reduced true and full valuation from its 2011 true and full valuation which was done primarily because of the effects or anticipated effects of a flood diversion channel or flood control project"

Page 1, line 14, replace "1." with "2."

Page 1, remove line 16

Page 1, line 17, replace "taxes for a flood diversion channel project, would lose a portion of its" with "effect of events described in subsection 1, has had a significant reduction in"

Page 1, line 18, after "valuation" insert "of property within the school district"

Page 1, line 19, after "b." insert: "Flood control project authority" means the political subdivision or entity with land acquisition authority for execution of a diversion or flood control project with state funding assistance.

c."

Page 1, line 19, replace "real" with ":

(1) Real"

Page 1, line 21, after "any" insert "of that"

Page 1, line 22, after "owner" insert: "or occupant; or

(2) The amount determined by subtracting the current true and full valuation of property described in subdivision b of subsection 1 from that property's true and full valuation for 2011"

Page 1, line 23, replace "2." with "3."

Page 2, line 3, remove ", before the property was"

Page 2, remove line 4

Page 2, line 5, remove "tax-exempt entity"

Page 2, line 6, remove "state water"

Page 2, line 7, replace "commission" with "flood control project authority"

2082

Page 2, line 10, replace "3." with "4."

Page 2, line 10, remove "state water"

Page 2, line 11, replace "commission" with "flood control project authority"

Page 2, line 11, remove "state water"

Page 2, line 12, replace "commission" with "flood control project authority"

Page 2, line 20, replace "4." with "5."

Page 2, line 20, replace "state water commission" with "flood control project authority"

Renumber accordingly

13.0470.04001
Title.05000

Prepared by the Legislative Council staff for
Representative Belter
February 18, 2013

VR
2/18/13

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1210

Page 1, line 9, remove the underscored comma

Page 1, line 10, remove "subject to legislative appropriations."

Page 2, line 2, remove "with state"

Page 2, line 3, remove "funding assistance"

Re-number accordingly

YK
2/25/13

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1210

Page 1, line 8, replace "acquisition" with "reduced valuation"

Page 1, line 19, replace "that" with "with average daily attendance of fewer than one thousand students which"

Page 2, line 1, replace "Real" with "The taxable valuation of"

Page 2, line 3, after "include" insert "the taxable valuation of"

Page 2, line 5, replace "true and full" with "taxable"

Page 2, line 6, remove "true"

Page 2, line 7, replace "and full" with "taxable"

Page 2, line 8, after "3." insert "In determining the mill rate for the adversely affected school district, for the taxable year, the taxable valuation for the district as otherwise determined by law must be increased by the taxable valuation determined for property subject to valuation as determined under subsection 2."

4."

Page 2, line 10, remove the underscored comma

Page 2, remove line 11

Page 2, line 12, remove "the taxable valuation of the property for taxable year 2011"

Page 2, line 17, replace "4." with "5."

Page 2, line 23, remove ", except the minimum"

Page 2, remove line 24

Page 2, line 25, remove "section must be substituted, if applicable"

Page 2, line 27, replace "5." with "6."

Renumber accordingly

Date: 2-6-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1210

House Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number 13.0470.03002

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
3002
 Rerefer to Appropriations Reconsider

Motion Made By Rep. Schmidt Seconded By Rep. Dockter

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley Belter			Rep. Scot Kelsh		
Vice Chairman Craig Headland			Rep. Steve Zaiser		
Rep. Matthew Klein			Rep. Jessica Haak		
Rep. David Drovdal			Rep. Marie Strinden		
Rep. Glen Froseth					
Rep. Mark Owens					
Rep. Patrick Hatlestad					
Rep. Wayne Trottier					
Rep. Jason Dockter					
Rep. Jim Schmidt					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Voice Vote

Motion Carried

Date: 2-6-13
Roll Call Vote #: 2

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1210

House Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number 13.0470.03001

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment 3001
 Rerefer to Appropriations Reconsider

Motion Made By Rep Headland Seconded By Rep. Hatlestad
Zaiser

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley Belter			Rep. Scot Kelsh		
Vice Chairman Craig Headland			Rep. Steve Zaiser		
Rep. Matthew Klein			Rep. Jessica Haak		
Rep. David Drovdal			Rep. Marie Strinden		
Rep. Glen Froseth					
Rep. Mark Owens					
Rep. Patrick Hatlestad					
Rep. Wayne Trottier					
Rep. Jason Dockter					
Rep. Jim Schmidt					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Voice Vote
Motion carried.

Date: 2-6-13
 Roll Call Vote #: 3

**2013 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1210**

House Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number 13.0470.03003

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Rep. Dockter Seconded By Rep. Drovdal

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley Belter	✓		Rep. Scot Kelsh		✓
Vice Chairman Craig Headland	✓		Rep. Steve Zaiser		✓
Rep. Matthew Klein	✓		Rep. Jessica Haak	✓	
Rep. David Drovdal	✓		Rep. Marie Strinden	✓	
Rep. Glen Froseth	✓				
Rep. Mark Owens	✓				
Rep. Patrick Hatlestad	✓				
Rep. Wayne Trottier	✓				
Rep. Jason Dockter	✓				
Rep. Jim Schmidt	✓				

Total (Yes) 12 No 2

Absent 0

Floor Assignment Rep. Schmidt

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

Date: 2-18-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1210

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 passed

Motion Made By Rep. Schmidt Seconded By Rep. Drovdal

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley Belter			Rep. Scot Kelsh		
Vice Chairman Craig Headland			Rep. Steve Zaiser		
Rep. Matthew Klein			Rep. Jessica Haak		
Rep. David Drovdal			Rep. Marie Strinden		
Rep. Glen Froseth					
Rep. Mark Owens					
Rep. Patrick Hatlestad					
Rep. Wayne Trottier					
Rep. Jason Dockter					
Rep. Jim Schmidt					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Date: 2-18-13
Roll Call Vote #: 2

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1210

House Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
Further
w/ 04001 amend.
 Rerefer to Appropriations Reconsider

Motion Made By Rep. Headland Seconded By Rep. Trottier

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley Belter			Rep. Scot Kelsh		
Vice Chairman Craig Headland			Rep. Steve Zaiser		
Rep. Matthew Klein			Rep. Jessica Haak		
Rep. David Drovdal			Rep. Marie Strinden		
Rep. Glen Froseth					
Rep. Mark Owens					
Rep. Patrick Hatlestad					
Rep. Wayne Trottier					
Rep. Jason Dockter					
Rep. Jim Schmidt					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Voice Vote
Motion Carried.

Date: 2-18-13
 Roll Call Vote #: 3

**2013 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1210**

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. Headland Seconded By Rep. Schmidt

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley Belter	✓		Rep. Scot Kelsh		✓
Vice Chairman Craig Headland	✓		Rep. Steve Zaiser		✓
Rep. Matthew Klein	✓		Rep. Jessica Haak	✓	
Rep. David Drovdal	✓		Rep. Marie Strinden	✓	
Rep. Glen Froseth	✓				
Rep. Mark Owens	✓				
Rep. Patrick Hatlestad	✓				
Rep. Wayne Trottier	✓				
Rep. Jason Dockter					
Rep. Jim Schmidt	✓				

Total (Yes) 11 No 2

Absent 1

Floor Assignment Rep. Schmidt

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

Date: 2-25-13
 Roll Call Vote #: 1

**2013 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1210**

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 passing bill

Motion Made By Rep. Klein Seconded By Rep. Owens

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley Belter			Rep. Scot Kelsh		
Vice Chairman Craig Headland			Rep. Steve Zaiser		
Rep. Matthew Klein			Rep. Jessica Haak		
Rep. David Drovdal			Rep. Marie Strinden		
Rep. Glen Froseth					
Rep. Mark Owens					
Rep. Patrick Hatlestad					
Rep. Wayne Trottier					
Rep. Jason Dockter					
Rep. Jim Schmidt					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

*Voices Vote
 Motion Carried.*

Date: 2-25-13
Roll Call Vote #: 2

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1210

House Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
.5001
 Rerefer to Appropriations Reconsider

