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DESCRIPTION

1029

2007 HOUSE FINANCE AND TAXATION

HB 1029

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1029 A

House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 10, 2007

Recorder Job Number: 858 55min 16sec

Committee Clerk Signature

Mickie Schmelt

Minutes:

Chairman Belter: I'll call the committee to order.

Vice Chairman Drovdal: We'll open the hearing on HB 1029.

Chairman Belter: (in support) **(See attachment #1 & #2)** There was an issue on the ballot in Fargo which would have had a 1% sales tax for educational purposes in the city of Fargo. The people of Fargo did vote that down. Allowing home rule cities and counties to have a sales tax for the purpose of raising taxes for their local education is not a proper way for funding to take place for education. I brought this Bill before the Interim tax committee. The Interim committee decided to recommend for passage for the legislature. I have John Walstad from the Tax Dept. to answer questions. I just gave you a couple of handouts and one of the best letters I received was from the Enderlin Economic Development Committee, attachment #1. This is for your information. In attachment #2, Cass County collects 26.3% of the sales tax in the State of North Dakota. Fargo collects 22.9% of the sales tax in ND. The counties of Cass, Grand Forks, and Richland collect 47% of the sales tax in ND. The counties with large cities in them will gobble up a huge amount of money. This will only lead to more inequity to our funding formula than we already have. It's important that we as State Legislature retain the right of the sales and income tax for the good of the State.

Vice Chairman Drovdal: Does this grandfather in the school districts?

Chairman Belter: Yes, it does. There are several, Jamestown has a bond issue for a gymnasium, Williston may have a similar situation and those would be grandfathered in. But anything new would not be allowed under this legislation.

Vice Chairman Drovdal: Any other testimony in favor of HB 1029?

John Walstad, Attorney for Legislative Council: (In neutral support-just providing information) I served as council at the Interim Tax Committee. That is where this Bill draft has come from. Home Rule Authority was provided to Cities back in the mid 60's. Home Rule was provided to counties in the 80's. The tool box legislation providing cooperative authority for political subdivisions came about in the 90's. We've had a couple of school districts that were already mentioned that have utilized this for a transfer to school district on city sales tax revenues and we had an opinion from the Attorney General saying that those kinds of transfers are ok. By use of Home Rule Authority in conjunction with joint powers agreements; a valid joint powers agreement will allow that Home Rule revenue to be transferred to any other entity including a school district, so that the revenue can be funneled from the City to, in this case, school districts, but to any other taxing district and used for what purpose they agree on. The Fargo proposal was just strictly for property tax relief and not intended to construct any buildings or anything. The Tax Committee was working on providing some property tax relief through school district funding mechanisms, because everybody lives in a school district and everybody pays a school district property tax, and it's probably the most significant part of their tax. The Committee's concern was that after looking at this for a while, it became clear that it's extremely complex to provide property tax relief and that school funding has some extra issues built into it because we have rich and poor districts that have different abilities to raise property tax revenue for education. To add the possibility of City sales tax revenue going to school

districts and bringing that into the mix, as Rep. Belter said, increase the complexity immeasurably and not all districts would have an equal ability to draw on City sales tax revenues, because there's a greater disparity among sales within Metropolitan areas even than there is in the property tax disparity that exists around the State. The Committee considered the draft and what it does is prohibits those transfers, city or county Home Rule Sales Tax Revenue, to a school district except for grandfathering in bonded indebtedness or capital construction and similar costs that were approved by the voters prior to this law taking effect. The two Cities that have this situation now, I think its Jamestown and Williston. They've got some money going for a school construction project that's already been completed but need to be paid off, the retirement of the bonds. Otherwise those transfers would be prohibited and this would take effect August 1st of this year, 2007. After that date, no more transfers could be initiated of those kinds of revenues to schools.

Representative Froseth: The same language is being inserted in chapter 7 and chapter 40. What's the difference between them? What are those two chapters?

John Walstad: Chapter 4005.1 is City Home Rule Authority. Chapter 1109.1 is County Home Rule Authority. It covers both chapters in the same fashion so that Counties or Cities with Home Rule Authority could not impose a sales tax and transfer the money to the school district, the way it's laid out.

Chairman Belter: Just for clarification of the record. This Bill is a bill that is introduced by the Interim Committee, so it is not Rep. Belter Bill. It's an idea that I brought to the Interim.

Representative Weiler: You said that it's going to be August 1st if this goes into effect so that no measure can be initiated?

John Walstad: Yes. What it keys on is not the initiation of the measure but the election. If somebody's going to beat the deadline for this, they have to have their election before August 1st of this year and get approval from the voters.

Vice Chairman Drovdal: The emergency clause is added to this Bill if it carried enough votes to the two chambers, then it would move that date up to July 1st?

John Walstad: If the emergency clause is added, it would become effective the date it gets filed in the Secretary of State's office.

Representative Pinkerton: Some Cities are using their city sales tax for property tax relief. Would that go to school districts and why wasn't it put into this Bill?

John Walstad: That's an issue that is subject of contention and as you stated, some City sales tax revenue, and I believe that even one County, are used for property tax relief to reduce the levy of the county or the city. Some people don't think that's a good idea. However, that is not addressed here. This address's only that issue of sales tax revenue from a Home Rule County or City going to a school district.

Vice Chairman Drovdal: Any other testimony in favor of HB 1029?

