

2009 HOUSE POLITICAL SUBDIVISIONS

HB 1473

2009 HOUSE STANDING COMMITTEE MINUTES

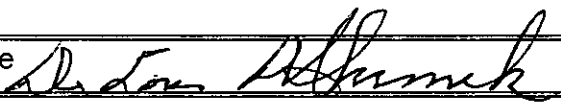
Bill No. HB 1473

House Political Subdivisions Committee

☐ Check here for Conference Committee

Hearing Date: January 30, 2009

Recorder Job Number: 8247

Committee Clerk Signature 

Minutes:

Chairman Wrangham opened the hearing on HB 1473.

Sandy Clark, North Dakota Farm Bureau: We would just like to stand in support of HB 1473.

Lynn Bergman: The testimony in opposition of the previous bill HB 1454 verifies my assumption that I had all along that the problem with locations. They are not going to do this on their own.

Rep. Berg: Handed out two sheets (#1) an (#2). One of the frustrations I have is even though we increased the amount of money flowing back to political subdivisions. It appears the legislature is not doing enough; as a result, this is why access is the way it is. I am not saying it is done intentionally. First handout shows the amount of monies flowing through from the state for the political subdivisions. Went over the form and major funds on the last line and how it has increased. The second handout is what we project for the next biennium. The debate in this capitol should be how much money we are sending back to schools and political subdivisions. The debate should not b e that our property taxes are too high on my house and I think they are spending too much of our tax dollars locally. That should be done on the local level. The debate should be what is the state doing to correct the money that is flowing back.

Here are two memos. One is from December 2008 and it has a memo of March 2008. Give the people more local control. (See #3 and #4) ND is probably the best financial position of all the states. Discussed local and federal control. I don't think we need to be fearful of the people who are paying the taxes of giving them more control. This memo is only information for the bill. A local entity they would say I wonder what I budget would be next year and they come up with a number. They simply make that public for the upcoming year and we think in the following year it is going to be up 5%. The public could say we don't think that is enough or too much so they have input. They could not reduce the projected budget more than 5% or increase the budget more than 10%. Because of the timing this would give the people up to ten months to determine what is the most appropriate time for the election. I am sure you would hear some of the arguments that you already have local control. I agree with that but let's create more local control. We have a referral process so citizens can refer it if they wish. It takes a lot of pressure off us as legislatures and the same thing would happen on the local level. The other thing we have in property tax is we have a lot of Roderick and many people are not happy where things are at. This will provide the relief value to take some of that heat off. Without this I think we will have on state wide ballot that will deal with property taxes. I will guarantee that no matter what it won't have the same affect on every taxing district. We have some districts that are growing and some that are declining. We will get the debate back to the local level and the debate here will be on those big picture taxes.

Rep. Kilichowski: All of these increases are going to the county. Some of it is due to the economy being what it is. If you took the inflation that and took that away from the actual increase the counties are getting; what would the actual amount of new monies be to the counties?

Rep. Berg: These numbers I ran a couple of years ago and there is about a four to five percent increase per year to the political subdivisions. The last couple of years it has been much higher. Part of that is the sales tax.

Rep. Kilichowski: So when we look at these numbers it is not actually money going from the top because of inflation.

Rep. Berg: That is my point. We should be having this debate on the local level on whether these services are appropriate or not for those people that are paying those taxes.

Discussion was held in regard to inflation and local control.

Rep. Klemin: Is it possible to increase or decrease a part of the budget?

Rep. Berg: I am looking for something that is simple safety belt.

Rep. Zaiser: I concur with your idea. Having worked in local political subdivisions that is a very difficult process. Sometimes when we check those numbers there is a big capital expense out there. Sometimes this is more than the public could understand. How can you get this information to the public and have them understand it?

Rep. Berg: We have all kinds of variables at the state level. We are not locking anything in by that projection. If a ward said here is our detailed budget for the year and someone said why is there a 4% increase. Next year comes along and we need 6% increased; there are no penalties. They can come up with any budget they want.