Motion Made By Rep. Headland Seconded By Rep. Owens

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley Belter			Rep. Scot Kelsh		
Vice Chairman Craig Headland			Rep. Steve Zaiser		
Rep. Matthew Klein			Rep. Jessica Haak		
Rep. David Drovdal			Rep. Marie Strinden		
Rep. Glen Froseth					
Rep. Mark Owens					
Rep. Patrick Hatlestad					
Rep. Wayne Trottier					
Rep. Jason Dockter					
Rep. Jim Schmidt					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Voice Vote
Motion Carried

Date: 2-25-13
 Roll Call Vote #: 3

**2013 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1210**

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. Klein Seconded By Rep. Schmidt

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley Belter	✓		Rep. Scot Kelsh		✓
Vice Chairman Craig Headland	✓		Rep. Steve Zaiser		✓
Rep. Matthew Klein	✓		Rep. Jessica Haak	✓	
Rep. David Drovdal	✓		Rep. Marie Strinden	AB	
Rep. Glen Froseth	✓				
Rep. Mark Owens	✓				
Rep. Patrick Hatlestad	✓				
Rep. Wayne Trottier	✓				
Rep. Jason Dockter	✓				
Rep. Jim Schmidt	✓				

Total (Yes) 11 No 2

Absent 1

Floor Assignment Rep. Schmidt

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

REPORT OF STANDING COMMITTEE

HB 1210: Finance and Taxation Committee (Rep. Belter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1210 was placed on the Sixth order on the calendar.

Page 1, line 9, replace "state water commission" with "flood control project authority"

Page 1, after line 11, insert:

"1."

Page 1, line 12, replace "acquired" with ":

a. Acquired"

Page 1, line 13, after "entity" insert: "for a flood diversion channel project; or

b. Assigned a reduced true and full valuation from its 2011 true and full valuation which was done primarily because of the effects or anticipated effects of a flood diversion channel or flood control project"

Page 1, line 14, replace "1." with "2."

Page 1, remove line 16

Page 1, line 17, replace "taxes for a flood diversion channel project, would lose a portion of its" with "effect of events described in subsection 1, has had a significant reduction in"

Page 1, line 18, after "valuation" insert "of property within the school district"

Page 1, line 19, after "b." insert: "Flood control project authority" means the political subdivision or entity with land acquisition authority for execution of a diversion or flood control project with state funding assistance.

c."

Page 1, line 19, replace "real" with ":

(1) Real"

Page 1, line 21, after "any" insert "of that"

Page 1, line 22, after "owner" insert: "or occupant; or

(2) The amount determined by subtracting the current true and full valuation of property described in subdivision b of subsection 1 from that property's true and full valuation for 2011"

Page 1, line 23, replace "2." with "3."

Page 2, line 3, remove ", before the property was"

Page 2, remove line 4

Page 2, line 5, remove "tax-exempt entity"

Page 2, line 6, remove "state water"

Page 2, line 7, replace "commission" with "flood control project authority"

Page 2, line 10, replace "3." with "4."

Page 2, line 10, remove "state water"

Page 2, line 11, replace "commission" with "flood control project authority"

Page 2, line 11, remove "state water"

Page 2, line 12, replace "commission" with "flood control project authority"

Page 2, line 20, replace "4." with "5."

Page 2, line 20, replace "state water commission" with "flood control project authority"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1210, as engrossed: Finance and Taxation Committee (Rep. Belter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1210 was placed on the Sixth order on the calendar.

Page 1, line 9, remove the underscored comma

Page 1, line 10, remove "subject to legislative appropriations."

Page 2, line 2, remove "with state"

Page 2, line 3, remove "funding assistance"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1210, as reengrossed: Finance and Taxation Committee (Rep. Belter, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (11 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING).
Reengrossed HB 1210 was placed on the Sixth order on the calendar.

Page 1, line 8, replace "acquisition" with "reduced valuation"

Page 1, line 19, replace "that" with "with average daily attendance of fewer than one thousand students which"

Page 2, line 1, replace "Real" with "The taxable valuation of"

Page 2, line 3, after "include" insert "the taxable valuation of"

Page 2, line 5, replace "true and full" with "taxable"

Page 2, line 6, remove "true"

Page 2, line 7, replace "and full" with "taxable"

Page 2, line 8, after "3." insert "In determining the mill rate for the adversely affected school district, for the taxable year, the taxable valuation for the district as otherwise determined by law must be increased by the taxable valuation determined for property subject to valuation as determined under subsection 2."

4."

Page 2, line 10, remove the underscored comma

Page 2, remove line 11

Page 2, line 12, remove "the taxable valuation of the property for taxable year 2011"

Page 2, line 17, replace "4." with "5."

Page 2, line 23, remove ", except the minimum"

Page 2, remove line 24

Page 2, line 25, remove "section must be substituted, if applicable"

Page 2, line 27, replace "5." with "6."

Re-number accordingly

2013 SENATE FINANCE AND TAXATION

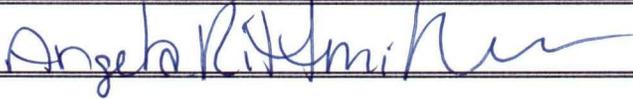
HB 1210

2013 SENATE STANDING COMMITTEE MINUTES

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

HB 1210
3/20/2013
Job Number 20223

Conference Committee

Committee Clerk Signature 
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Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact a new section to chapter 61-02 of the North Dakota Century Code, relating to payments in lieu of taxes to a school district for which the property tax base was diminished by acquisition of property for a flood control project.

Minutes:

Testimony Attached

Chairman Cook opened the hearing on HB 1210.

Representative Belter introduced HB 1210 and handed out proposed amendment (attachment 1).

Vice Chairman Campbell - That formula, how are they changing that that it affects with the diversion or the flood affected. Are they just putting 20% less or do you know how they are specifically doing that?

Representative Belter - When they went in front of the state board of equalization apparently they looked at sales of homes in the area and had made a determination that the property values had fallen in that area and it resulted in a 20% reduction for the area of Oxbow.

Senator Triplett - You mentioned that the bill is based on the 2011 valuations and then it's values go back up again, that the payments would no longer be made so I think I understand what you are saying, but just to be clear, so it wouldn't be adjusted by inflation or anything like that if it's just the valuations sort of in the aggregate of the area that they are compensating for total at some point in 2017 or whatever the same as they were in 2011 then the program would just click off.

Representative Belter - Yes that is the intent of the bill.

Senator Triplett - If for example the properties in that area stay low but there is additional development in an adjacent area that ends up adding valuation to the district that wouldn't compensate across it because you wouldn't really know where to quit I suppose in terms of how to assign some new valuation.

Representative Belter - The intent here is to only deal with the city of Oxbow, that area that was devalued.

Senator Triplett - Can you identify the changes generally that the House made from your original bill?

Representative Belter - Originally I know that the city of Fargo was very concerned because the way the bill was originally written it would have probably required them to compensate the Fargo School District because they are buying homes out along the river and things like that. What these amendments did, it took out that language so that they did not have to deal with the Kindred School District.

Chairman Cook - You say it only includes Oxbow it doesn't include Hickson or Bakke addition because they have not had their values decreased?

Representative Belter - That is correct.

Chairman Cook - Could they tomorrow?

Representative Belter - It's possible.

Senator Oehlke - In an area that I'm quite familiar with there was about 80,000 acres of farm land flooded and when that valuation on that farm land went down and the school district wasn't hurt because everybody else had to pick up the pieces. Is that not how it can work in this situation or is that just too much of an impact on the surviving property that is going to pay real estate tax?

Representative Belter - If within a given school district something takes place where patrons of the school district are suffering a loss. I think you mentioned a devaluation of property due to flooding. If that is the case and it's within a school district then it's certainly justifiable for that school district within itself to absorb those costs. (13:23)

Senator Triplett - You're not suggesting that the land owners be gifted any particular dollar amount, you are just saying that if other taxing authorities like a county or whatever chooses by their own standards to devalue property because of the existence of the diversion, then you are asking the diversion authority to make the school district whole, right? There is no transfer of money to individual land owners.

