

2009 HOUSE POLITICAL SUBDIVISIONS

HB 1518

# 2009 HOUSE STANDING COMMITTEE MINUTES

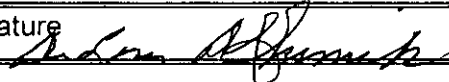
## Bill No. HB 1518

### House Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: January 30, 2009

Recorder Job Number: 8242

Committee Clerk Signature 

Minutes:

**Chairman Wrangham** opened the hearing on HB 1518.

**Rep. Kaldor:** ( see testimony #1).

**Rep. Kretschmar:** On the fiscal note we have here there is a decrease of \$2.178 million from the general fund and an increase to the counties of \$2 million. Where did that \$178,000 go?

**Rep. Kaldor:** I don't have the fiscal note. I am not sure.

**Rep. Klemin:** I am wondering if this in keeping with how the taxes are collected?

It was done the same way in 1999.

**Terry Traynor: Ass't Director, ND Association of Counties:** (see testimony #2). I hope that you consider this amendment as proposed in my testimony and urge a do pass.

**Rep. Nancy Johnson:** maybe you should just say March and not have a day? Would that help you?

**Terry Traynor:** I don't know. The tax department is here and you should ask them.

**Rep. Klemin:** I can't believe we are looking at a bill that ends March 30<sup>th</sup>.

**Terry Traynor:** This does not change any revenue or anyone's budget. All it does is reduce the amount of taxes everyone has to pay.

**Rep. Jerry Kelsh:** The property taxes paid to the cities really belong to the counties and school districts in the first place. It is payment in lieu of taxes.

**Opposition:** none

**Neutral:**

**Sarah Hewson: Tax Department:** We also do requests that we pay for any certifications from the Tax Commissioners to the Treasurer's office. The reason for that is always a company that waits until February 1. There is also a bill to change the date on the Senate side that has passed the Senate. There is also a question on the fiscal note. The reason of 2007 is because of the tax year. The taxes are paid a year behind with collections.

**Rep. Klemin:** Discussed need to change dates.

**Rep. Hatlestad:** Couldn't we just say on or before the end of March and those taxes care of the date.

**Sarah Hewson:** I will check and get back to you.

**Chairman Wrangham:** I have one on the fiscal note. If I understanding correctly we are talking about the 2008 funds being tabulated in the current biennium. So this would be one year; would this bill just affect one year. So for the 2009-2011 would go into effect in two years. So shouldn't that transfer be twice as much?

**Sarah Hewson:** The 2009-2011 is the projection. It is \$1 million per year; \$2 million per biennium.

**Chairman Wrangham:** The 2007-2009 shouldn't it be half if we are talking one year vs. two years.

Hearing closed.

# 2009 HOUSE STANDING COMMITTEE MINUTES

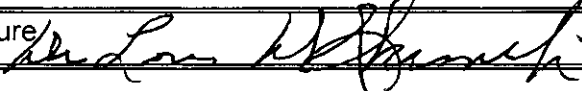
## Bill No. HB 1518

### House Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: February 5, 2009

Recorder Job Number: 8760

Committee Clerk Signature 

Minutes:

**Chairman Wrangham** reopened the hearing on HB 1518.

**Rep. Headland:** The bill is going to allow for the extra \$2 million through that gross receipt tax to be put in the general fund. This amendment would direct, if the bill is to pass, the amount of money that goes to the county; their percentage of it, would be directed into farm to market federal aid roads. The township portion should go to farm to market roads. For an unorganized township there is an unorganized road and bridge levy. Basically what it does it is going to direct that portion of the \$2 million toward roads.

**Rep. Kilichowski:** Do townships have farm to market roads?

**Rep. Headland:** They must have because that is the language she brought. (Property Tax Division).

**Rep. Hatlestad:** This is only the extra money that counties receive?

**Rep. Headland:** Yes, it is the extra \$2 million from the gross receipt tax from telecommunications that goes into our general fund. If we pass it that would send the money out to the political subdivisions. This amendment would ask that this portion goes toward roads. The school district will still get their portion.

**Chairman Wrangham:** This bill would shift the \$2 million from the general fund to local entities. Does the amendment specify what they do with that money.

**Rep. Headland:** No just to roads.

**Rep. Conrad:** Is this increased money?

**Rep. Headland:** It is anything above the \$8.4 that is currently going out. It is the increase in dollars for the gross receipts tax.

**Rep. Jerry Kelsh:** The bill says this portion will be distributed the same as the real estate taxes.

**Rep. Headland:** what my intent for it was to mean that it was suppose to be distributed throughout the political subdivision in addition; or same percentage, as the levy for those current roads is distributed.

More discussion on the meaning of the amendment.

**Rep. Klemin:** Right now \$8.4 thousand goes into the telecommunication tax fund and the rest goes into the general fund. This bill says no money can go into the general fund; it is all going to this telecommunication tax fund. But the amount over \$8.4 thousand dollars will be sent out to counties for roads.