Sandy Clark, Public Policy Director for ND Farm Bureau: (See attachment #3)

Wade Moser, ND Stockmen's Association: We are here to support the Bill. We agree with what Sandy Clark said as well as Chairman and Mr. Walstad said. Those of us in Agriculture that end up having to go to these Cities to pay the sales tax and there's a lot of questions as to whether there's much benefit in return.

Vice Chairman Drovdal: Any other testimony in favor of HB 1029?

Tom Decker, Director of School Finance & Organization for Dept. of Public Instruction:
(See attachment #4)

Ken Yants represents the ND Township Officers Association: Our stand on this is support for HB1029. As it came to the committees this year, we've liked the looks of it and we would like to support it.

Vice Chairman Drovdal: Any other testimony in support of HB 1029? Any opposition?

Connie Sprynczynatyc, ND League of Cities: I have written testimony from the Mayor of Grand Forks that I will pass out to you. **(See attachment #5)** I'll summarize what the concerns are on behalf of the Cities. The bottom line of concern is when the Legislatures passed Home Rule back in the 60's. The concept was that the local citizens would make a number of decisions for themselves. I would also remind the committee that in a case of Fargo that the proposal that Rep. Belter mentioned was not an act that the City government supported. It was an initiated measure, and the voters did not support it either. So that's what Home Rule is like, when decisions are brought to the local voters. And what this Bill does is remove a slice of Home Rule power. It removes the ability of the citizens to make the decisions. There are a number of communities in this State that have used the proceeds of local sales tax to work with the other units of local government to put projects together that bring property taxes down. Let Home Rule be Home Rule.

Representative Weiler: Would it be your intention if this legislation passes both houses to request the Attorney General's opinion?

Connie Sprynczynatyc: On what?

Representative Weiler: Well the fact that this is taking away some of the power of the Home Rule communities?

Connie Sprynczynatyc: My understanding of the usual request for an Attorney General's opinion is when there appears to be immunity. I think this Bill in the discussion in the Interim process was pretty clear that the intent was to remove this as an option for Home Rule Cities.

Representative Headland: Do you think that the Cities would favor a legislative act that would allow people to submit a form that would allow the sales tax dollars to be returned to their own school district in this case?

Connie Sprynczynatyc: I believe there's a Bill in the hopper already to do just that. We frankly have not had that discussion. I will tell you that about the residents in the City and the attitudes about people in the rural areas having to share the burden with local and State sales tax. There are exemptions, for example the City sales tax cannot be less restricted than State sales tax. If the State exempts farm equipment or farm repair, the City sales tax reflects that. In fact the City sales tax can exempt additional items.

Representative Brandenburg: I have Jamestown, which has already declared Home Rule and already has a sales tax for education. We met with the school administrators and this creates a problem with the funding mechanism where you're trying to find equity within funding for education. In my district, I can't buy a suit, or a pair of shoes, there's no clothing stores there. So here's where the inequity comes in. Jamestown now has the ability to create more taxation through sales tax, where I am forced to buy my goods. I have to go to Jamestown. We have a problem here about how to find a balance in funding and already we have small schools struggling to keep afloat. This is a problem and I think it is so unfair for people in the rural area that have no ability at all to meet that kind of dollars that you do in larger towns.

Connie Sprynczynatyc: I am understanding of that kind of concern. In that mix of discussion about tools for keeping these towns viable because, remember, Cities, whether you live in one or not, Cities are centers of commerce. Fargo alone collects almost one fourth of the State's sales taxes. Commerce is conducted in the Cities. So these local discussions about how we keep ourselves viable really have to be a local discussion. I know it complicates the State's discussion about equity. I would suggest that this piece is a small piece in those discussions

and the State has much, much larger budget numbers to deal with than the rather small amounts that comes from this piece.

Representative Schmidt: Did I understand you? You said that if this legislature here exempted a State from paying sales tax. We don't have the authority to exempt it. Say that a town has a 6-1/2 % sales tax. 5% is State and 1-1/2% is City with Home Rule. We can't exempt the 6-1/2%, can we?

Connie Sprynczynatyc: Maybe I was unfair, I'm sorry. Whatever the State exempts flows through to the local sales tax. We could exempt additional items, but we can't take something off the State list and say we're going to apply a local sales tax to it.

Myles Vosberg, Tax Commissioner's Office: Under existing Home Rule Authority, a City or County cannot tax something if the State exempts it. If you put in a Bill to exempt a particular product for the State, that would carry through to the local list. Under existing Home Rule, most of the base must be the same.

Vice Chairman Drovdal: Any other testimony in favor? Any opposition?

Joe Secoia, Business Manager of Jamestown Public Schools: In some respects I'm for the Bill and some respects I'm against the Bill. Jamestown Public Schools were the first district in ND to use sales tax for the construction of our High School and the remodeling of the Middle School. That could not have been accomplished due to the amount of property tax that would cost our tax payers for a facility in Jamestown. We have a Home Rule Charter and we use sales tax which pays 75% of our facility costs and our debt payments, and 25% comes from property tax. The reason for opposition is State funding for education. The property tax Bill and the burden on our tax payer has caused us to look elsewhere for monies to support public education. So if the State funding was high enough, I don't believe Fargo would have brought this forward. State funding for public education used to be about 60%, now it's a low 40%. If it

was back at 60%, we wouldn't be here having this conversation today. I support it in some respects and I would be against it in other respects.