Representative Belter - That is correct. This just requires the diversion authority to compensate the school district for any losses to that particular area which happens to be Oxbow that got a 20% reduction in its property valuations.

Steve Hall, Kindred Public School - See attached testimony 2.

Chairman Cook - You said the impact would be somewhere between \$51,000 and \$73,000? Would you give me that explanation again of why it's 51 or 73?

Steve Hall - When we set our budget we go with preliminary taxable valuation changes. We have 3 counties that we take our numbers for to find out what our taxable valuation is and in July we have Cass County taxable valuation estimate, Richland County estimate and Ransom County estimate. The only change that was made from July to October was in the Cass County valuation. That valuation change for us equated to \$73,000. Now the Cass County officials have told us that that was the city Oxbow, actually only \$51,000 approximately. Our change from our July budget to the October budget, we had to cover the \$73,000.

Chairman Cook - Where did the other \$22,000 come from?

Steve Hall - I don't know.

Chairman Cook - As you read this bill today do you think it's clear as far as how much money would have to come to the school district?

Steve Hall - I would say it would be reasonable to say that the minimum is the \$51,000.

Chairman Cook - Would you argue that it should be \$73,000?

Steve Hall - Yes I probably would because there's usually not a lot of change from July until October in those estimated valuations.

Chairman Cook - First we've got a policy question of whether we go down this road but the second thing is there can't be an argument of how much money it is. It's got to be clear.

Michael Montplaisir, Cass County Auditor - See attached testimony 3.

Senator Oehlke - Can you give me an idea if someone had a \$250,000 home what the increase in taxes is relative to the school portion to pick up the difference here if this bill didn't happen to go through?

Michael Montplaisir - If you are talking about the devaluation of the city of Oxbow it was about 3 mills. Three mills is \$4.50 on every \$100,000. So in that case it would be about \$13 per \$100,000 so, \$26-27.

Senator Oehlke - Do you think we should go down this road?

Michael Montplaisir - I think rather than a narrowly defined bill such as this, it's not only the school district that loses for instance the city of Oxbow lost tax revenue. Cass County lost tax revenue. The water resource district, vector control district, even the state of North Dakota on their medical school levy loses money and they do every time. On these \$33 million worth of homes in Fargo and the \$20 million of homes that Cass County bought which are in several school districts, everybody loses some on that.

Senator Oehlke - I remember several years ago being in Lisbon and somebody said why do you want to send all your water down here and I said well why did people build in the bottom of Lake Agassiz.

Chairman Cook - Did you testify against this bill in the House?

Michael Montplaisir - No, at the time it was in the committee in the House, it was a statewide bill concerning all projects and concerning all school districts. This bill was changed in the House and then not given a chance for another hearing. Another thing, the difference between the \$73,000 and the \$51,000, the \$51,000 relates to the homes that were lowered in value by the state equalization board. The \$73,000 every July we send every taxing district an estimate of what their taxable value is as we see it at that time. We are estimating an awful lot of things because we don't know yet. A lot of times those things change. Should we hold back and say well here's our value lets reduce it 5% in case there are things that change, we've never done that, we've tried to give them the best estimate we could on value at that time.

Chairman Cook - Representative Belter made an argument that he owns farm property and that property tax went up because of the devaluation in Oxbow yet he lives in Fargo and going to benefit from the diversion and those taxes did not go up. He made a sound argument.

Michael Montplaisir - My argument is everybody is going to benefit by flood protection in Fargo. The people who work in Fargo aren't all from Fargo. We did a study and it showed a vast area that people come from throughout North Dakota and Minnesota to work in Fargo, shop in Fargo, to fly out of Fargo etc. We are the hub. If Fargo floods, everybody is going to hurt. (41:22)

Senator Miller - I think the people who live in the flood plain that you are creating are going to beg to differ that they benefit from the Fargo diversion. Would you support this bill is it was a statewide base and not as narrowly focused as it currently is?

Michael Montplaisir - I would have a hard time supporting a bill that focuses just on floods, or just on water projects. If you are going to do something like this I think the overall state tax policy as Representative Belter said, state policy that affected districts would be compensated and whether that's a school district or a county or a city. If we are going to do something we should do it for everybody for all types of projects.

Darrell Vanyo, Cass County Commissioner & FM Area Diversion Authority Board - See attached testimony 4.

Chairman Cook - Those other 58 homes they are all in North Dakota?

Darrell Vanyo - No, some are in Minnesota.

Ken Pawluk, Cass County Commissioner - See attached testimony 5.

Senator Triplett - You've suggested that we should set this bill aside or turn it in to a study or something so that we take time to think carefully before we change the law of the state and that's probably not a bad idea, but do you think the city of Fargo has taken adequate time to consider all of the options for flood diversion before they have kind of gotten themselves locked into one. You've described a plan that you say is always evolving but it

seems like watching from the outside like it's evolving in little tiny ways around the edges but that the community has really settled in on this basic plan of flooding this large area. Do you think the city of Fargo and the larger community and the diversion authority has adequately looked at all of the potential options including moving further way from the river?

Ken Pawluk - Yes I think they have. If we just look at from the basis of what we see or what we read it might seem that all of the sudden this is the plan and this is the only plan but I can assure you that every alternative has been analyzed. (1:07:39)

Senator Triplett - You said the real problem is there's just too much water. It seems then that the real solution is just moving your people further away. In Grand Forks County it was a little bit of an easier choice because we actually had a community that was pretty destroyed by a flood, but the community of Grand Forks really did after that experience move significantly further away from the river. We lost over 1,000 residential homes and over 100 commercial buildings and the entire community of Grand Forks and East Grand Forks slide back from the water so that the water can pass through the town. We do have a small diversion around the edge but it's miniscule compared to the diversion you're talking about which is massive, and I understand there are differences and I understand there is a lot more reticence to take out commercial buildings when they haven't been flooded, but maybe you need to consider that there just is too much water going through Fargo for how close the city is on the banks of the river. Maybe there is too much water for human habitation that close to the river.

Ken Pawluk - My goal as a commissioner in Cass County is to see that everyone has flood protection. I don't think that it's practical that we are going to relocate the community of Oxbow, Bakke and Hickson. Plus, where are you going to move them? If you haven't looked at the map of how wet the red river valley is, where we going to move them? I don't think it's realistic. (1:11:40)

Senator Dotzenrod - Part of the argument I heard is that yes it's true that there have been, the value of their homes have gone down. If they try to sell their houses today it's hard for them to find buyers to buy those houses so they are asking for values to be reduced. Following the testimony that yourself and Mr. Vanyo and others, it sounds like what you are saying is at some point in the future when there are ring dykes and everyone is protected, these homes are going to appreciate in value because they will have ultimate 500 year protection and they will have because of that a higher value than homes that are not protected. While it may be true temporarily that there are some valuations that have in the marketplace declined in the long run if you just kill this bill and let things proceed what you will see is that these values will come back up because there will be this protection. Is that the argument you are making?

Ken Pawluk - I think that as you have protected areas you will see the values not just restored but they will increase and you will see new homes moving into that safe area. (1:15:23)

Marcy Dickerson, Tax Department - I just have a couple of wording suggestions I would like to bring to your attention. Page 1 line 21 it refers to a significant reduction in taxable valuation. I think it would be advisable to have something to define significant or have a percentage. What is significant to you may not be significant to me. Then on page 2 line 17, the county auditors give notice by June 30th of each year, and that's fine, then we get down to line 21, upon equalization by the state board of equalization if requested, I would like to see a date put in there like if requested by August 1st.

Chairman Cook closed the hearing on HB 1210.

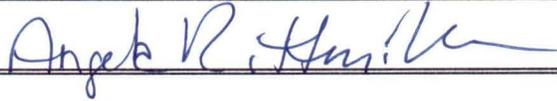
2013 SENATE STANDING COMMITTEE MINUTES

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

HB 1210
4/9/2013
Job Number 20959

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact a new section to chapter 61-02 of the North Dakota Century Code, relating to payments in lieu of taxes to a school district for which the property tax base was diminished by acquisition of property for a flood control project.

Minutes:

Chairman Cook opened discussion on HB 1210.

Senator Dotzenrod handed out, explained and moved proposed amendments 13.0470.06003 (attachment 1A).

