

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1139

2007 HOUSE POLITICAL SUBDIVISIONS

HB 1139

# 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1139

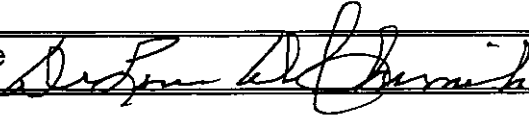
House Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: January 11, 2007

Recorder Job Number: 925

Committee Clerk Signature



Minutes:

**Chairman Herbel** called the meeting to order on HB 1139.

**Rep. Vigesaa:** Introduced on behalf of the counties of our state. It will grant the authority to the commissioners to use excess mill levy to maintain as well as construct farm to market roads. Currently they had the authority to construct the roads and to prioritize the farm to market road network, but there is some confusion to using those funds to maintain those roads. Currently some states attorneys have interpreted that they can use these funds to maintain the roads, and some states attorney have thought they do not have the authority to do that. This bill is simply going to equal the playing field for all the counties and allow them to use these funds to maintain the roads as well as construct the roads.

**Aaron Birst, Legal Counsel for the ND Assoc. of Counties.** (See attached testimony #1)

**Rep. Lawrence Klemin:** Why are we not amending section 3?

No testimony in opposition.

No other testimony.

Hearing Closed.

**Motion made on a Do Pass by Rep. Steve Zaiser Seconded by Rep. Donald Dietrich**

**Discussion:** Rep. Lawrence Klemin just stating section 2 is making it retroactive to clarify the language in regard to maintenance and this will just clarify it. Aaron Birst explained that it is just a clarification and have counsel check to be sure that it is right.

**14 Yes**

**0 No Absent 0**

**Carrier: Rep. Chris Griffin**

## FISCAL NOTE STATEMENT

House Bill or Resolution No. 1139

This bill or resolution appears to affect revenues, expenditures, or fiscal liability of counties, cities, or school districts. 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.

John Walstad  
Code Revisor

Date: 1-11-07  
Roll Call Vote #:

**2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1139**

House Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass

Motion Made By Rep. Steve Zaiser Seconded By Rep. Donald Dietrich

Representatives	Yes	No	Representatives	Yes	No
Rep. Gil Herbel-Chairman	X		Rep. Kari Conrad	X	
Rep. Dwight Wrangham-V. Chair	X		Rep. Chris Griffin	X	
Rep. Donald Dietrich	X		Rep. Lee Kaldor	X	
Rep. Patrick Hatlestad	X		Rep. Louis Pinkerton	X	
Rep. Nancy Johnson	X		Rep. Steve Zaiser	X	
Rep. Lawrence Klemin	X				
Rep. Kim Koppelman	X				
Rep. William Kretschmar	X				
Rep. Vonnie Pietsch	X				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep. Chris Griffin

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

**REPORT OF STANDING COMMITTEE (410)**  
January 11, 2007 11:46 a.m.

**Module No: HR-07-0442**  
**Carrier: Griffin**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1139: Political Subdivisions Committee (Rep. Herbel, Chairman) recommends DO PASS (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1139 was placed on the Eleventh order on the calendar.**

2007 SENATE POLITICAL SUBDIVISIONS

HB 1139



## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1139

Senate Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: March 1, 2007

Recorder Job Number: 4158

Committee Clerk Signature

*Shirley Borg*

Minutes:

**Chairman Cook** called the Senate Political Subdivisions to order. All members (5) present.

**Chairman Cook** opened the hearing on HB 1139 relating to county farm-to-market road tax levies.

**Don Vigesaa**, District 23, in East Central ND, all of Griggs and Nelson County, Parts of Eddy, Benson and Steel and Sprit Lake Nation, introduced and testify in support of HB 1139.

Currently there is some confusion as to whether excess levy revenues can be used to maintain farm-to-market roads. This bill seeks to rectify that situation.