Representative Brandenburg: How are you coming with paying off your bonds?

Joe Secoia: Sales tax collections are covering 75% and our property tax is setup for 25%.

Representative Weiler: How much is the sales tax increase?

Joe Secoia: There was a sales tax increase that the City Council allowed us to put on the ballot. We brought it to the voters. We had to get at least a 50% vote plus 1 approval to put on a 1% and once the debt is paid off, the sunset drops off.

Mary Wahl, ND Council of Educational Leaders: When I took a look at the current law in joint power agreement, 54-40.3, and just to review it for you, it states that; "any County, City Township, City Park Districts, School District, or other Political Subdivision of this State upon approval of it's respective governing body, local folk have to approve it, they enter into an agreement within the other political sub. of this State or the cooperative or joint administration of any power or function that is authorized by law or assigned to one of them." This law means; I believe, that any City under a Home Rule Charter upon approval of its governing body and its voters may levy a local sales tax and enter into an agreement with County, Township, City Park District, School District or other Political Subdivision for the specified use of that local sales tax. If this Bill passes, this provision will allow for those who have these agreements to be made for all Political Subdivisions of the State except local School Districts. One issue that hasn't been addressed is that it was not legislative intent that the local sales tax be used for School Districts. My experience is that when you go to legislative intent it's usually because the law is vague or it's unclear. So I went back to this 54-40.3 and I reread it and it seems very clear to me that the legislative intent was that School Districts shouldn't be allowed the same rights provided for in joint power agreements as the other mentioned Political Subdivisions.

113 Cities have local sales taxes. These Cities said that they could use this Home Rule Joint Powers Authority to improve their community. I'm sure when I travel in the State that I'm paying some of those local sales taxes. But I never thought about the extra tax is being used for in that community. I believe that local communities should be decide what needs they will address with their local sales tax and I understand that if I choose to be a consumer in that community, I'm agreeing to help pay for that project, whether it's a school building, infrastructure, a jail, a dome or a civic center. In Williston our Jr. High needed a new building so badly. It was a problem that our School Board at that time couldn't address. We simply didn't have the resources. Although we had very high property taxes, we were the third highest in the State, with regards to property taxes, so we couldn't burden our local tax payers with additional property taxes. Some time later, an enterprising board and Superintendent came up with the proposal to address our problem. Using the local sales tax authority provided for a Home Rule and the provisions for joint powers, the school district joined with the City to propose a building project package that included and new Jr. High and major repairs to some school buildings. The proposal was that this building project would be funded by a local 1% tax. In 2002, they put the issues on the ballot. Voters within the City limits approved the penny tax in a separate ballot with another 78% in favor. They accomplished this project when it did only because of the local sales tax option that this Bill proposes to eliminate for School Districts. In prohibiting the use of local tax dollars, the school districts should not be discriminated against. Trust the local folks, they do a pretty good job.

Chairman Belter: You are representing Superintendents and Principals across the State of ND? I happen to be a Rep. who lives in Cass County. Do you think that the members of your organization would be supportive if I would go back to Cass County and put on a ballot of 1% sales tax, knowing the fact that Cass County collects 26% of sales tax in the State of ND, and

if we would pass that initiative and divide that up amongst us, would you think that the members of your organization would think that that is fair and equitable for the funding of education in the State of ND?

Mary Wahl: That is not a decision that would be made by the ND Council of Educational Leaders. That would be a priority that would be set by the local town. It would not be up to us to decide whether or not that that was appropriate or inappropriate form of levy. That would be for the local people in Cass County to decide. It's a local issue.

Chairman Belter: It may be a local issue. I just cannot let you walk away from this thing because we as a legislature have a responsibility for equitable funding amongst all of the schools. And if your organization is going to say that it's ok for Rep. Belter to go back and dabble up 26% of the sales tax in ND for the local use in Cass County, I'm not sure that I'm representing the best interests of the State of ND. I think your organization better take a second look at this and what is actually happening here!

Mary Wahl: My response to that would be that the authority to do what the local community decides it needs to do, whether that's with regard to the City needs, infrastructure, the dome, the school district. Those decisions should be made locally by those people. They are best equipped to address those issues.

Vice Chairman Drovdal: Did you take a vote amongst your membership on this particular Bill?

Mary Wahl: I don't believe we did.

Representative Wrangham: You bring up Williston and if I could just use that as an example. If I was a citizen of Amegard and supporting my school there and I need to buy something and there's not much in Amegard so I have to go to Williston. Would you oppose me being able to exempt from paying that sales tax that is used for local schools?

Mary Wahl: I believe that there probably is an exemption.

Representative Wrangham: No, there is not an exemption.

Mary Wahl: Oh, there is not an exemption?

Representative Wrangham: You're not opposed? Do you think that it should be something paid just by the citizens of Williston?

Mary Wahl: No, I believe that it should be paid by anyone who comes in.

Vice Chairman Drovdal: Any other opposition to HB 1029. Any neutral? Hearing none, I will close the hearing on HB 1029.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1029 B

House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 10, 2007 pm

Recorder Job Number: 910- 9min, 0sec

Committee Clerk Signature *Mickie Schmelt*

Minutes:

Chairman Belter: I'll call the committee back to order. Let's look at HB 1029. Is there any discussion?

Representative Headland: If we don't pass this, it will open our education funding to chaos. I would support it.