**Rep. Headland:** Current the \$8.4 gets distributed out to the political subdivisions. Some goes to schools; some to counties and townships. This amendment is supposed to say that new money is going to be directed toward the political subdivisions that have roads.

**Rep. Conrad:** The reason for this is?

**Rep. Headland:** This is an effort to help ease the burden a little bite. In some cases they are up against their cap; in some places voters continue to vote down levy increases. In counties

I believe state law does not allow raising the mill levy without the vote of the people. They can raise their general fund, but not roads.

**Rep. Conrad:** Why do we need to mandate the counties budgets?

**Rep. Headland:** Because some counties will not use general fund dollars for roads.

**Rep. Kilichowski Made A Motion to Move the amendment; Seconded By Rep. Headland:**

**Rep. Jerry Kelsh:** I have a problem with the wording on farm to market roads.

**Rep. Headland:** Discussed the township and farm to market roads.

**Chairman Wrangham:** Decided to hold this bill.

**Hearing closed.**

# 2009 HOUSE STANDING COMMITTEE MINUTES

## Bill No. HB 1518

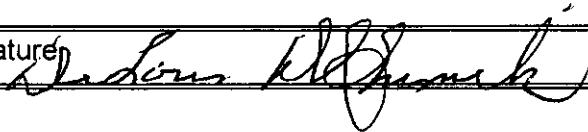
### House Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: February 5, 2009

Recorder Job Number: 8752, 8880

Committee Clerk Signature



Minutes:

**Chairman Wrangham** opened the hearing on HB 1518.

**Rep. Headland:** Discussed the proposed amendment. I do not have the amendment yet.

With the \$2 million coming out of the general fund and the portion that goes to counties and townships my amendment will direct that money into their road funds. There was a question on the dates also.

**Motion Made By Rep. Headland to Amend Line 5 to the 3; Seconded By Rep.**

**Koppelman**

**Voice vote carried.**

**Chairman Wrangham:** Maybe you can get the wording for that amendment.

**Hearing closed.**

**Job # 8880.**

**Chairman Wrangham reopened the hearing on HB 1518.**

**Rep. Headland:** I had this amendment drafted. There is no problem with changing the wording to farm to market road under subsection 3.

There was a lot of discussion regarding the farm to market roads and whether that wording was correct.

**Motion Made By Rep. Headland to move the amendments; Seconded by Rep.**

**Koppelman:**

**Voice vote carried.**

**Chairman Wrangham we now have 1518 as amended.**

**Do Pass As Amended Motion Made By Rep. Hatlestad: Seconded By Rep. Kilichowski:**

**Vote: 10 Yes 2 No 1 Absent Carrier Rep. Headland**

**Be referred to appropriations.**

**Hearing closed.**



**FISCAL NOTE**  
**Requested by Legislative Council**  
02/09/2009

Amendment to: HB 1518

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>	(\$2,178,000)		(\$2,000,000)			
<b>Expenditures</b>						
<b>Appropriations</b>						

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$2,178,000			\$2,000,000					

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Engrossed HB 1518 allows the counties to receive the entire amount of telecommunications carriers taxes collected.

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.*

Engrossed HB 1518 allows the March 2009 distribution of revenues to counties to equal the total amount of telecommunications carriers tax collected for tax year 2008. This amount is estimated to total \$10.578 million, which will result in additional county revenue of \$2.178 million in excess of the current annual appropriation of \$8.4 million. The tax commissioner shall determine the distribution of this excess among counties in the manner set forth in Section 1 of Engrossed HB 1518.

Official biennial forecast amounts for excess telecommunications tax revenue are estimated at \$1 million per year, or \$2 million for the 2009-11 biennium. Under the provisions of Engrossed HB 1518, the state general fund revenues will decrease and county revenues increase by this amount.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

<b>Name:</b>	Kathryn L. Strombeck	<b>Agency:</b>	Office of Tax Commissioner
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Phone Number: 328-3402

Date Prepared: 02/10/2009

**FISCAL NOTE**  
 Requested by Legislative Council  
 01/20/2009

Bill/Resolution No.: HB 1518

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	(\$2,178,000)		(\$2,000,000)			
Expenditures						
Appropriations						

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$2,178,000			\$2,000,000					

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

HB 1518 allows the counties to receive the entire amount of telecommunications carriers taxes collected.

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.*

Section 2 of HB 1518 allows the March 2009 distribution of revenues to counties to equal the total amount collected for tax year 2008. This amount is estimated to total \$10.578 million, which will result in additional county revenue totaling \$2.178 million in excess of the current appropriation of \$8.4 million for the year.