Rep. Conrad: How does this affect mills?

Rep. Berg: If there is a budget of \$1 million; it doesn't matter how many mills are in there or not. If they say we think our budget is going to be 3% higher so it is going to be \$30,000 higher next year that is all they need to say.

Opposition:

Kevin Glatt: Burleigh County Auditor/Treasurer: (see testimony #4).

Rep. Koppelman: It is easy for us to critics' any proposal. How do you get to the solution?

Kevin Glatt: Until the people elected; county, city and park districts, school boards and county school boards learn how to say no property taxes will continue to go up.

Kent Costin, Director of Finance, City of Fargo: (see testimony #5).

Bill Wolkin, City Administrator of Bismarck: Discussed the process now that is in effect and how it works. We think it works very well now.

Neutral:

Brett Narloch: (see testimony #6).

(Handout from Dustin Gawrylow, Executive Director of ND Taxpayers' Assoc.) Was not present.

Hearing closed.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill No. HB 1473

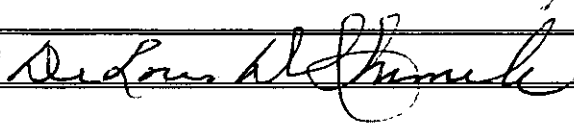
House Political Subdivisions Committee

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Hearing Date: February 16, 2009

Recorder Job Number: 9592

Committee Clerk Signature



Minutes:

Chairman Wrangham reopened the hearing on HB 1473.

There is an amendment 0301 which was offered. That amendment as I recall makes this section going into affect only after the vote of the citizens in the subdivisions have said, yes we do want this tool. Seemed a little clumsy, but the sponsor of the bill said he really did want this as a tool to go forward over to the Senate to work on this issue. Are your wishes to attach both of the amendments or whatever your wishes.

Rep. Klemin: speaking to the merit of this amendment .0301 so it wouldn't be until 2010.

Looks like we would have to go through two elections.

Rep. Koppelman Made A Motion to Do Pass; Seconded By Rep. Headland

Rep. Koppelman: I am not sure the amendment really addresses the issue so I thought in the Senate they could address those issues.

Rep. Zaiser: I am confused about the process.

Rep. Koppelman: I think the bill is trying to have populace feedback on the budget. That is what I think it the heart of the bill. How you make it work seems to be a problem.

Rep. Nancy Johnson: This sounds like it will make the board's job even more difficult. After all their hard work now we are going to take it to a vote on somebody that does not even

understand local government. We have great sunshine laws. If you are a concerned citizen you get those meetings and voice your opinions. The options are already there.

Rep. Kilichowski: I agree with Rep. Johnson. It is making it easier for people to vote down the budget if they don't like it and not take the time to go to the meetings and have their input, which they can do.

Rep. Koppelman: We meet every two years and people have the opportunity to come and testify. We have heard a lot of testimony and this has struck me. I thought we were a state that prided the ideal of an initial referendum and I am shocked at some of the folks that seem to oppose that idea when it applies to a certain level of government. I always thought it was there at these levels. Why shouldn't the people of ND have that same opportunity when it comes to a city commissioner or county park board or something else?

Rep. Headland: I am going to support the do pass because of the comments we heard from the people out there. I realize the bill is far from perfect. We were so overloaded with bills in this committee we did not have the proper time to deal with some of the flaws in the bill. I think when this gets over to the Senate they are going to have a lot more time and more input from the public. I think it is a tool and whether or not it survives the Senate I don't know.

Rep. Nancy Johnson: I recall as a school board member, if you are not doing what they want they will recall you. In 9 months we had 4 school board members recalled and 4 city commissioners recalled. It does happen in our state.

Rep. Klemin: This bill really doesn't talk about the referral of the budget. What it does talk about is the initiated measure on the local level to register an increase or decrease in a projected budget for the following year. I don't think it is manageable so I am not going to vote for it.