Representative Brandenburg: If we don't pass this, I'm already being tormented by the tax in Jamestown.

Representative Brandenburg: I move a Do Pass.

Representative Wrangham: I second it.

Representative Weiler: I have a minor concern. Should we put an emergency clause on it? What are the chances that somebody somewhere is going to get one started and have an election by August 1st, but why take the chance for allowing that to happen?

Chairman Belter: Ok, do you want to withdraw your motion Rep, Brandenburg?

Representative Brandenburg: I will withdraw my motion.

Representative Weiler: I make a motion for an amendment for an emergency clause.

Representative Headland: I second it.

Vice Chairman Drovdal: The new members may not understand the emergency clause and what it does.

Representative Vig: Does it take effect with the Governor's signature?

Chairman Belter: As soon as the Governor signs it, it takes effect. But it also requires a 2/3's vote on the floor. If we don't get the vote on the floor, then the emergency clause comes off, but the Bill will pass anyway by majority vote.

Representative Weiler: I just want to thank you Mr. Chairman for coming up with this idea, because if this hadn't happened, this really could have done a lot of damage to the whole funding issue across the State and I think you did a great job of bringing this home.

Chairman Belter: Thank you!

Representative Grande: This is all fine but, and I understand the purpose behind it. I hope you're not on a slippery slope. With Home Rule Charter serve a great purpose in this State. The last thing you need to do is start taking away local rights.

Chairman Belter: I agree with you. But I think the issue here is that, yes we don't want to take away rights, but we also have a constitutional responsibility to maintain the rights of the State. If we're going to let some of these issues get too far out of hand, which I think we've already done with the City sales tax. We've gone way beyond what the Legislature ever thought it would be. Also, a lot of the testimony was made with the word "rural. I think that's a mistake. This is not a rural/urban issue. To me it's an equity issue. Whether you're from rural ND or Bismarck, I don't think it's right that one of the big major Cities or major populated Counties go ahead and impose a sales tax that everyone pays who does business with that town whether you're from Bismarck or Fargo or wherever. I just don't think it's the right thing and particularly when it comes to education which is a constitutional requirement. All those in favor of the

emergency clause amendments signify by saying aye. The motion carries. I would entertain a motion on the Bill.

Representative Brandenburg: I move a Do Pass as Amended.

Representative Wrangham: I second it.

Chairman Belter: Is there any discussion? If not will the Clerk read the roll for a Do Pass as Amended? 12-y, 1-n, 1-absent. Rep. Brandenburg will carry the Bill. We will close the hearing on HB1029.

January 10, 2007

**House Amendments to HB 1029 (70039.0301) - Finance and Taxation Committee
01/11/2007**

Page 1, line 3, after "districts" insert "; and to declare an emergency"

Page 1, after line 20, insert:

"SECTION 3. EMERGENCY. This Act is declared to be an emergency
measure."

Renumber accordingly

Date: 1-10-07
 Roll Call Vote #: 1029

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO.

House Finance & Tax Committee

Check here for Conference Committee

Legislative Council Amendment
 Number _____

Action Taken Do Pass as Amended

Motion Made By Rep. Weiler Seconded By Rep. Headland

| Representatives | Yes | No | Representatives | Yes | No |
|-----------------------|-----|----|-----------------|-----|----|
| Chairman Belter | ✓ | | Rep. Froelich | | |
| Vice Chairman Drovdal | ✓ | | Rep. Kelsh | | ✓ |
| Rep. Brandenburg | ✓ | | Rep. Pinkerton | ✓ | |
| Rep. Froseth | ✓ | | Rep. Schmidt | ✓ | |
| Rep. Grande | ✓ | | Rep. Vig | ✓ | |
| Rep. Headland | ✓ | | | | |
| Rep. Owens | ✓ | | | | |
| Rep. Weiler | ✓ | | | | |
| Rep. Wrangham | ✓ | | | | |
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Total (Yes) 12 No 1

Absent 1

Floor Assignment Rep. Brandenburg

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

REPORT OF STANDING COMMITTEE

HB 1029: Finance and Taxation Committee (Rep. Belter, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (12 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). HB 1029 was placed on the Sixth order on the calendar.

Page 1, line 3, after "districts" insert "; and to declare an emergency"

Page 1, after line 20, insert:

"SECTION 3. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

2007 SENATE FINANCE AND TAXATION

HB 1029

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1029

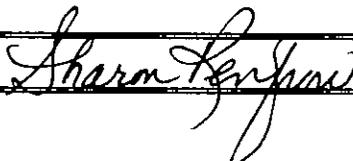
Senate Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: February 28, 2007

Recorder Job Number: # 4074 & # 4076

Committee Clerk Signature



Minutes:

Sen. Urlacher called the committee to order for discussion and action on HB 1029.

John Walstad: from Legislative Council appeared to explain the recommendation and handouts stating the bill came from the interim taxation committee. The bill came up during the committee's deliberation on providing property tax relief, specifically school district property taxes. The committee was examining how to provide relief by reducing school district property tax levies. An attorney general's opinion was issued that said a city with home rule authority could impose a city sales tax and by entering a joint powers agreement with a school district could transfer sales tax revenue to that school district to provide school district property tax relief. The immediate concern of the tax committee was if city sales tax revenues are transferred to school districts to offset property tax revenue that really makes equalization of school district funding a much more complicated game for the legislature. So the committee decided on this legislation which would prohibit those kinds of transfers.