Official biennial forecast amounts for excess telecommunications tax revenue are estimated at \$1 million per year, or \$2 million for the 2009-11 biennium. Under the provisions of HB 1518, the state general fund revenues will decrease and county revenues increase by this amount.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

<b>Name:</b>	Kathryn L. Strombeck	<b>Agency:</b>	Office of Tax Commissioner
<b>Phone Number:</b>	328-3402	<b>Date Prepared:</b>	01/28/2009

February 5, 2009

VR  
2/6/09  
1082

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1518

Page 1, line 1, replace "section" with "sections" and after "57-34-05" insert "and 57-34-06"

Page 1, line 12, overstrike "The tax commissioner shall allocate moneys in the" and insert immediately thereafter:

"1. The tax commissioner shall allocate eight million four hundred thousand dollars of"

Page 1, line 17, after the period insert "On or before March tenth of each year, the tax commissioner shall certify for payment to the state treasurer an amount determined to be due each county. The state treasurer shall remit the certified amount to the county treasurers according to the allocation made by the tax commissioner under this section not later than March thirty-first of each year."

2. Any balance existing in the telecommunications carriers tax fund as of June first of each year must be allocated by the tax commissioner among county and township funds in the same proportion that real property taxes were levied in the preceding tax year for the county farm to market and federal aid road levy under subsection 17 of section 57-15-06.7, the county unorganized township road and bridge levy under section 57-15-22, and the civil township general fund levy under section 57-15-20. On or before June tenth of each year, the tax commissioner shall certify for payment to the state treasurer an amount determined to be due each county. The state treasurer shall remit the certified amount to the county treasurers according to the allocation made by the tax commissioner under this section not later than June thirtieth of each year."

Page 2, line 1, overstrike "On or before the first"

Page 2, overstrike lines 2 through 5 and insert immediately thereafter:

**"SECTION 2. AMENDMENT.** Section 57-34-06 of the North Dakota Century Code is amended and reenacted as follows:

**57-34-06. Duties of county treasurer.**

1. The county treasurer shall allocate taxes received under ~~this chapter subsection 1~~ of section 57-34-05 to the state, the county, and the various taxing districts within the county according to the proportion that taxes paid by telecommunications carriers in locally assessed property taxes and taxes assessed under chapter 57-06 and this chapter in 1997 and received by the state, the county, and each currently existing taxing district in the county bears to all taxes paid by telecommunications carriers in locally assessed property taxes and taxes assessed under chapter 57-06 and this chapter in 1997 and received by the state, the county, and all taxing districts in the county.

2. The county treasurer shall allocate taxes received under subsection 2 of section 57-34-05 to county and township funds in the same proportion that real property taxes were levied in the preceding tax year for the county

farm to market and federal aid road levy under subsection 17 of section 57-15-06.7, the county unorganized township road and bridge levy under section 57-15-22, and the civil township general fund levy under section 57-15-20."

Renumber accordingly

**2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. HB 1578**

House Political Subdivisions Committee

Check here for Conference Committee

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

Action Taken DO PASS DO NOT PASS AS AMENDED

Motion Made By Rep. Klemin Seconded By Rep. Koppelman

Representatives	Yes	No	Representatives	Yes	No
Rep. Dwight Wrangham, Chairman			Rep. Kari Conrad		
Rep. Craig Headland, Vice Chairman			Rep. Jerry Kelsh		
Rep. Patrick Hatlestad			Rep. Robert Kilichowski		
Rep. Nancy Johnson			Rep. Corey Mock		
Rep. Lawrence Klemin			Rep. Steve Zaiser		
Rep. Kim Koppelman					
Rep. William Kretschmar					
Rep. Vonnie Pietsch					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Carrier: \_\_\_\_\_

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

*Vote  
Carried*

**2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. HB 1518**

House Political Subdivisions Committee \_\_\_\_\_

Check here for Conference Committee

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

Action Taken DO PASS DO NOT PASS AS AMENDED

Motion Made By Rep. Headland Seconded By Rep. Koppelman

Representatives	Yes	No	Representatives	Yes	No
Rep. Dwight Wrangham, Chairman			Rep. Kari Conrad		
Rep. Craig Headland, Vice Chairman			Rep. Jerry Kelsh		
Rep. Patrick Hatlestad			Rep. Robert Kilichowski		
Rep. Nancy Johnson			Rep. Corey Mock		
Rep. Lawrence Klemin			Rep. Steve Zaiser		
Rep. Kim Koppelman					
Rep. William Kretschmar					
Rep. Vonnie Pietsch					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Carrier: \_\_\_\_\_