Rep. Zaiser: I concur with Rep. Klemin. I think there are avenues now to have involvement. I think it goes too far.

Rep. Jerry Kelsh: I think this year the emergency budgets are going to be wiped out so if you are going to put a budget out for the next year that reflects that not knowing what is going to happen; that is going to be impossible.

Vote: 2 Yes 11 No 0 Absent Failed

Do Not Pass Motion Made By **Rep. Jerry Kelsh:** **Seconded by Rep. Hatlestad:**

Vote: 11 Yes 2 No 0 Absent Carrier: Rep. Kretschmar:

Hearing closed.

Date: 2/16
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1473

House Political Subdivisions Committee

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Legislative Council Amendment Number _____

Action Taken DO PASS DO NOT PASS AS AMENDED

Motion Made By Rep. Koppelman Seconded By Rep. Headland

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) 2 No 11

Absent 0

Carrier: _____

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

Date: 2/16
Roll Call Vote #: 2

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1473

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.

Kelsh

Seconded By

Rep.

Hatlestad

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)

11

No

2

Absent

0

Carrier:

Rep. Kretschmar

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

REPORT OF STANDING COMMITTEE

HB 1473: Political Subdivisions Committee (Rep. Wrangham, Chairman) recommends
DO NOT PASS (11 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1473 was
placed on the Eleventh order on the calendar.

2009 TESTIMONY

HB 1473

MAJOR STATE APPROPRIATIONS REVENUE ALLOCATIONS FOR DIRECT ASSISTANCE TO POLITICAL SUBDIVISIONS FROM THE 1997-99 THROUGH 2007-09 BIENNIUMS