Seconded by **Senator Burckhard**.

Senator Burckhard - The opposition came mostly from Cass County. One even suggested it was a poorly constructed bill. If we vote for this is this as much as saying that we are in favor of the Fargo diversion or does that have nothing to do with this?

Senator Dotzenrod - I don't see this as a bill that takes sides in a controversial measure of some kind. I think it's a matter of saying who becomes responsible, there are winners and losers. You can probably never fully separate and make that completely whole, but in cases where the residents are still there, where the students are still there, homes are still there, but the revenue to the school district has been reduced then there ought to be some official recognition, some way that the people that are getting the benefit, right now those homes and those other properties in that school district are having to raise their taxes to make up for lost values. I think one unknown is how far out into the future will the values stay reduced. (7:00)

Senator Oehlke - I was remembering testimony when the Cass County auditor or assessor was here that he said the taxable valuation affecting a school on a \$100,000 of taxable valuation was \$4.50. Is that what we are talking about here?

Senator Dotzenrod - I think \$4.50, that might have been the increase to the other properties. That might be.

Senator Oehlke - If that is the case I'm wondering if, I bet you could almost come up with a fiscal note.

Senator Dotzenrod - I think any fiscal note would have to be specific to a school district.
(9:26)

Discussion followed.

Senator Triplett - I think this amendment makes this bill a better bill so I intend to vote for the amendment but I do share Senator Oehlke's concerns that we are opening up a can of worms so I think I will have to vote against the bill.

Chairman Cook - If requested by the flood control project authority, is that a political subdivision?

Senator Dotzenrod - Yes the political flood control authority is a political subdivision.

Chairman Cook - They don't levy property tax do they?

Senator Dotzenrod - I don't think they levy property tax but it's my understanding that there is a potential and very likely of special assessments.

Verbal Vote on Amendment 5-1-1

Senator Miller - I'll move a **Do Pass as Amended**.

Seconded by **Senator Dotzenrod**.

Senator Triplett - I share the concerns about the potential, I think that this could potentially open the flood gates on this kind of a topic because things are done in this state that are considered to be for the benefit, the greater good as it were, which unfortunately sometimes tends to be for the place where most people have congregated which tends to be our larger cities and people around the fringes end up suffering as a result of it. I don't know how you ever construct something that is perfectly fair that gets around that but I think that we are opening a can of worms here if we pass this because we would be inviting so many other political subdivisions to come in and say that they are somehow damaged by something that is being done by a larger city. These are delicate topics which tend to get resolved over time with all the parties at the table and negotiated. (16:39)

Senator Dotzenrod - The idea with this bill is that if a subdivision makes a decision that reduced the value and revenues that flow in to school districts that all they really should do is make sure that they are accountable and can make that area that is reduced whole again and be responsible for the decisions they make. (19:59)

Senator Oehlke - The idea that Senator Triplett mentioned where it's opening a can of worms, really a minor issue that we dealt with last week was increasing by 3 acres the area around a church. If this theory is accurate then the state should be subsidizing those communities for that extra acreage that we are allowing to not have property tax on it. It's

going to be a long vicious road. If this passes, or something like it, there is 130,000 that are going to want this adjustment next session.

Senator Dotzenrod - This refers to the action of one subdivision against the interest of another subdivision. I think in Devils Lake you have a state managed set of circumstances; it's not one subdivision that I can see that is against another. The situation with the churches was really something that we have been trying to comply with the constitution. (22:44)

Senator Triplett - I agree with much of what Senator Dotzenrod has just said, but I think the example we are talking about, the Fargo flood control project is really not in the end about what one subdivision is doing to another because neither Fargo nor the flood authority is going to be able to do this project on its own without a significant amount of state support so in the end it's what the state is going to do to its own subdivisions. I think this is an argument that is better left to that discussion. When we attach the state dollars and we say that the state is going to give X amount of dollars to the flood control authority to do a project we are essentially approving the project and then approving whatever it is that is done to the surrounding subdivision and it seems to be that at that point in time where the money is attached and the state becomes a party to it, then is the time and the place and I understand that that is not accomplished yet and probably will take additional time and leave the people that you are concerned about in limbo and I do feel bad about that, I understand that there are people who are in serious distress who want to move away from their home and into a nursing home or who just want to leave the community or something and their house, their property has reduced value and I wish I knew what to do to help them in the immediate term but I really think that the decision about who gets to do what to whom is made when the state attaches dollars to a project and I am hopeful that we can find some resolution at that level, that we don't grant large amounts of money to this diversion project without there being some constraints or some accommodation to the people if the surrounding areas. I think we are asking for a lot more political subdivisions of various stripes to come forward in mass asking for similar consideration and I think it's a path that we don't want to walk down.

Roll Call Vote 1-5-1 - motion failed

Senator Oehlke - I will make a motion to **Do Not Pass**.

Seconded by **Senator Triplett**.

Roll Call Vote 5-1-1

Carried by **Senator Oehlke**.

FISCAL NOTE STATEMENT

Senate Bill or Resolution No. HB 1210

This bill or resolution appears to affect revenues, expenditures, or fiscal liability of counties, cities, school districts, or townships. However, no state agency has primary responsibility for compiling and maintaining the information necessary for the proper preparation of a fiscal note regarding this bill or resolution. Pursuant to Joint Rule 502, this statement meets the fiscal note requirement.

Becky Keller
Senior Fiscal Analyst

April 1, 2013



Handwritten signature and date: JB
4-9-13

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1210

- Page 1, line 3, replace "acquisition" with "reduced valuation"
- Page 1, line 3, replace "for" with "attributable to"
- Page 1, line 3, after "project" insert "; and to provide an effective date"
- Page 1, line 9, replace "chapter" with "section"
- Page 1, line 11, replace "taxes that otherwise would be available" with "tax revenues lost"
- Page 1, line 12, replace "if" with "because"
- Page 1, line 12, after "based" insert "remains taxable but"
- Page 1, line 12, remove "not:"
- Page 1, remove lines 13 and 14
- Page 1, line 15, replace "b. Assigned" with "assigned"
- Page 1, line 15, replace "reduced" with "reduction of ten percent or more in"
- Page 1, line 15, after the second "valuation" insert an underscored comma
- Page 1, line 21, remove "significant"
- Page 2, line 1, remove the underscored colon
- Page 2, remove lines 2 through 6
- Page 2, line 7, replace "(2) The" with "the"
- Page 2, line 8, remove "subdivision b of"
- Page 2, line 14, remove "For the purpose of making payments in lieu of taxes under this section, all property"
- Page 2, remove lines 15 and 16
- Page 2, line 21, replace "Upon" with "The value placed upon the property subject to valuation is subject to"
- Page 2, line 22, replace ", of the value placed upon the property subject to valuation, the" with "by August first. The"
- Page 2, line 23, remove "shall compute the"
- Page 2, line 23, after "payments" insert "in lieu of taxes"
- Page 2, line 24, after "located" insert "must be computed"
- Page 2, line 24, after "extending" insert ", against the taxable valuation determined for property subject to valuation,"
- Page 2, line 25, remove ". The"

Page 2, line 26, remove "mill levies must be extended against the property subject to valuation"

Page 2, line 29, replace "After computing the payments due to each school district, the" with "The"

Page 2, line 30, replace ", on or before March first of" with "under this section, in"

Page 2, line 31, after "made" insert ". Payments in lieu of taxes under this section are subject to the provisions of law that apply to payment of property taxes, including due date and penalty provisions and the five percent discount for early payment under section 57-20-09"

Page 2, after line 31, insert:

"SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2012."