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

*Same Vote  
carried!*

**2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO.**

House Political Subdivisions Committee

Check here for Conference Committee

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

Action Taken DO PASS DO NOT PASS AS AMENDED

Motion Made By Rep. Hatlestad Seconded By Rep. Kilichowski

Representatives	Yes	No	Representatives	Yes	No
Rep. Dwight Wrangham, Chairman		✓	Rep. Kari Conrad	✓	
Rep. Craig Headland, Vice Chairman	✓		Rep. Jerry Kelsh	✓	
Rep. Patrick Hatlestad	✓		Rep. Robert Kilichowski	✓	
Rep. Nancy Johnson	✓		Rep. Corey Mock	✓	
Rep. Lawrence Klemin		✓	Rep. Steve Zaiser	0	
Rep. Kim Koppelman	✓				
Rep. William Kretschmar	✓				
Rep. Vonnie Pietsch	✓				

Total (Yes) 10 No 2

Absent 1

Carrier: Rep. Headland

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

*Referred to approp.*



**REPORT OF STANDING COMMITTEE**

**HB 1518: Political Subdivisions Committee (Rep. Wrangham, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE REREFERRED to the Appropriations Committee (10 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). HB 1518 was placed on the Sixth order on the calendar.**

Page 1, line 1, replace "section" with "sections" and after "57-34-05" insert "and 57-34-06"

Page 1, line 12, overstrike "The tax commissioner shall allocate moneys in the" and insert immediately thereafter:

"1. The tax commissioner shall allocate eight million four hundred thousand dollars of"

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Page 2, overstrike lines 2 through 5 and insert immediately thereafter:

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57-15-06.7, the county unorganized township road and bridge levy under section 57-15-22, and the civil township general fund levy under section 57-15-20."

Renumber accordingly

2009 HOUSE APPROPRIATIONS

HB 1518

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1518

House Appropriations Committee

Check here for Conference Committee

Hearing Date: February 11, 2009

Recorder Job Number: 9240

Committee Clerk Signature

*Carmen Hart*

Minutes:

Chm. Svedjan: HB 1518 has to do with the allocation of telecommunication carriers' taxes among political subdivisions.

Rep. Headland: HB 1518 deals with the gross receipts tax on telecommunications. When the change in taxation was first passed back in the late 90s, it moved from property tax to gross receipts tax. \$8.4 million kept it revenue neutral to the counties. The excess was directed then to the general fund, and there is now around \$2 million that is going directly into the general fund. The bill sponsors believe that since this is a tax in lieu of property taxes the counties and the political subdivisions deserved that extra money and that is essentially what the bill will do. It will direct that extra money to those local political subdivisions. The bill was amended in committee to further direct that money towards roads. Some political subdivisions have caps. This would have allowed for a little extra money to go towards road funding which in some areas may be capped.

Rep. Glasheim: Is this a one-time thing or does this take care of the ongoing in the future? How does that work?

Rep. Headland: No. I think it is believed that this tax will be collected biennium after biennium and continue to grow. The growth of that will be distributed out to the counties. This bill would

essentially stop the extra tax being collected from going into the general fund and distributed out to the political subdivisions.

Rep. Glasheim: There would be less money in general fund going forward of a million, two million a year?

Rep. Headland: It is \$2 million for the biennium.

Rep. Delzer: It's a retroactive date for being effective and yet I am not sure when the bill actually becomes effective. Does it actually become effective on July 1 and the retroactive date says it is for two years before? You are suppose to take \$2.2 million out of this biennium which if the bill doesn't actually become effective until July 1 even though it is a retroactive date would not work. How can it be \$2.2 million this time and \$2 million next time?

Chm. Svedjan: Before you respond, do you have the first engrossment? The effective date there is retroactive to December 31 of 07.

Rep. Delzer: I don't know. Maybe when that is there, that is like the emergency clause.

Rep. Berg: I think the way this works is it would take effect July 1 but it is retroactive. Next biennium there would be a refund of those 07-09 taxes.

Rep. Delzer: It would have impact next biennium.

Rep. Berg: If I read this fiscal note, it really should be \$4.1 million next biennium. Okay, maybe I am not reading it correct.

Rep. Kaldor: This was an interesting complication in the bill. It has to do with when the original law was passed. It had the same clause in it because the taxes aren't actually distributed. They are the year after. It looks like it is going back in time, but it is really because of the timing of the distribution. 2007 taxes are distributed until 2008.

Chm. Svedjan: That is all correct?

Rep. Headland: I believe it is.

Rep. Delzer: How do you answer the question of the \$2.2 in the current one and projected to be less?

Rep. Headland: I do not have a response for that. Perhaps Rep. Kaldor does.

Rep. Kaldor: The reason for this and actually this could disappear over time, because the number of phones that are landline phones as that declines the tax actually will begin to decline in the long run. We haven't devised a mechanism for dealing with that. The estimated collections will be less than they were in the last biennium.

Rep. Delzer: Since it is on the landlines it is all just with the counties. The Association of Counties does not get any share of this do they?

Rep. Headland: Actually it is distributed through a formula that goes to school districts, counties, cities, and townships.

Rep. Delzer: Like the 911 dollar on cell phones, part of that goes to the association.

Rep. Headland: None of this does. It goes to the subdivisions themselves.

