

Testimony in Opposition to House Bill 1367
February 11, 2021
House Political Subdivisions Committee
Bill Wocken on behalf of the North Dakota League of Cities

Good Morning Mr. Chairman and members of the House Political Subdivisions Committee. For the record, my name is Bill Wocken. I am appearing on behalf of the North Dakota League of Cities in opposition to House Bill 1367. In my previous life I worked for the City of Bismarck for 44 years, first as City/County Planning Director and for the last 23 years as City Administrator. I have been personally involved with the annual budget during most of those years.

House Bill 1367 seeks to set a new schedule for preparation of the preliminary budget for political subdivisions utilizing the property tax and to make that budget subject to referral. This concept has been discussed in previous legislative sessions. I will attempt to describe the existing budget process and the impact of the changes envisioned by House Bill 1367 on this process.

At present NDCC 40-40-04 requires a completed preliminary budget from each taxing jurisdiction be submitted to the County Auditor by August 10th of any given year. This deadline is necessary so that the County Auditor can prepare a notice for all taxpayers by August 31st giving them each taxing jurisdiction's preliminary budget numbers and the date on which each jurisdiction will hold a public hearing on their final budget. This notice also includes some comparative budget information. These requirements were added into law in the 65th Legislative Session.

Each local jurisdiction then must hold the public hearing on their final budget on the date described in the County Auditor's consolidated notice, but no earlier than September 7th of any given year. After the public hearing is concluded, each jurisdiction must calculate the amount of the real property tax levy needed to fund whatever budget is decided

upon. The levy calculation and the final budget must be provided to the County Auditor by October 10th. Once all the budgets are turned in the county consolidates the levy information from all the jurisdictions and prepares the annual tax statements we all receive before the end of calendar year.

House Bill 1367 pushes the date of completion of the preliminary budget up (forward) one month. This directly conflicts with NDCC 40-40-04 which is not referenced in the new section of code this bill seeks to establish in NDCC 57-15. There are likely other statutory conflicts that also need to be corrected.

The biggest problem with House Bill 1367 is timing required by the potential referral election. NDCC Section 40-21-02 Subsection 5 stipulates that the minimum time needed between the published notice of the election and the actual election date is 64 days. I am told this is also in federal law. Even if the budget preparation date could be moved one month earlier there still is no time to complete the statutory preparations for an election, since the final budgets and the property tax levies they drive must be in the County Auditor's hands no later than October 10th.

Another concern is the number of electors needing to sign a petition to refer the budget. On Page 1, Lines 18 – 21 there is a requirement that signators must equal at least 10 percent of the votes cast in the last regular gubernatorial election or 10 percent of the votes cast in the most recent school election. This school election could be a general election or a special election. This could translate into a small number of voters triggering a major referral action with significant implications.

Mr. Chairman and committee members the budget process envisioned by House Bill 1367 is unworkable. It conflicts with the Century Code in several key areas. The consolidated taxpayer notice provisions enacted several sessions ago make it impossible for this proposal to function. Even without these provisions it would be very difficult to make this bill work.

The public is receiving their consolidated levy notices in a timely manner and budget hearings are being noticed and held. We believe the public has a say in the annual budget each local jurisdiction prepares. We ask you for a Do No Pass recommendation on House Bill 1367.