Renumber accordingly

Date: 4-8-13
 Roll Call Vote #: 1

**2013 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1210**

Senate Finance & Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number 13.0470.06003

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Senator Dotzenrod Seconded By Senator Burckhard

Senators	Yes	No	Senator	Yes	No
Chariman Dwight Cook	X		Senator Jim Dotzenrod		X
Vice Chairman Tom Campbell	X		Senator Connie Triplett	X	
Senator Joe Miller					
Senator Dave Oehlke	X				
Senator Randy Burckhard	X				

Total (Yes) 5 No 1

Absent 1

Floor Assignment _____

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

Date: 4-8-13
Roll Call Vote #: 2

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1210

Senate Finance & 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 Miller Seconded By Senator Dotzenrod

Senators	Yes	No	Senator	Yes	No
Chariman Dwight Cook		X	Senator Jim Dotzenrod	X	
Vice Chairman Tom Campbell		X	Senator Connie Triplett		X
Senator Joe Miller					
Senator Dave Oehlke		X			
Senator Randy Burckhard		X			

Total (Yes) 1 No 5

Absent 1

Floor Assignment _____

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

motion failed

Date: 4-8-13
 Roll Call Vote #: 3

**2013 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1210**

Senate Finance & 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 Triplett

Senators	Yes	No	Senator	Yes	No
Chariman Dwight Cook	X		Senator Jim Dotzenrod		X
Vice Chairman Tom Campbell	X		Senator Connie Triplett	X	
Senator Joe Miller					
Senator Dave Oehlke	X				
Senator Randy Burckhard	X				

Total (Yes) 5 No 1

Absent 1

Floor Assignment Senator Oehlke

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

REPORT OF STANDING COMMITTEE

HB 1210, as reengrossed: Finance and Taxation Committee (Sen. Cook, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (5 YEAS, 1 NAYS, 1 ABSENT AND NOT VOTING). Reengrossed HB 1210 was placed on the Sixth order on the calendar.

- Page 1, line 3, replace "acquisition" with "reduced valuation"
- Page 1, line 3, replace "for" with "attributable to"
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- Page 1, remove lines 13 and 14
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- Page 2, line 23, after "payments" insert "in lieu of taxes"
- Page 2, line 24, after "located" insert "must be computed"
- Page 2, line 24, after "extending" insert ", against the taxable valuation determined for property subject to valuation,"
- Page 2, line 25, remove ". The"

Page 2, line 26, remove "mill levies must be extended against the property subject to valuation"

Page 2, line 29, replace "After computing the payments due to each school district, the" with "The"

Page 2, line 30, replace ", on or before March first of" with "under this section, in"

Page 2, line 31, after "made" insert "Payments in lieu of taxes under this section are subject to the provisions of law that apply to payment of property taxes, including due date and penalty provisions and the five percent discount for early payment under section 57-20-09"

Page 2, after line 31, insert:

"SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2012."

Re-number accordingly

2013 TESTIMONY

HB 1210

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1210

Page 1, line 11, after the underscored period insert:

"1."

Page 1, line 12, replace "acquired" with ":

a. Acquired"

Page 1, line 13, after "entity" insert "for a flood diversion channel project; or

b. Assigned a reduced true and full valuation from its 2011 true and full valuation which was done primarily because of the effects or anticipated effects of a flood diversion channel project"

Page 1, line 14, replace "1." with "2."

Page 1, remove line 16

Page 1, line 17, replace "taxes for a flood diversion channel project, would lose a portion of its" with "effect of events described in subsection 1, has had a significant reduction in"

Page 1, line 18, after "valuation" insert "of property within the school district"

Page 1, line 19, replace "real" with ":

(1) Real"

Page 1, line 21, after "any" insert "of that"

Page 1, line 22, after "owner" insert "or occupant; or

(2) The amount determined by subtracting the current true and full valuation of property described in subdivision b of subsection 1 from that property's true and full valuation for 2011"

Page 1, line 23, replace "2." with "3."

Page 2, line 3, remove ", before the property was"

Page 2, remove line 4

Page 2, line 5, remove "tax-exempt entity"

Page 2, line 10, replace "3." with "4."

Page 2, line 20, replace "4." with "5."

Renumber accordingly

#2

House Bill No. 1210 -- Committee Hearing
Jan. 28, 2013 ---- Kindred School District Comments
Steve Hall, Superintendent

Good Morning, Chairman Belter, Committee Members, thank you for your time this morning.

I am Steve Hall Superintendent of the Kindred Public School District. I am here on behalf of our school board and all patrons in our district and ask for your funding support for a school district that are impacted by water projects.

Kindred School District is located just south of Fargo; we are a district with 673 students and are made up of 5 communities. (Kindred, Davenport, Leonard, Walcott, and Oxbow). Kindred School District is an outstanding school district that provides a quality education to these 673 students and provides educational services to all patrons in the district. The school board has worked hard at being financially responsible to our patrons each and every year.

Some of you are aware our district is being directly impacted by the FM Diversion Authorities proposed Dam project. As it stands right now this project would flood and area that contains 23 % of our districts taxable valuation. This area also is residence to about 125 of our students. That is 19% of our student population.

In 2010 when the Fargo Dam project was announced to be placed in the eastern end of our school district my school board and community members were immediately shocked; first at the location of the project and second at the potential impacts of this project.

Since 2010 our school district has been in contact with the Federal Legislatures, Diversion Authority, State Legislatures and Cass County officials. We wanted to know if a project like this would happen, who would cover impacts and losses in our school budget and to our local taxpayers because this has the potential to drop off up to 23 percent of our valuation. We were and are concerned because we need that valuation to maintain our general operating budget, and also pay for our new high school building project that was just completed. This was a \$14.7 million dollar high school that we just moved into this past fall. We must make a \$900,000 payment on the project each year.

During the last legislative session legislation was proposed to assist a school district that has impacts to their taxable valuation like this. Two years ago we were told it is too early because there have been no impacts.

Over the past couple of years we have met multiple time with Diversion Authority and Cass County officials. Cass County had said they would want to help make us whole.

2.2

Well now fast forward to this past summer and fall. The City of Oxbow petition to the county for a tax reduction and they were denied by Cass County. In Sept. they ask for a reduction with the State Board of Equalization. The Board granted Oxbow residents a 20% reduction in their property taxes. This reduction has now directly affected all patrons in our district. The reduction has now created an increase in taxes for the patrons in Leonard, Walcott, Kindred, and Davenport.

In July when we set our General Fund Operating budget we set our request for dollars that equated to 105 mills. With our valuation at that time we felt comfortable with a carry over balance of around 15 % of our operating budget. In October after re-evaluating the impacts of the tax reduction for Oxbow, we needed to increase our general fund mills to 108 mills to maintain the same general fund balance. A 3 mill increase. We also had to increase our sinking and interest fund mill levy by 1.5 mills in order to cover our yearly payback for our building project. So the total change was 4.5 mills.

As of this fall our residents have now had impacts due to this proposed water project. And what is really bothersome is that there is not even an approved project.

Since October we have requested compensation from the Diversion Authority and we were turned down. We met on Jan. 8 with Cass County Officials and they said no they would not consider giving us anything. What happened to their previous verbal commitments that they would make us whole?

Ever since this project was proposed we have been concerned about the potential impacts on our school district taxpayers. Well we now have REAL impacts on our taxpayers and feel consideration for compensating should be given to school district's that have been impacted by state and local water projects.

I thank you for your time today and would be happy to answer any questions you may have.



PROPOSED AMENDMENTS TO HOUSE BILL NO. 1210

Page 1, line 9, replace "state water commission" with "flood control project authority"

Page 1, line 19, after the underscored period insert ""Flood control project authority" means the political subdivision or entity with land acquisition authority for execution of a diversion or flood control project with state funding assistance.

c."

Page 1, line 21, after "channel" insert "or flood control"

Page 2, line 6, remove "state water"

Page 2, line 7, replace "commission" with "flood control project authority"

Page 2, line 10, remove "state water"

Page 2, line 11, replace "commission" with "flood control project authority"

Page 2, line 11, remove "state water"

Page 2, line 12, replace "commission" with "flood control project authority"

Page 2, line 20, replace "state water commission" with "flood control project authority"

Renumber accordingly

February 25, 2013

/

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1210

Page 1, line 8, replace "**acquisition**" with "**reduced valuation**"

Page 1, line 19, replace "that" with "with average daily attendance of fewer than one thousand students which"

Page 2, line 1, replace "Real" with "The taxable valuation of"

Page 2, line 3, after "include" insert "the taxable valuation of"

Page 2, line 5, replace "true and full" with "taxable"

Page 2, line 6, remove "true"

Page 2, line 7, replace "and full" with "taxable"

Page 2, line 8, after "3." insert "In determining the mill rate for the adversely affected school district, for the taxable year, the taxable valuation for the district as otherwise determined by law must be increased by the taxable valuation determined for property subject to valuation as determined under subsection 2."