Chm. Svedjan: Why was this set up initially that part of it flowed into the general fund?

Rep. Headland: When it was originally set up, there were no dollars that went into the general fund. What they did was they used the number that they had collected in the previous biennium through the property tax. It happened to be \$8.4 million, so they used that as a cap. They said in the future \$8.4 million will go to the counties and subdivisions and anything in excess of that will go into the general fund. At first it didn't amount to very much. As time has gone by the last few biennia it has been averaging close to \$2 million. What this bill is basically intended to do is to remove that cap so that the subdivisions would get the receipts.

Rep. Bellew: Will we see a reduction in property taxes because of this?

Rep. Headland: Some of us might. I don't know. It is a small amount, but it certainly is helpful to the counties and subdivisions. It is one of the things that they have talked about that this

cap was kind of arbitrary. It really didn't track with what is going on in the real world. As revenues increase because of more landlines, they weren't capturing any of the benefit of that. Now we have a different situation as landlines diminish, this may go down, but the cap won't be in place.

Rep. Berg: What was the rationale for the cap in the first place and money going to the general fund?

Rep. Kaldor: I have not gleaned anything from legislative history on that. All I know is that it was the number. It represented exactly the number that was being collected in property taxes. I suppose it is because we had a small general fund ending balance, maybe zero. This goes back to 97 or 99 and it might be that the general fund needed some money.

Rep. Berg: I wonder if there is anyone else that is not a bill sponsor that could tell me why that money floated into the general fund? Was there any discussion, committee, what the original intent was?

Rep. Headland: No, that did not come up in committee.

Rep. Skarphol: I suspect elsewhere in the system there are some proposals out there that are going to adversely affect counties, cities, and schools, the excise tax changes or whatever. I am not saying I can support this, but if I were to support this, it would be with the caveat that when those proposals come forward, this would be given consideration as to the effects on those entities. I am certainly not adverse to the state doing this but I would take into consideration changes elsewhere and would hope that other members of this committee would do the same. I believe in giving money to cities and counties, but not on every vehicle that we can see\_\_

Rep. Onstad: This is really similar to the gross receipt tax that your RECs pay back to the counties in lieu of taxes. It is not like it is any different than has already been done. You could

consider the fact that it is in lieu of property taxes. Rightly so, it seems to me it should go back to the counties that are putting up with that.

Rep. Kempenich: Did you guys get into the 911 system and stuff that is going through the state on where most of this telecommunication dollars float to eventually?

Rep. Headland: On this particular bill that was not part of the discussion. We did have other bills that are just 911.

Rep. Delzer: I certainly don't remember all the discussion, but it seems to me that this came about at the same time when there was a change in some federal taxing rules that were done back in 97 or 99 or whenever this happened. I think it was done in conjunction with the telecommunications industry at that time. I can't really answer exactly why it was capped. It seems to me there was some sort of reason on it, and I am not sure whether there was some other tax that took the place of that or not. I don't know if this bill creates any problems with federal tax issues or not. I would imagine that the sponsor and Council checked that out.

Rep. Kaldor: There is no effect. It was passed in 99 as part of the streamline taxation of the telecommunications industry. I think you are right about the original purpose. There was no other reason that I can find other than this is what they were collecting in 1997 was \$8.4 million, and they used that number. Why that was done, I can't speak to that.

Rep. Delzer: In your research did you ask was there any other taxes that were adjusted that the counties and cities get a share of besides this that would have gone up?

Rep. Kaldor: No. There were no other offsets or changes that I was made aware of. This is called, if you remember the term, the Pilt, \_tax payment little tax for telecommunications. No, we didn't get any information to that effect.

Rep. Berg: I am kind of struggling here on the big picture. We want to have fairness in taxation. If this is something that again we owe the counties or it is a tax for them, we ought to



probably support this bill. The question is on the funding and how we transition and how that fits in. I still kind of think that there must have been some rationale for putting the cap on. If there was a rationale and maybe when this act passed, there was no additional cost to the counties and there was some cost to the state for implementing this act with the thought that at some point the state would be reimbursed somehow for that. I am not sure. We want to do what is right in our tax policy and not just because we have money or don't have money or how do we get more money back.

Rep. Skarphol: Does this apply to all of the telecommunications companies in the state or just the rural telephones?

Rep. Headland: It is all the landline companies.

Rep. Skarphol: In essence, the \$2 million would probably go to Burleigh, Cass, Grand Forks, and Ward counties. The railroads would not see a great deal of improvement because of passage of this bill.

Rep. Headland: We did not look into how the money is currently being distributed. You may very well be right.

Rep. Kaldor: We did have a printout. I think the counties provided that to the committee, and I don't have it with me. Every county would benefit from this. The proportion would obviously be higher where more taxes are collected, but every county did benefit from this. It will even help the rural counties.