	1997-99	1999-2001	2001-03	2003-05	2005-07	2007-09
Assistance to political subdivisions (excluding school-related funding)						
General fund appropriations						
Grants to public libraries	\$935,521	\$888,745	\$888,745	\$844,307	\$1,000,000	\$1,200,000
Homestead tax credit	4,540,813	4,540,813	4,540,813	4,000,000	4,500,000	8,104,000
Aid to health districts	990,000	1,100,000	1,100,000	1,100,000	1,100,000	1,900,000
Children's special health services local health unit grants				52,632	720,000 ¹	52,632
Matching funds to counties and cities for senior citizen programs	1,770,000	1,982,945 ¹	2,132,945 ¹	2,382,945 ¹	1,147,174	1,000,000
Indian welfare assistance to counties	1,059,000 ²	121,766 ²	456,993 ²	649,559		955,124
State administration of child support enforcement						7,105,247
Boys' and girls' clubwork		53,000	53,000	53,000	53,000	53,000
Gaming enforcement grants	1,014,152	419,591	580,000	580,000	630,000	730,000
Soil Conservation district grants	364,950	288,341	184,141	97,215	67,817	67,817
Noxious weed control		783,413	1,932,419	1,910,000	1,545,000	1,365,000
Payments in lieu of taxes on carbon dioxide pipeline property		1,000,000	10,154,353	10,723,223	11,810,929	13,587,187
Clerk of court		550,000	550,000	522,500	550,187	550,000
Grants to airports	503,425		4,920,824 ³	3,382,023 ³	3,395,550 ³	3,414,228 ³
Statewide information technology network costs						
Total general fund (excluding school-related funding)	\$11,757,861	\$12,308,614	\$27,494,233	\$26,244,772	\$26,572,289	\$40,084,235
Percentage of total general fund appropriations	0.8%	0.8%	1.8% ⁴	1.4%	1.3%	1.8%
Special funds appropriations and revenue allocations						
Homestead tax credit (Housing Finance Agency reserves)	\$250,000	\$910,555	\$1,162,695	\$1,402,639	\$1,846,408	\$1,646,408
State aid distribution funds to cities and counties ⁴	53,978,600	63,203,392	66,383,566	74,180,584	84,212,635	90,669,528
Public transportation services (public transportation fund)	1,500,000	2,848,000	3,000,000	3,000,000	4,650,000	5,700,000
Insurance tax to fire departments						
Insurance tax distribution fund	5,200,000	5,200,000	5,200,000	5,200,000	6,200,000	6,200,000
Insurance tax to emergency medical services operations						
Insurance tax distribution fund						
Gaming enforcement grants			629,000	617,000	617,000	1,250,000
Community health grant program (community health trust fund)			4,700,000	4,700,000	4,700,000	617,000
Children's special health services local health unit grants					69,788	4,700,000
Children's special health services grants to counties					248,056	69,788
Tobacco education and cessation program grants (community health trust fund)			250,000	500,000	395,000	248,056
Matching funds to counties and cities for senior citizen programs						260,000
Senior citizen services and programs fund						
Health care trust fund			250,000 ¹		2,056,984	2,297,942 ¹⁰
Energy development impact grants (oil and gas impact grant fund)	4,896,536	4,888,100	4,888,100	4,888,100	4,888,100	5,888,100
Grants to airports (Aeronautics Commission special funds collections)	1,370,000	1,570,000	1,820,000	1,962,500	2,447,126	2,950,000
Indian welfare assistance to counties (Department of Human Services "retained" funds)		1,654,654 ²	2,068,007 ²	1,964,607	1,964,607	1,964,607
Motor vehicle fuel tax and registration fee allocations ⁵	109,158,411	112,600,000	116,500,000	118,400,000	129,600,000	130,100,000
Telecommunications tax allocations		8,400,000	16,800,000	16,800,000	16,800,000	16,800,000
Coal severance tax allocations ⁶	15,818,453	15,235,854	14,885,000	15,800,000	15,400,000	16,000,000
Coal conversion tax allocations ⁶	5,598,165	5,491,282	6,620,022	7,283,433	7,502,657	7,494,000
Oil and gas gross production tax allocations ⁷	20,544,237	36,028,096	31,843,672	42,836,649	55,785,783	45,717,861
Cigarette tax allocations ⁸	3,003,298	2,813,712	2,623,000	2,608,771	2,810,000	2,996,000
Total special funds (excluding school-related funding)	\$221,315,700	\$260,843,645	\$279,423,062	\$302,144,283	\$341,994,104	\$343,569,270
Total major direct assistance to political subdivisions (excluding school-related funding)	\$233,073,561	\$273,152,259	\$306,917,295	\$328,389,055	\$368,566,393	\$383,653,505

School-related assistance to political subdivisions

1997-99

2001-03

2003-05

2005-07

2009-11

General fund appropriations - School-related funding
State school aid per student formula payments
Teacher compensation payments to school districts
Special education - Gifted and talented per student payments
School district reorganization bonuses
Educational Technology Council grants
Special education
Revenue supplement payments to school districts
Transportation aid payments to school districts
Special education contracts
Average daily membership and declining enrollment payments
Joint powers agreement incentives
Technology reimbursement payment to schools
Vocational education
School food services
Adult education
School district antivirus licenses
School district information technology network costs

	\$468,356,259	\$479,006,259	\$473,971,848	\$489,379,990	\$484,053,759
	1,000,000	6,000,000	1,865,000	500,000	37,000,000
	40,550,000	46,800,000	922,822	512,822	759,000
	3,100,000	3,100,000	49,898,895	578,590	800,000
			2,200,000		
		3,500,000			
	5,000,000				
	8,922,014	9,520,929	9,573,929	10,386,541	13,317,216
	1,100,000	1,080,000	1,080,000	1,080,000	1,080,000
	900,000	900,000	900,000	920,000	1,055,000
					210,900
					280,900
					852,898
Total general fund - School-related funding	\$528,928,273	\$549,707,188	\$575,248,094	\$609,532,048	\$647,891,729
Percentage of total general fund appropriations	34.9%	34.0%	33.3%	33.5%	32.4%
					29.2%