**Aaron Birst**, Legal Council, representing the Association of Counties testified in support of HB 1139. (Att. #1)

**Senator Anderson:** Do Home Rule Counties also need this legislation.

**Aaron Birst:** Yes, they do because this is a specific levy that the legislature has granted that counties can use, so they have to follow the particular requirements that the Legislature has set out.

**Senator Olafson:** Can you expand on the retroactive application and that relates to the action taken by the legislature in 1987.

3-1-07

**Aaron Birst:** In 1981 this legislature said you can use the funds for maintenance, then in 1987 this legislature came back and said yes, we want to make some of the changes we made in 1987 retroactive. It didn't specifically say section 4 where they talk about maintenance, it didn't specifically say that. This is where the problem lies. The problem is interpretation.

**Senator Anderson:** If this legislation was not enacted what would happen to the money?

**Aaron Birst:** That's the question; some counties have just let it set.

**Ken Tutiner,** Towner County Commissioner, and Association of County President testified in support of HB 1139. We are one of the twenty five counties that have a problem with this. We have used it to build sixty or seventy miles in Towner. We opted out of the black top about sixteen years ago. We just couldn't afford to black top and maintain the black top with the situation the way it was. We went to gravel roads. These farm-to-market roads require quite a bit of maintenances and without the ability to use some of the funds left from these road projects it really taxes the rest of our budget to maintain these roads. This bill would really be helpful to the county road budget to shift some of those funds from that farm-to-market funding to maintain some of the roads we have. We don't want to lose our roads.

No further testimony in support, opposed or neutral to HB 1139.

**Chairman Cook** closed the hearing on HB 1139.

**Senator Anderson:** It appears to me that this money was collected for roads and is going to be used for roads, benefits all the citizens and makes it legal for everybody.

**Senator Anderson** moved a Do Pass on HB 1139.

**Senator Olafson** seconded the motion.

Discussion

Roll call vote: Yes 5 No 0 Absent 0

Carrier: **Senator Anderson**



**REPORT OF STANDING COMMITTEE (410)**  
March 1, 2007 11:35 a.m.

**Module No: SR-39-4173**  
**Carrier: Anderson**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1139: Political Subdivisions Committee (Sen. Cook, Chairman) recommends DO PASS (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1139 was placed on the Fourteenth order on the calendar.**

2007 TESTIMONY

HB 1139

#1

Testimony to the  
HOUSE POLITICAL SUBDIVISION COMMITTEE  
Prepared January 11, 2007 by the North Dakota Association of Counties  
Aaron Birst, Legal Counsel

CONCERNING HOUSE BILL 1139

Chairman Herbel and members of the Committee, the North Dakota Association of Counties is here today to ask for your support of House Bill 1139.

The farm to market road program concept dates back to the 1950's. During that time period the North Dakota legislature passed legislation allowing counties to have public elections to impose a levy for the construction of specific county roads. These moneys would then be matched by the federal government. The purpose was to improve the road infrastructure so farmers could efficiently get their products to market.

A majority of North Dakota's counties have taken advantage of this program. However, not all counties started their levy at the same time. This has become an issue because although this authority still exists today, it looks quite different then the original laws that were passed.

In 1981 the North Dakota legislature specifically allowed excess funds to be used for maintenance of the farm to market roads. In 1987 the North Dakota legislature also made some provisions of the farm to market program retroactive. However, some State's Attorneys and the Attorney General have interpreted the statute that counties that enacted their road levy pre-1981 cannot use excess funds for maintenance of the roads.

Therefore, this legislation would clarify that counties that previously approved the road levy could also use the funds for maintenance. Essentially, this legislation removes an unclear legal hurdle for a number of counties. This legislation brings all counties to an equal position. This legislation does not provide anymore authority then most counties already have.

For the following reasons I ask that you support House Bill 1139.  
Thank you.

Testimony to the  
SENATE POLITICAL SUBDIVISION COMMITTEE  
Prepared March 1, 2007 by the North Dakota Association of Counties  
Aaron Birst, Legal Counsel

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