Rep. Belter: appeared in support stating our biggest concern was the equity situation.

Tom Decker: Director of School Finance and Organization of DPI appeared in support with written testimony. (See attached)

Sen. Cook: the process to get a new school built, is it possible today for a home rule city to levy a sales tax, take revenue from that sales tax and build a new school and then turn rent it or lease it to the school district to circumvent the intention of existing law that gives the voters a say or even give DPI a say in whether or not that school district should build a new school?

Tom: that school district would still need construction approval from the Dept. of House Construction. However on the other hand they probably will not have to go to their voters for a general allocation bond sinking and interest levy, they would have the resources to build that school so their voters may not get an opportunity to say no and we may well give them construction approval because they need the facility.

Bob Frantsvog: North Dakota League of Cities appeared in support.

Sandy Clark: NDFB appeared in support stating our policy states we oppose the use of city and county sales tax to fund education and capital expenditures within the local school district.

Sen. Anderson: regarding some of these sharing of costs for the community as a whole for recreation or whatever, does you organization have a stand on that?

Sandy: we don't have a specific policy on that.

Larry Syverson: NDTOA appeared in support.

John Walstad: with regard to multi use facilities where a school district might be involved and a city might be throwing some city sales tax money into the project. I don't think there is going to be a problem with those kinds of situations unless it is a situation where city sales tax is paying the whole freight. Then I think it does get into a problem.

Closed the hearing.

Sen. Triplett: made a **Motion for DO PASS**, seconded by Sen. Cook.

Sen. Anderson: I'm a little concerned because this would eliminate everything, wouldn't it? I know there are some cooperation's in Wahpeton for instance for utilizing. I can't definitely say it's related to sales tax but where sales tax is made available.

Sen. Cook: we have the same thing in Mandan which generally the school district and the part district are doing many things together, I don't see this affecting them one bit either. They both benefit from it.

Sen. Anderson: I'm just afraid that somebody is going to literally take this and it's going to eliminate all of that. That's my concern. I don't know if we can add something or not, exception through a joint powers agreement, sales tax may be utilized to create efficiencies of cooperation to share costs for.

Sen. Cook: I think what he's referring to is a fear of some sort of unintended source of consequence. I think if something like that did happen, these things don't happen over night, we'll correct it.

Roll call vote: 6-1-0 Sen. Cook will carry the bill

4076

Sen. Tollefson: made a **Motion to Reconsider our Actions**, seconded by Sen. Cook.

Sen. Cook: made a **Motion for an Amendment on line 9 before the word benefit, we add the word "Primary"** seconded by Sen. Oehlke.

Voice vote: 6-1-0 Amendment carries.

Sen. Cook: made a **Motion for DO PASS as Amended**, seconded by Sen. Tollefson.

Roll call vote: 7-0-0 Sen. Cook will carry the bill.

70039.0401
Title.0500

Adopted by the Finance and Taxation
Committee

February 28, 2007


2-28-07

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1029

Page 1, line 9, after "the" insert "primary"

Page 1, line 17, after "the" insert "primary"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1029, as engrossed: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1029 was placed on the Sixth order on the calendar.

Page 1, line 9, after "the" insert "primary"

Page 1, line 17, after "the" insert "primary"

Renumber accordingly

2007 HOUSE FINANCE AND TAXATION

CONFERENCE COMMITTEE

HB 1029

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1029

House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: April 9, 2007

Recorder Job Number: 5842

Committee Clerk Signature

Mickie Schmidt

Minutes:

Committee Conference:

Chairman Froseth called the conference committee to order and asked the clerk to take the roll; everyone was present.

Chairman Froseth: I'll open the discussion on HB 1029 and just some opening comments on this; I see the amendment is only one word. This billed passed out of our committee 12-1 and 64-28 in the House. It passed out of the Senate of zero. I think the concern is the Bill addresses a problem that they didn't want to see expansion of the sales tax use into the schools. Could you tell me, where does that go? A lot of Cities and State all have a one cent sales tax, some are at two and this might add to the sales tax burden by allowing schools to get into the sales tax business. I think that in thinking of the House at the time it came there was we thought that it was pretty tight the way it is, allowing the schools to set up a sales tax for there being out there in business and so forth and the Senate added the word "primary" and I guess we just wanted to discuss that to see the way we kind of thought of probably diluted the overall effect of this or strength of the language to keep schools from using the one cents sales tax.

Sen. Cook: Should a City be able to take some of the sales tax dollars and fund a joint project by the Park District and the School District to build some State tennis courts in a parking lot around these tennis courts and then maybe on the other side of the tennis courts a baseball diamond. The School District, they're paying for the baseball diamond and the Park District is paying for the tennis court, that's going to be part of the tennis court or Park Districts property and school. The parking lot in the middle is going to be used by both. Should they be able to use sales tax dollars for something like that? That was the intent of "primary" is we didn't want to them to have a restriction on those types of projects and that came up when we had the hearing and there was question as to whether or not the way the Bill came to us might restrict those types of projects without moving forward with sales tax dollars. So that's the intent of the word "primary".

Chairman Froseth: Was that a question?

Sen. Cook: It started out as a question, but if that's your intent not to let that happen then...

Chairman Froseth: I don't know that that was the intention that to stop that from happening, I think Cities and Park Boards and so forth fill those facilities mainly for the purpose of recreational programs that are elected through the Cities and Park Board Districts and recreational districts and so forth. I know there are a lot of those facilities that are used by the schools.