A Do Pass has been moved by Rep. Kaldor. Rep. Metcalf seconded the motion.

The vote failed. 11 Yeas, 13 Nays, 1 Absent and Not Voting.

Rep. Berg moved a Do Not Pass. Rep. Wald seconded the motion.

Rep. Kaldor: I know where this is headed and as protective as we are of the general fund, I really appreciate the discussion that we have had on this. This was just a small piece. As

Rep. Skarphol said, there are other pieces of legislation that are going to affect subdivisions of government. It seems to me that this is not an unreasonable thing to provide for the subdivisions of government. It is a very small thing, and the Tax Department basically administers this through their other distribution to local subdivisions. It is not like this is a \$2 million cost to the Tax Department to distribute these funds.

Rep. Glassheim: When we started out, I was going to vote against this in order to protect the general fund. It seems to me it is a basic fairness issue. It is a property tax replacement tax and obviously property taxes have been going up in the last decade. It seems to me that money was intended originally to replace property tax of these people otherwise would be charged. It seems to be just to put the money where it came from and was designed for.

Rep. Berg: I appreciate the discussion. I guess at this point we need to make quick decisions and move forward. I just have to believe that there was some rationale at one point in time for putting a cap on. From my perspective I guess that is my concern with this bill is I don't know if that has been addressed. Just guessing it would seem logical to me that as Rep. Kaldor suggested that we are bringing in 8.4 so they set that in cap. I have to believe that there was something done on the state's part to say if in fact this revenue goes up, it should go to the general fund. That is why I made the Do Not Pass recommendation.

Rep. Glassheim: Let me invent an explanation. Since the money was designed to replace property tax, and property tax was at \$8.1 million, they probably put a cap on it so the general fund would get anything more than the property tax. They were not foresighted enough to see that this might grow. It would make sense to put a cap on it if what you were trying to do was to replace \$8 million worth of property tax.

Rep. Skarphol: My objection to this is not with the idea of giving the money back to the counties. As I said earlier, it is with regard to the fact that we are doing piecemeal things that we don't fully understand the consequences of them until the end of the session.

**DO NOT PASS. 15 YEAS, 10 NAYS. Rep. Berg** is the carrier of this bill.

Date: 2/11/09  
 Roll Call Vote #: 1

**2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 1518**

**Full House Appropriations Committee**

Check here for Conference Committee

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

*Failed*

Action Taken No Pass

Motion Made By Kaldor Seconded By Metcalf

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan		✓			
Vice Chairman Kempenich		✓			
Rep. Skarphol		✓	Rep. Kroeber	✓	
Rep. Wald		✓	Rep. Onstad	✓	
Rep. Hawken	✓		Rep. Williams	✓	
Rep. Klein		✓			
Rep. Martinson		✓			
Rep. Delzer		✓	Rep. Glassheim	✓	
Rep. Thoreson		✓	Rep. Kaldor	✓	
Rep. Berg		✓	Rep. Meyer	✓	
Rep. Dosch		✓			
Rep. Pollert		✓	Rep. Ekstrom	✓	
Rep. Bellew		✓	Rep. Kerzman	✓	
Rep. Kreidt		✓	Rep. Metcalf	✓	
Rep. Nelson		✓			
Rep. Wieland	✓				

Total (Yes) 11 No 22 13

Absent 1

Floor Assignment \_\_\_\_\_

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

Date: 2/11/09  
 Roll Call Vote #: (2)

**2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 1578**

**Full House Appropriations Committee**

Check here for Conference Committee

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

Action Taken do NOT Pass

Motion Made By Berg Seconded By Wald

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan	✓				
Vice Chairman Kempenich	✓				
Rep. Skarphol	✓		Rep. Kroeber		✓
Rep. Wald	✓		Rep. Onstad		✓
Rep. Hawken	✓		Rep. Williams		✓
Rep. Klein	✓				
Rep. Martinson	✓				
Rep. Delzer	✓		Rep. Glassheim		✓
Rep. Thoreson	✓		Rep. Kaldor		✓
Rep. Berg	✓		Rep. Meyer		✓
Rep. Dosch	✓				
Rep. Pollert	✓		Rep. Ekstrom		✓
Rep. Bellew	✓		Rep. Kerzman		✓
Rep. Kreidt	✓		Rep. Metcalf		✓
Rep. Nelson	✓				
Rep. Wieland		✓			

Total (Yes) 15 No 10

Absent 0

Floor Assignment Rep. Berg.

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

REPORT OF STANDING COMMITTEE (410)  
February 13, 2009 2:05 p.m.

Module No: HR-27-2697  
Carrier: Berg  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

HB 1518, as engrossed: Appropriations Committee (Rep. Svedjan, Chairman)  
recommends **DO NOT PASS** (15 YEAS, 10 NAYS, 0 ABSENT AND NOT VOTING).  
Engrossed HB 1518 was placed on the Eleventh order on the calendar.