4."

Page 2, line 10, remove the underscored comma

Page 2, remove line 11

Page 2, line 12, remove "the taxable valuation of the property for taxable year 2011"

Page 2, line 17, replace "4." with "5."

Page 2, line 23, remove ", except the minimum"

Page 2, remove line 24

Page 2, line 25, remove "section must be substituted, if applicable"

Page 2, line 27, replace "5." with "6."

Renumber accordingly

Sixty-third
Legislative Assembly
of North Dakota

REENGROSSED HOUSE BILL NO. 1210

Introduced by

Representatives Belter, Amerman, Silbernagel, Wall, J. Kelsh, Williams

Senators G. Lee, Luick, Dotzenrod

1 A BILL for an Act to create and enact a new section to chapter 61-02 of the North Dakota
2 Century Code, relating to payments in lieu of taxes to a school district for which the property tax
3 base was diminished by acquisition of property for a flood control project.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1.** A new section to chapter 61-02 of the North Dakota Century Code is created
6 and enacted as follows:

7 **Flood control project funding - Allocation of payments in lieu of taxes for loss of tax**
8 **base caused by acquisition reduced valuation of property in impacted school district.**

9 The flood control project authority annually shall make payments pursuant to this chapter to
10 adversely affected school districts in which property subject to valuation is located.

11 1. The payments are in lieu of taxes that otherwise would be available to the school
12 districts if the real property upon which these payments are based was not:

13 a. Acquired by the state, the United States, a political subdivision of this state, or
14 other tax-exempt entity for a flood diversion channel project; or

15 b. Assigned a reduced true and full valuation from its 2011 true and full valuation
16 which was done primarily because of the effects or anticipated effects of a flood
17 diversion channel or flood control project.

18 2. For purposes of this section:

19 a. "Adversely affected school district" means a school district that with average daily
20 attendance of fewer than one thousand students which, by reason of the effect of
21 events described in subsection 1, has had a significant reduction in taxable
22 valuation of property within the school district.

23 b. "Flood control project authority" means the political subdivision or entity with land
24 acquisition authority for execution of a diversion or flood control project.

- 1 c. "Property subject to valuation" means:
- 2 (1) Real property subject to valuation of property acquired by the state, the United
- 3 States, or a political subdivision of this state, or other tax-exempt entity for
- 4 use in a flood diversion channel project but does not include the taxable
- 5 valuation of any of that property being assessed for ad valorem taxation to
- 6 the owner or occupant; or
- 7 (2) The amount determined by subtracting the current true and full taxable
- 8 valuation of property described in subdivision b of subsection 1 from that
- 9 property's true and full taxable valuation for 2011.
- 10 3. In determining the mill rate for the adversely affected school district, for the taxable
- 11 year, the taxable valuation for the district as otherwise determined by law must be
- 12 increased by the taxable valuation determined for property subject to valuation as
- 13 determined under subsection 2.
- 14 4. For the purpose of making payments in lieu of taxes under this section, all property
- 15 subject to valuation under this section must be assessed and valued in the same
- 16 manner as other real property in this state is assessed and valued for tax purposes;
- 17 except the taxable valuation for the property subject to valuation may not be less than
- 18 the taxable valuation of the property for taxable year 2011. The county auditors of the
- 19 counties in which the property is located, before June thirtieth of each year, shall give
- 20 notice in writing to the flood control project authority and tax commissioner of the value
- 21 placed upon the property subject to valuation as finally equalized for taxable year 2011
- 22 and the most recent subsequent taxable year.
- 23 4.5. Upon equalization by the state board of equalization, if requested by the flood control
- 24 project authority, of the value placed upon the property subject to valuation, the flood
- 25 control project authority shall compute the payments due to the school districts in
- 26 which property subject to valuation is located by extending the mill levies which apply
- 27 to other taxable property in the school districts in which the property is located. The
- 28 mill levies must be extended against the property subject to valuation in the same
- 29 manner as used for other taxable property in the school districts, except the minimum
- 30 amount determined for taxable valuation of property subject to valuation under this

1 section must be substituted, if applicable. The payments due to each school district
2 are the amount determined as provided in this section.
3 5-6. After computing the payments due to each school district, the flood control project
4 authority shall remit to the school districts the amounts due, on or before March first of
5 the succeeding year after the assessments and valuations were made.

13.0470.06001
Title.

Prepared by the Legislative Council staff for
Representative Belter

March 18, 2013

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1210

Page 1, line 3, replace "of property for" with "or valuation reduction as a result of"

Renumber accordingly

House Bill No. 1210 -- Committee Hearing
March 20, 2013 ---- Kindred School District Testimony
Steve Hall, Superintendent

Good Morning, Chairman Cook, Committee Members, thank you for your time this morning.

I am Steve Hall Superintendent of the Kindred Public School District. I am here on behalf of our school board and all patrons in our district and ask for your funding support for a school district that is significantly impacted by a water project and in our case the FM diversion / dam project.

Kindred School District is located just south of Fargo; we are a district with 676 students and are made up of 5 communities. (Kindred, Davenport, Leonard, Walcott, and Oxbow). Our District lies in Cass County, Richland County and Ransom County. Kindred School District is an outstanding school district that provides a quality education to these 676 students. We are the 5th largest Class B district in the state, this year. The school board has worked hard at being financially responsible to our patrons in each community and county each year.

In 2010 when the Fargo Dam project was announced to be placed in the eastern end of our school district we were completely surprised by the impacts this project would have on our district. (Show Map - enclosed)

The impacted area where the water staging area is contains 23 % of our districts taxable valuation. This area also is residence to about 125 of our students. That is 19% of our student population. This area becomes a dead zone for our district. No possible growth opportunity ever if this project goes through.

During the last legislative session legislation was proposed to assist a school district that had impacts to their taxable valuation like this. Two years ago we were told it was too early because there were no impacts. Well this past summer and fall a decision by the State Board of Equalization changed that. The City of Oxbow petitioned to the county & state for a tax reduction. The Board granted Oxbow residents a 20% reduction in their property taxes. This reduction has now directly affected all patrons in our district. The reduction has now created an increase in taxes for the patrons in Cass , Richland and Ransom Counties.