Rep. Owens: It was mine and right now I want to speak for my own yes vote; what you're talking about is not what I'm concerned about. So yes that would be no big problem. And we're going to have situations like that and I can see where it might be construed. The intent was to find a way not to allow them to raise, and go to the voters and say well we're raising the sales tax just for this one thing and this one thing and then they divert the money to pay for lowering class size to pay for new programs in schools to build a new school, or pay for every day

operational expenses. That was the intent of it. So what you described as to what the Senate, and I'm taking this to mean what the Senate's intent was by putting in the word "primary" was to rule out that but they're making situations for government agencies to come together and some of the schools may be benefiting, but it's not direct.

Sen. Oehlke: In our community a year or so ago there were several entities in the community who were trying to put in a community center and as it turned out it didn't work out. There was a beer distributing warehouse that had gone out of business and the school was planning on buying that and the City was going to have a sales tax to furnish it and then make it a community center and the schools can use it for after school child care and so they definitely would have had an interest in that. They would have been using it for some of the Physical Ed. activities as well. But the primary use was for a general community center but the school was actually going to own that building and property. It didn't work out.

Chairman Froseth: Did you say that the school would be the owner of the facility?

Sen. Oehlke: As it was shaking out, they were making the offer to buy that actual building but it was going to be the City was going to furnish it and I don't know if the City was going to own part of it or not. The remodeling on it was going to be the City's part of this deal.

Chairman Froseth: That's a prime example of what this original Bill probably intended to allow.

Sen. Oehlke: Right, but what I'm saying that in a lot of, you know in Fargo, Grand Forks and Bismarck, it's probably not a terribly big issue. But in smaller communities where everybody has to pull together to hold the tarp, it is an issue.

Chairman Froseth: But if it has kept the ownership with the City and partial use, a lease or agreement or something for partial use for the school would work.

Sen. Oehlke: As long as the word "primary" is in there.

Rep. Owens: I believe that even the primary in there based on what you just described as owning the building that would work under this law. The City would have to own it under this law. You can reverse it by the building and the school furnishing but not the other way around, I wouldn't think because...

Sen. Oehlke: But what if sales tax wouldn't have been able to be used to furnish it...

Rep. Owens: That's right.

Chairman Froseth: A lot of it comes under the way you interpret "primary".

Sen. Cook: Just read it without the word primary; to us when we read it that way it seemed to be it's not going to pan for the School District so if you have a joint venture between the School District and the Park District, no matter how small, if it can't happen so, I suppose if we left it that way what that mean is that the School and Park Districts wanted to go together on

something the Park District would have to be the recipient of the sales tax dollars. The Park District would have to levy the mills to make up the difference. The Park District would have to be sole owner of it and then charge back to the School District and then get by it. It's pretty inclusive without the word "primary" in there.

Rep. Schmidt: I was wondering with this scenario that primary is against that. As long as that School District doesn't buy up a tennis court.

Rep. Owens: Without the word "primary" is highly restricted. I was just commenting on the example that was provided that even with the word "primary" but if I was having to make that decision, I would consider this school purchasing the building as violating the primary benefit. The reason that I believe that we do need to do something like this is, in those locations you have sales tax in the Cities that are at 10-12% because all they've done is shift the tax break, literally. And that's what I would hate to see happen in ND. We already have some that are at 7-1/2% now.

Sen. Horne: I think we need to loosen this out a bit. The way it reads now it is very restricted. We need to loosen it up without opening too wide. It really comes down to the definition of the word "primary" and what that means and it's making us a little uncertainty about how extensive is this? I don't know how you define that word. To me it means for 50% of the benefit would go to the school district, it would not be legal. I don't know what primary means beyond that; in layman's version it means 50%.

Rep. Owens: I don't disagree with you. But like Sen. Cook was talking about, without the word "primary", I agree with him. It just slams the door. You're talking about loosening up and I think "primary" does that, but it still tightens it enough to say you can't buy the building and own it because just by the virtue of owning the building that makes it, you know, even appearance as the primary purpose as with the school.

Sen. Oehlke: They weren't going to buy it with sales tax dollars though. I know we're splitting hairs.

Rep. Owens: All I[m saying is though, with the word "primary" in there, I think it goes back to the common sense of 50.01% percent use or benefit of whatever. I mean if that was the intent, I've got no problem with that. No law's going to be totally inclusive. We're going to find as we make laws as always loopholes people find.

Sen. Horne: My position will be first of all I agree with this. I am comfortable with "primary".

Chairman Froseth: Just as long as we're clear or the intention is that the "primary" is of meaning such funds will not be for the purpose of furthering facilities for basically school use. Whether the school will lease and I find that's being done and I don't have a problem with that either just as long as the intentions are clear.

Sen. Cook: I think that's probably the benefit of this conference committee. It not only reflects again what the intents of the word "primary" is in record, you have that intent pretty clear in the

Senate minutes. We go burnt here and I don't know how else we could make that clear that that is the intent. If we see that it get's abused over the years, we come back and deal with it again just like we did this time. I do think this is a good piece of legislation. It's important that we do it right.

Chairman Froseth: Any more comments? I would be open for a motion.

Rep. Owens: I will move that the House accede to the Senate amendments.

Rep. Schmidt: Second it.