2009 TESTIMONY

HB 1518

#1

Political Subdivisions Committee  
Testimony on HB 1518  
January 30, 2009

Chairman Wrangham and members of the House Political Subdivisions Committee, for the record, I am Representative Lee Kaldor, District 20. I am here today to introduce HB 1518 and ask for your favorable consideration.

HB 1518 relates to the Telecommunications "PILT" or "payment-in-lieu of tax" that is now collected from the telecommunications industry instead of property tax. The purpose of this bill is to remove the cap that causes tax receipts in excess of \$8.4 million to be deposited in the state general fund rather than be distributed to the counties.

The PILT was created as part of legislation adopted to streamline taxation of the telecommunications industry passed in 1999. This act was retroactive to the taxable years beginning December 31, 1997. At that time, the taxes collected by counties equaled approximately \$8.4 million. As a result of this cap, any revenue inflation will be captured by the state and not the county. This places an unnecessary burden on property tax payers.

This bill is one small part of many efforts to provide property tax relief to our citizens, but just as important, it will provide equity between the state and our counties. After all, prior to 1998 all of the telecommunications property taxes were for the benefit of the counties. There is no longer a justification for the state to benefit from the increasing receipts from the PILT.

I have included with this testimony an email from Kathy Strombeck of the Tax Department detailing the recent five year history of the tax collections. As you can see, an average of approximately \$2 million per year has gone to the state instead of the counties.

Please give HB 1518 a favorable recommendation and provide a small yet meaningful level of assistance to our counties and property tax payers.

Thank you.

Lee Kaldor



**Kaldor, Lee A.**

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**From:** Walstad, John M.  
**Sent:** Friday, January 16, 2009 12:52 PM  
**To:** Kaldor, Lee A.  
**Subject:** FW: telecommunications tax

Lee- Here is what has been going on with telecom taxes. Let me know if you want to make changes.

-----Original Message-----

**From:** Strombeck, Kathy L.  
**Sent:** Friday, January 16, 2009 12:15 PM  
**To:** Walstad, John M.  
**Subject:** telecommunications tax

John,

Only in FY 1999 did the general fund have to make up a portion of the telecommunications tax distribution to counties. In each fiscal year since that time, there has been adequate telecom collections to meet that appropriation of \$8.4 million to counties.

Here are the recent telecommunications tax collection totals:

FY 2008	\$10,152,418
FY 2007	\$9,883,691
2006	\$10,097,163
2005	\$10,240,176
FY 2004	\$9,262,846

All excess revenue over the \$8.4 million appropriation to counties goes to the general fund.

Please let me know if you have any questions.

Kathy

#2

**Testimony To  
THE HOUSE POLITICAL SUBDIVISIONS COMMITTEE  
Prepared Friday, January 30, 2009 by  
Terry Traynor, Assistant Director  
North Dakota Association of Counties**

**REGARDING HOUSE BILL No. 1518**

Chairman Wrangham and members of the House Political Subdivisions Committee, county government appreciates the introduction of this Legislation addressing a concern created by the 1997 restructuring of the telecommunications tax

During the 1997 Session, the telecommunications industry made the case that they should be assessed on a uniform gross receipts basis, rather than a graduated, customer-per-mile basis that had been in place for many years. School districts, counties and other local governments were concerned that the new formula would reduce this in lieu of property tax revenue (as it did the first year), increasing property taxes for all other residents. To allay this concern, the legislature wrote into the law a "hold-harmless" provision that required the State General Fund to make up any shortfall below the \$8.4 million collected before the change.

While the 1997 Legislature agreed to the hold-harmless provision, it also wrote in a "revenue limit" provision that essentially took all of the revenue above the \$8.4 million and transferred it into the State General Fund. This bill would remove that limit and transfer, and allow Schools, counties and other taxing districts to receive the full benefit of the in-lieu of property tax revenue.

This does not change school budgets or county budgets or anyone's budget, but simply reduces the amount of property tax levied on the rest of the real property in a particular district. Based on the official fiscal note, the attached table shows what the difference in distributions would look like for CY2009, if this law was passed. Keep in mind; although the amounts are listed by county names, the largest portion of this revenue is transferred to school districts.

It has also been suggested to us that changing the certification date from the "first" of March (Page 2, line 1) to the "tenth" of March would aid in the State's administration of this section, as we understand the distribution date is being changed (Page 2, line 5) is being change to March 30 in another bill (SB2093). Our Association therefore urges the adoption of this amendment and requests that the Committee give HB1518 a "Do Pass" recommendation – granting incremental relief to the real property taxpayers of the State.