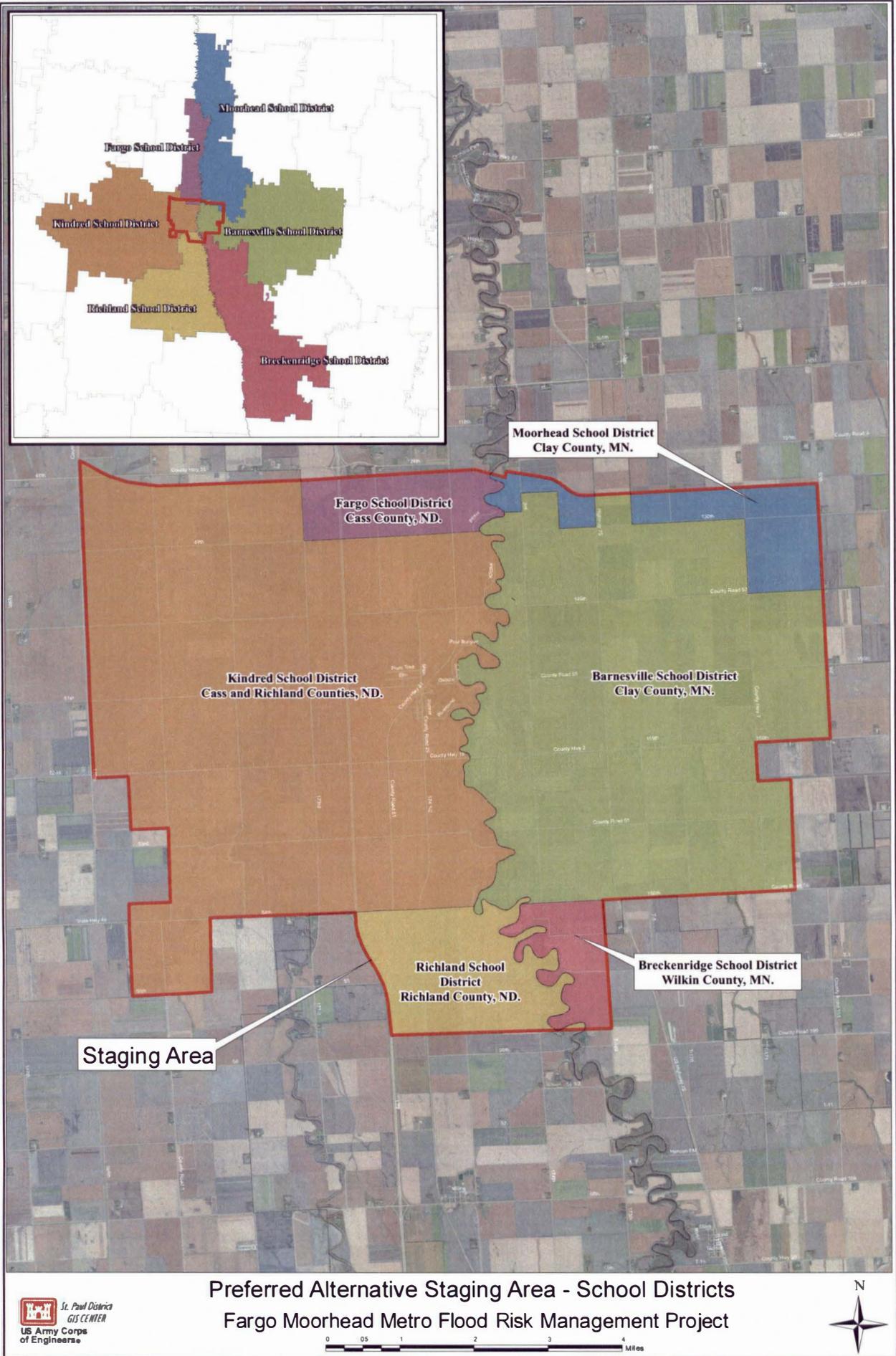
In July when we set our General Fund Operating budget we set our request for dollars that equated to 105 mills. With our valuation at that time we felt comfortable with a carry over balance of around 15 % of our operating budget. In October after re-evaluating the impacts of the tax reduction for Oxbow, we needed to increase our general fund mills to 108 mills to maintain the same general fund balance. A 3 mill increase. We also had to increase our sinking and interest fund mill levy by 1.5 mills in order to cover our yearly payback for our building project.

So the total change was 4.5 mills. This building project that I mentioned was a \$14.7 million dollar high school that we just moved into this past fall. We must make a \$900,000 payment on the project each year.

Over the past couple of years we have met multiple times with Diversion Authority and Cass County officials. County and Diversion Authority officials have denied responsibility for their project and denied compensation to the district to cover losses.

The Kindred School District supports flood protection for Fargo, but not their proposed plan that stages water in our district and we are concerned about the impacts on our school district taxpayers. We now have REAL impacts on our taxpayers and feel consideration for compensating should be given to school district's that have been impacted by state and local water projects.

I thank you for your time today and would be happy to answer any questions you may have.



Preferred Alternative Staging Area - School Districts
 Fargo Moorhead Metro Flood Risk Management Project



**Written Testimony To
THE SENATE FINANCE AND TAX COMMITTEE
Wednesday, March 20, 2013
Michael Montplaisir, Cass County Auditor
Cass County Government**

REGARDING HOUSE BILL 1210

Chairman Cook and committee members my name is Michael Montplaisir and I am the County Auditor in Cass County. I am here today to give you some of my thoughts concerning House Bill 1210.

House Bill 1210 is a bill that appears to be written in such a narrow fashion that it has an effect on only one county and one school district in the State of North Dakota. There are many instances where what the state or a local unit of government does has an effect on other local governments. The most common occurrences are the purchase of property by the state or a local unit of government. However, there are many other instances where what a local unit of government does affects other local units of government, such as: new home exemptions, tax increment districts, renaissance zones, and business tax incentives. I am not aware in any of these types of actions that the approving government is required to compensate the other taxing entities for tax valuations they otherwise would have had.

Chapter 57-15 of the North Dakota Century Code, Tax Levies and Limitations, and specifically 57-1-01.1, Protection of Taxpayers and Taxing Districts, has procedures to adjust the current levy for property that was taxable in the base year and is not available for taxation in the current year. In addition, if the property is purchased by a local government and leased out, the lessee is normally charged an in-lieu of tax or the local government includes the taxes as part of the lease. This most commonly happens in the case of agricultural land or airport hangers that are owned by an airport and are leased to private individuals. In the case of homes purchased by Cass County in which the county leases the property, taxes are continued to be paid.

In the case of this school district, the State Board of Equalization lowered the value of property in the City of Oxbow; however, overall taxable valuation of the district was not reduced. The school district valuation increased by over 5% from 2011 to 2012. The new valuation of the city was simply incorporated into the overall valuation of the school district, and the levies for the school district were computed in accordance with Chapter 57-15; the mill levy went down 8.68 mills or almost 5% from the levy in 2011. The Kindred School District did not lose any tax revenue for the 2012 taxes.

The devaluation by the State Board of Equalization is not the only property that affects the Kindred PSD—the City of Kindred has also approved a Tax Increment District containing sixty-six lots. Thirty-three of the lots have had structures built and are paying property taxes; however, as with all increment districts, the taxes collected on these structures (the incremental value) is being diverted to the city instead of the Kindred School District—approximately \$78,000 that would have gone to the school district in 2013. The school district not only loses the valuation on these properties, they have to educate the students who move into those homes without the benefit of the tax dollars to support their education. The cost of educating these students is spread against the rest of the taxpayers of the school district using the normal procedures provided in NDCC Chapter 57-15.

Perhaps instead of creating legislation that affects only one instance in one county and one narrowly defined school district, the legislature should study the issue of the overall effect of exemptions and government-purchased property on all local units of government.

I urge a do not pass on House Bill 1210.

SENATE FINANCE AND TAXATION COMMITTEE
HB1210 - PAYMENTS IN LIEU OF TAXES TO A SCHOOL DISTRICT

Chairman Cook and members of the Senate Finance and Taxation Committee.

My name is Darrell Vanyo. I am a Cass County Commissioner and the FM Area Diversion Authority Board Chairman. I come before you today to testify against HB1210 in its' entirety. The bill as amended on February 26th and 27th by the House Appropriations committee took a turn from requiring the State Water Commission to make payments to any affected school districts and directed the flood control project authority to make annual payments to a school district with daily attendance less than one thousand students. This language can be found in lines 9 through 21 of page one of the bill.

You see, prior to this time, Cass County or the FM Area Diversion Authority did not have a direct stake in the bill, even though we did not support it then either.

Let me explain how this bill came about and then you may see why it appears to be more punitive in its' design than any necessary legislation.

In 2011, the City of Oxbow lowered the value of all property in the city limits by 80%. They stated that since they felt there was no value in their property due to the potential of a diversion staging water upon their city; they were entitled to some financial benefit due to this limbo state. They still were receiving all the benefits of the Kindred School District and the county services, but claimed property valuations should reflect a lesser valuation. NOTE: The last time that Oxbow was reassessed as a community was 2007, so most properties were already undervalued on the county tax rolls.

When the County assessor brought this information to the County Board of Equalization, he recommended and the Commission concurred that the property should be brought back to its' valuation prior to the 80% reduction.

The following year in 2012, Oxbow did something similar but this time the reduction was 50% of the current valuation. Once again, the County

Assessor brought this to the 2012 Cass County Board of Equalization and, once again, we reinstated the previous valuations. This time, however, Oxbow decided to appeal to the State Board of Equalization. This happened in late August and early September as there were two meetings on this topic. The first to hear the supportive information and the second to make a determination on the appeal. The decision by the State Board of Equalization was to reduce all property in Oxbow by 20%. While we disagree with this finding and believe that the State Board of Equalization will have a difficult time handling a lot more communities, homeowners, and farmsteads in 2013 who want the same thing; we complied with the lowering of the valuations by 20%.