Chairman Froseth: Any other discussion? Seeing no further discussion I'll ask the clerk to read the roll; 6-y; 0-n; 0-absent; Rep. Froseth will carry the Bill. We will close the conference on 1029.

**REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE)**

Bill Number 1029 (, as (re)engrossed):

Date: April 9, 2007

Your Conference Committee House Finance & Tax

For the Senate:

For the House:

| Rolls | For the Senate: | | For the House: | | Rolls |
|-------|-----------------|---|----------------|---|-------|
| | Y | N | vote | | |
| ✓ | ✓ | ✓ | Rep. Froseth | ✓ | ✓ |
| ✓ | ✓ | ✓ | Rep. Owens | ✓ | ✓ |
| ✓ | ✓ | ✓ | Rep. Schmidt | ✓ | ✓ |

recommends that the (SENATE/HOUSE) (ACCEDE) to (RECEDE from)

the (Senate/House) amendments on (S/H) page(s) 857 - 858

✓ and place 1029 on the Seventh order.

____, adopt (further) amendments as follows, and place _____ on the Seventh order:

having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) 1029 was placed on the Seventh order of business on the calendar.

DATE: April 9, 2007

HOUSE CARRIER: Rep. Froseth SENATE CARRIER: _____

| | |
|-----------------------------------|----------------|
| LC NO. | of amendment |
| LC NO. | of engrossment |
| Emergency clause added or deleted | |
| Statement of purpose of amendment | |

MOTION MADE BY: Rep. Owens
 SECONDED BY: Rep. Schmidt
 VOTE COUNT: 6 YES 0 NO 0 ABSENT

REPORT OF CONFERENCE COMMITTEE

HB 1029, as engrossed: Your conference committee (Sens. Cook, Oehlke, Horne and Reps. Froseth, Owens, Schmidt) recommends that the **HOUSE ACCEDE** to the Senate amendments on HJ pages 857-858 and place HB 1029 on the Seventh order.

Engrossed HB 1029 was placed on the Seventh order of business on the calendar.

2007 TESTIMONY

HB 1029

#1
1-10-07
HB1029

Rep BELTER

Enderlin Community Development Committee

P.O Box 65 ~ 411 Railway Street ~ Enderlin, North Dakota 58027
Telephone/Fax 701-437-3476 ~ www.enderlinnd.com

Governor John Hoeven
Governor's Office
Dept. 101
600 E. Boulevard Avenue
Bismarck, ND 58505-0001

March 1, 2006

Dear Governor Hoeven,

A petition is being circulated in Fargo School District No. 1 to impose a one-half (1/2) cent sales retail sales and/or use tax. The purpose of the proposed tax is to reduce Fargo real estate taxes dollar for dollar on property taxes assessed for the local school district. This effort will probably be successful in the June elections.

An intentional, or unintentional, result is to shift millions of dollars in education costs from Fargo residents to non-residents. Because of sheer size and red-hot economic expansion Fargo provides many goods and services available only in Fargo. Surrounding communities have no choice but to spend retail dollars where this novel tax will be collected and that bitter phrase "The only good tax is one the other guy pays!" takes on a new personal meaning...

Hopefully, all North Dakotans want what is best for their schools and kids. A local sales tax with proceeds earmarked for local public education would be a toe in the door for a widening gap between the "have's" and "have not's" and will simply legitimize the perception of an urban versus rural split.

Governor Hoeven, as the state's premiere executive, an obvious function and duty of your office is to referee equity. In addition, there is a growing state-wide awakening our entire public education finance system must be re-examined for efficiency and fairness. In fact, it was mostly because of the recent intervention of your office a round-robin series of hearings are scheduled to take place across the state and the public will have opportunity for input. North Dakota can ill-afford Fargo's approach and I ask you to use the power and influence of your office to make certain North Dakota's public education funding remains a level playing field and does not splinter into local entities profiting from non-residents' retail dollars. Fairness has been and should remain a traditional North Dakota virtue.

Sincerely,


Charles Feeney
Committee Member

cc: Senator Larry Robinson, Representatives Phil Mueller, Ralph Metcalf and Wesley Belter, ND League of Cities, ND School Board Association and Ransom County Commission

Committee Members

Elva Engstrom Charles Feeney Richard Irish
Tim Jorgensen Jon Kringen Robert Ludtke
Mike Martin Ruth McCleerey
Ed Morrow, Mayor

#2

1-10-07

HB 1029

Belter, Wesley R

From: Strombeck, Kathy L.
Sent: Thursday, December 22, 2005 12:45 PM
To: Belter, Wesley R
Subject: Fargo and Cass County's share of statewide total

Good Afternoon Rep. Belter;

Gary Anderson relayed your message to me regarding the share of the sales tax base that comes from Fargo and Cass County. Here are the statistics:

Cass County 2004 taxable sales and purchases: \$2,100,762,530; represents 26.3% of the total statewide taxable sales and purchases.

Fargo 2004 taxable sales and purchases: \$1,828,816,117; represents 22.6% of the total statewide taxable sales and purchases.

I hope this is what you needed. If you have questions or comments, please contact Cory, Gary or me.

Happy Holidays to you and your family!