# Analysis of CY2009 Telecommunications Tax Distribution (HB1518)

TO: Schools Districts, Counties, and other Political Subdivisions

	CY2009 Distribution Current Law - \$8.4 Million	Projected CY09 Distribution HB1518 - Fiscal Note	Projected Increase
Adams	65,881	82,963	17,082
Barnes	227,814	286,883	59,069
Benson	130,447	164,270	33,823
Billings	24,311	30,614	6,303
Bottineau	102,349	128,887	26,538
Bowman	25,663	32,317	6,654
Burke	22,499	28,332	5,834
Burleigh	773,690	974,297	200,607
Cass	1,485,635	1,870,839	385,204
Cavalier	51,993	65,473	13,481
Dickey	61,221	77,095	15,874
Divide	28,677	36,113	7,436
Dunn	37,467	47,181	9,715
Eddy	59,731	75,218	15,487
Emmons	34,096	42,936	8,841
Foster	35,331	44,492	9,161
Golden Valley	70,574	88,873	18,299
Grand Forks	667,387	840,431	173,044
Grant	90,093	113,453	23,360
Griggs	31,924	40,201	8,277
Hettinger	81,421	102,532	21,111
Kidder	65,613	82,626	17,013
Lamoure	73,440	92,481	19,042
Logan	49,304	62,088	12,784
McHenry	75,288	94,809	19,521
McIntosh	67,588	85,113	17,525
McKenzie	67,817	85,400	17,584
McLean	95,316	120,030	24,714
Mercer	84,497	106,406	21,909
Morton	344,033	433,235	89,203
Mountrail	68,578	86,359	17,781
Nelson	90,756	114,288	23,532
Oliver	18,402	23,173	4,771
Pembina	107,124	134,900	27,776
Pierce	110,848	139,589	28,741
Ramsey	214,831	270,534	55,703
Ransom	59,450	74,865	15,415
Renville	31,793	40,037	8,244
Richland	259,592	326,901	67,309
Rolette	107,189	134,982	27,793
Sargent	102,336	128,870	26,534
Sheridan	48,508	61,086	12,578
Sioux	24,888	31,341	6,453
Slope	7,041	8,867	1,826
Stark	366,666	461,738	95,071
Steele	71,948	90,603	18,655
Stutsman	279,876	352,444	72,568
Towner	53,318	67,142	13,825
Traill	161,206	203,004	41,798
Walsh	185,254	233,287	48,034
Ward	657,756	828,302	170,547
Wells	73,257	92,252	18,995
Williams	268,283	337,845	69,562
<b>Total</b>	<b>8,400,000</b>	<b>10,578,000</b>	<b>2,178,000</b>

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1518

*Prepared for Representative Headland.*

Page 1, line 1, replace "section" with "sections" and after "57-34-05" insert "57-34-06"

Page 1, line 10, after the period insert:  
"1."

Page 1, line 12, replace "moneys in" with "eight million four hundred thousand dollars of"

Page 1, line 17, after the period insert: "On or before the tenth of March of each year, the tax commissioner shall certify for payment to the state treasurer an amount determined to be due each county. The state treasurer shall remit the certified amount to the county treasurers according to the allocation made by the tax commissioner under this section not later than March thirty-first of each year."

2. Any balance existing in the telecommunications carriers tax fund as of June first of each year shall be allocated by the tax commissioner among county and township funds in the same proportion that real property taxes were levied in the preceding tax year for the county farm to market and federal aid road levy under subsection 17 of section 57-15-06.7, the civil township farm to market road levy under subsection 3 of section 57-15-20.2, the county unorganized township road and bridge levy under section 57-15-22, and the civil township general fund levy under section 57-15-20. On or before the tenth of June of each year, the tax commissioner shall certify for payment to the state treasurer an amount determined to be due each county. The state treasurer shall remit the certified amount to the county treasurers according to the allocation made by the tax commissioner under this section not later than June thirtieth of each year."

Page 2, remove lines 1 through 5

Page 2, after line 5, insert:

**SECTION 2. AMENDMENT.** Section 57-34-06 of the North Dakota is amended and reenacted as follows:

**57-34-06. Duties of county treasurer.** The county treasurer shall allocate taxes received under this subsection 1 of section 57-34-05 to the state, the county, and the various taxing districts within the county according to the proportion that taxes paid by telecommunications carriers in locally assessed property taxes and taxes assessed under chapter 57-06 and this chapter in 1997 and received by the state, the county, and each currently existing taxing district in the county bears to all taxes paid by telecommunications carriers in locally assessed property taxes and taxes assessed under chapter 57-06 and this chapter in 1997 and received by the state, the county, and all taxing districts in the county.

The county treasurer shall allocate taxes received under subsection 2 of section 57-34-05 to county and township funds in the same proportion that real property taxes were levied in the preceding tax year for the county farm to market and federal aid road levy under subsection 17 of section 57-15-06.7, the civil township farm to market road levy under subsection 3 of section 57-15-20.2, the county unorganized township road and bridge levy under section 57-15-22, and the civil township general fund levy under section 57-15-20.

Re-number accordingly