Within a few months of this action, we were asked by the Kindred School District, if the County or the Diversion Board were going to make them whole for the losses in revenue. Our response was that the State Board of Equalization imposed this reduction and that we were not legally obligated to make up any revenue losses. This is consistent with any reduction in valuation by any city, county, or state board of equalization.

When this was pursued in writing by the Kindred School Superintendent to myself, I took it to the FM Area Diversion Authority Board and unanimously the request to reimburse the school district was turned down. By the time that this message got to the Superintendent of the Kindred Schools, the tax statements were being prepared and our County Auditor voiced the opinion that the school district was not out any revenues whatsoever. The mill levies for the school district were such that they reflected the amount necessary to cover expenses for the district. The school district was not out any money; but just as the case for any tax abatement programs, any renaissance zones, any tax increment financing, etc. etc., the political subs are made whole by the tax payers in that political subdivision.

I do not believe that bills should be enacted that have little or no relevance to anyone else in the state except for one school district and one "flood control project authority". If the county or authority board are bound to pay school districts in perpetuity for valuation decreases imposed by the state, I can only think of what a precedent might be set for any and all cases of individuals or communities claiming that some undesirable situation should cause their property to decrease in value and then have all revenues

for all political subs remain the same because a state law says they should. Who will ultimately pay for such unintended consequences?

If not restricted by the state under the amendments imposed on HB1020, our plan is to ring dike Oxbow and protect that community ultimately from any loss in valuation whatsoever. If that happens, the Kindred School District will not have any buyouts or valuation decreases causing any revenue losses. In fact, with Oxbow having 500 yr. flood event protection, property values may increase faster than normal market trends.

This is bad legislation, it establishes a dangerous precedent, it is punitive. Please kill HB1210.

Written Testimony for HB 1210

From Ken Pawluk

Cass County Commissioner

Oppose HB 1210

This bill is intended to reimburse the Kindred School District for revenues that will be lost on any buyout properties in the buyout process, and for any loss in value as a result of long term flood protection plans. In that case the sponsor must forever pay to the school district the revenue lost.

1. Never mind that most buyouts result in relocation and new revenues for all taxing entities. Those buyout folks do not disappear. But the school district gets the old revenue from the buyout home, and the new revenue from the replacement home.
2. Consider the impact to Oxbow: 42 homes will be bought out by the Red River Diversion project, but more than 50 lots will be developed inside of the new dry protected area.
3. The bill has no sunset on the buyout replacement tax revenues. A windfall for the Kindred School District. Plus, with 500 year flood protection to Oxbow, Hickson, and Bakke. The neighborhood values will not only be restored but will climb.
4. Some might argue about the 20% property devaluation that occurred in Oxbow by the State Board of Equalization is the reason for this bill. But did the devaluation occur because of three years of flooding or because of the proposed Diversion? (The current ring dike plan negates this entire argument.)
5. The Kindred School District actually did not lose any funding. The \$53,000 lost by devaluing Oxbow was shifted to other taxpayers. The district still received the amount they had budgeted. How will KSD adjust its budget and mill levy request to reflect the credits?
6. No one even notices that because of the new Kindred School, Cass County tax payers have authorized \$900,000 for a highway project at Kindred from the old school to the new school. Or that Cass County has spent over \$300,000 to help Oxbow in flood fighting efforts and diking.
7. What about other government entities? With the devaluation of Oxbow, other tax levy entities are also affected, but this bill does not address their losses. (City, Water District, Parks, County)
8. A tax increment financing district has been created in Kindred that reduce payments to the school to a greater degree. Why discriminate against one project of benefit, but not the other.
9. If this bill is good idea, why only for Kindred School District? The State of North Dakota through NDSU has purchased three expensive downtown Fargo properties for expansion of their campus. This purchase took \$ 4.1 Million valued property off the

tax rolls. This resulted in a loss to the Fargo Public Schools District of over \$ 64324. Would it be appropriate for a NDSU opponent in the Legislature to author a bill to require NDSU to pay the Fargo Public School District that lost revenue forever?

- 10. Consider the negative impact the precedent this bill might have as the State Water Commission attempts to solve the Souris River flood problems. Since all water projects have opponents, and the State is the lead agency, will opponents add to the States' cost for a project that will ultimately create value and protect a large group of taxpayers?
- 11. Moving people away from flood prone areas is often the most effective way of providing flood protection. Previous acquisitions have significantly increased the overall protection of the City of Oxbow and the County. This bill will discourage those protective actions, and make the cost even greater for fewer homes.
- 12. Today Cass County has a FEMA Grant request for home buyouts of eight homes in the Kindred School District pending. These proposed buyouts are at the request of homeowners. Why would Cass County proceed with FEMA home buyouts if Cass forever must fund the revenue lost to the KSD by these buyouts?
- 13. This bill is poorly written. It creates huge funding shortfalls for the political subdivision involved in a project to protect constituents. It is retroactive to 2011. Three FEMA buyouts were completed in Oxbow in 2011, at the request of the homeowners. There is no way the sponsoring agency, Cass County, can plan or budget for this kind of payment.
- 14. This bill actually will take away value from the Kindred School District since its passage will result in more property not being protected and further home taxable value decline.
- 15. Make no mistake. This is an effort to harm the FM Metro Area Diversion Plan by the bill sponsors. It is not good for Cass County residents and the concept is unfriendly to long term flood protection.
- 16. The primary bill sponsor is on record being opposed to the FM Metro Diversion Plan. Should the long term flood protection plan go away, will the identified properties tax obligation continue?
- 17. Cass County is being penalized for developing a plan to protect its residents. The only way to avoid the penalty is to not develop the protection.

Please defeat HB 1210.

Ken Pawluk
 Cass County Commissioner
 2808 28th Avenue S
 Fargo, ND 58103
 pawlukk@casscountynnd.gov

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1210

- Page 1, line 3, replace "acquisition" with "reduced valuation"
- Page 1, line 3, replace "for" with "attributable to"
- Page 1, line 3, after "project" insert "; and to provide an effective date"
- Page 1, line 9, replace "chapter" with "section"
- Page 1, line 11, replace "taxes that otherwise would be available" with "tax revenues lost"
- Page 1, line 12, replace "if" with "because"
- Page 1, line 12, after "based" insert "remains taxable but"
- Page 1, line 12, remove "not:"
- Page 1, remove lines 13 and 14
- Page 1, line 15, replace "b. Assigned" with "assigned"
- Page 1, line 15, replace "reduced" with "reduction of ten percent or more in"
- Page 1, line 15, after the second "valuation" insert an underscored comma
- Page 1, line 21, remove "significant"
- Page 2, line 1, remove the underscored colon
- Page 2, remove lines 2 through 6
- Page 2, line 7, replace "(2) The" with "the"
- Page 2, line 8, remove "subdivision b of"
- Page 2, line 14, remove "For the purpose of making payments in lieu of taxes under this section, all property"
- Page 2, remove lines 15 and 16
- Page 2, line 21, replace "Upon" with "The value placed upon the property subject to valuation is subject to"
- Page 2, line 22, replace ", of the value placed upon the property subject to valuation, the" with "by August first. The"
- Page 2, line 23, remove "shall compute the"
- Page 2, line 23, after "payments" insert "in lieu of taxes"
- Page 2, line 24, after "located" insert "must be computed"
- Page 2, line 24, after "extending" insert ", against the taxable valuation determined for property subject to valuation,"
- Page 2, line 25, remove ". The"

Page 2, line 26, remove "mill levies must be extended against the property subject to valuation"

Page 2, line 29, replace "After computing the payments due to each school district, the" with "The"

Page 2, line 30, replace ", on or before March first of" with "under this section, in"

Page 2, line 31, after "made" insert ". Payments in lieu of taxes under this section are subject to the provisions of law that apply to payment of property taxes, including due date and penalty provisions and the five percent discount for early payment under section 57-20-09"

Page 2, after line 31, insert:

"SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2012."

Renumber accordingly