Kathryn Strombeck
Office of Tax Commissioner
701.328.3402



**North Dakota
Farm Bureau**

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P.O. Box 2064, Fargo, ND 58107-2064
Phone: 701-298-2200 • 1-800-367-9668 • Fax: 701-298-2210

4023 State St., Bismarck, ND 58503
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Phone: 701-224-0330 • 1-800-932-8869 • Fax: 701-224-9485

#3 HB 1029 *Bringing ag home*

1-10-07

House Finance & Taxation Committee

January 10, 2007

Testimony by North Dakota Farm Bureau

presented by Sandy Clark, public policy director

Good morning, Chairman Belter and members of the committee. My name is Sandy Clark and I represent the members of North Dakota Farm Bureau.

NDFB policy states: *"We oppose the use of city and county sales taxes to fund education and capital expenditures within the local school district. If a local sales tax is used for local school funding, then that school district should be subject to a deduct from the foundation aid payments that reflects that increased amount of funding available per student."*

Therefore, North Dakota Farm Bureau stands today in support of HB 1029. This is a priority issue for North Dakota Farm Bureau.

Changing market demographics and declining populations in rural communities have forced rural residents to travel farther distances to shop in larger cities for their goods and services.

Rural communities struggle to fund their own schools without having to pay for schools in other school districts, as well.

If these home rule cities and counties are allowed to implement sales taxes to fund their local schools, rural residents will be paying an unfair share of education funding.

Furthermore, allowing home rule cities and counties to earmark local sales tax for the local school district will only exacerbate the problem of equity funding in North Dakota's K-12 education system.

Property rich school districts, which are often those with large amounts of agricultural land, are already providing equalization through the mill levy deduct to property poor school districts, like Bismarck, Mandan, Dickinson, Jamestown, Williston and Valley City. Some of these cities have already implemented a local sales tax for capital construction projects. Our Farm Bureau members concur with the provision in this bill that would forbid any further local sales tax initiatives for schools when the bonded indebtedness is paid. *(over)*

The mission of North Dakota Farm Bureau is to be the advocate and catalyst for policies and programs that will improve the financial well-being and quality of life for its members.

www.ndfb.org

Fargo voters soundly defeated a ballot measure this past summer that would have implemented a local sales tax to generate revenue for the Fargo Public School District's general fund. The North Dakota Legislature should heed that message and pass HB 1029.

When these larger communities implement local sales taxes for education funding, rural taxpayers will carry an unfair share of the burden for education funding.

North Dakota Farm Bureau urges a "do pass" recommendation on HB 1029. Thank you for your consideration. I would try to answer any questions you may have.

#4
HB 1029

Testimony on HB 1029
House Finance & Taxation Committee
January 10, 2007

Mr. Chairman, and members of the committee, for the record, I am Tom Decker, Director, School Finance & Organization, Department of Public Instruction.

I am here today to testify in support of HB 1029. Allowing transfer of school tax revenue to school districts for capital construction or other purposes creates unacceptable inequities in access to resources among school districts.

In a period where we are working hard to adopt a new formula that corrects existing inefficiencies in the foundation aid formula, allowing inequities in access to other resources such as capital construction is not acceptable. A number of state courts have ruled that school facilities are a necessary part of a uniform system of free public schools. If that is the case, we need to insure uniform access to these resources for all school districts.



#5
HB1029
1-10-07

OFFICE OF MAYOR
MICHAEL R. BROWN

City of Grand Forks

255 North Fourth Street • P.O. Box 5200 • Grand Forks, ND 58206-5200

(701) 746-2607
FAX # (701) 787-3773

Connie
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Sprynczynatyc

TESTIMONY ON HOUSE BILL 1029

House Finance and Taxation Committee

Michael R. Brown, Mayor
City of Grand Forks

January 10, 2007

Mr. Chairman and members of the House Finance and Taxation Committee, thank you for the opportunity to testify on behalf of the city of Grand Forks in opposition to House Bill 1029.

On behalf of the City of Grand Forks, I would like to urge you to consider a DO NOT PASS on HB1029 because this type of proposed action undermines the very principle of a home rule city.

The essence of a home rule city is that its citizens and its elected local government possess the authority to make certain decisions that best fit their own community. The limiting of powers enumerated in Home Rule charters is an action best left to the discretion of the people they directly affect.

History has demonstrated municipal governments and its citizens are the most appropriate and responsible caretakers of this authority. Indeed, recent voter action within the state of North Dakota underscores this fact. Any abridgement of the authority of a Home Rule city by an outside entity cuts at the very principle of a popularly-adopted Home Rule charter. This power should not be taken away from the cities and, more importantly, it should not be taken from the citizens of that city.

It is for these reasons I ask your opposition to HB1029 and request a DO NOT PASS recommendation from the committee. Thank you.

TESTIMONY ON HB 1029
SENATE FINANCE & TAXATION COMMITTEE
February 28, 2007
by Thomas Decker, Director, School Finance
(701) 328-2267
Department of Public Instruction

Mr. Chairman, and members of the committee, for the record, I am Tom Decker, Director, School Finance & Organization, Department of Public Instruction.

I am here today to testify in support of HB 1029. Allowing transfer of school tax revenue to school districts for capital construction or other purposes creates unacceptable inequities in access to resources among school districts.

In a period where we are working hard to adopt a new formula that corrects existing inefficiencies in the foundation aid formula, allowing inequities in access to other resources such as capital construction is not acceptable. A number of state courts have ruled that school facilities are a necessary part of a uniform system of free public schools. If that is the case, we need to insure uniform access to these resources for all school districts.