Special fund appropriations and revenue allocations - School-related funding

State tuition fund distributions	\$49,273,144	\$53,528,217	\$67,239,025	\$69,495,371	\$71,600,000
Grants for adult education programs (displaced homemaker fund)		237,500	240,000	240,000	240,000
Total special funds - School-related funding	\$49,273,144	\$53,765,717	\$67,479,025	\$69,735,371	\$71,840,000
Total major school-related assistance to political subdivisions	\$576,201,417	\$603,472,905	\$642,727,119	\$679,267,419	\$719,731,729
Total general fund assistance to political subdivisions	\$538,686,134	\$562,015,802	\$602,742,327	\$635,776,820	\$674,464,018
Total special fund assistance	\$270,588,844	\$314,809,362	\$348,902,087	\$371,879,654	\$413,834,104
Total major direct assistance to political subdivisions	\$809,274,978	\$876,825,164	\$949,844,414	\$1,007,656,474	\$1,088,298,122

¹ Consists of \$720,000 of state funding to providers for matching federal Title III funds and \$1,282,945 for senior mill levy match for the 2001-03 biennium. Of the 2001-03 biennium total, \$1,412,945 is from the general fund and \$250,000 is from the health care trust fund. The 2003-05 appropriation consists of \$720,000 of state funding to providers for matching federal Title III funds and \$1,682,945 for senior citizen mill levy match. The 2005-07 appropriation consists of \$720,000 of state funding to providers for matching federal Title III funds in the Department of Human Services.

² The 1997 Legislative Assembly appropriated an additional \$619,000, for a total of \$1,059,000 from the general fund, to reduce the impact on Indian counties of House Bill No. 1041, which provided for a "swap" of state and county human services financial responsibilities. For the 1999-2001 biennium the Legislative Assembly appropriated \$121,768 from the general fund and \$1,654,854 of "retained" funds for a total of \$1,776,622. For the 2001-03 biennium the Legislative Assembly appropriated a total of \$2,525,000, of which \$458,983 is from the general fund and \$2,066,017 is from "retained" funds.

³ The Legislative Assembly provides funding from the general fund for the statewide information technology network connections for kindergarten through grade 12 and public libraries, net of an e-rate credit.

⁴ The 1987 Legislative Assembly in House Bill No. 1580 provided that .8 of an equivalent of 1 percent of the sales, use, and motor vehicle excise tax shall be deposited into the state aid distribution fund to be used beginning July 1, 1988.

The 1997 Legislative Assembly in House Bill No. 1019 reduced the .6 to .4 of an equivalent of 1 percent of the sales, use, and motor vehicle excise tax to be deposited into the state aid distribution fund beginning January 1, 1999. The Legislative Assembly also added a continuing appropriation so all revenues deposited into the state aid distribution fund are appropriated for payments to political subdivisions. The change also eliminated the 50 percent for personal property tax replacement and 50 percent for revenue sharing and instead provided that 53.7 percent of the revenues in the fund be distributed to counties and 46.3 percent of the revenues be distributed to cities.

⁵ The gas tax allocation is based on the provisions that collection equivalent to one cent per gallon is allocated to townships and 37 percent of the money in the highway tax distribution fund is allocated to counties and cities.

⁶ Beginning in the 2001-03 biennium the coal severance tax allocation is based on the provision that 70 percent of the tax revenue is allocated among coal-producing counties. Previously, 35 percent had been allocated to coal-producing counties.

⁷ Beginning in the 2001-03 biennium the coal conversion tax allocation is based on the provision that 15 percent of the tax revenue is allocated to the county in which the plant is located. Previously, 35 percent had been allocated to the county in which the plant is located.

and gas gross production tax allocation is based on a formula which provides for a varying percentage of the total amount of production tax revenue generated by the county. The total a county may receive is capped based on the population of the county.

9 The cigarette tax allocation is based on the provision that 3 cents per regular package and 3.75 cents per larger package are distributed to cities based on population.

10 Based on the 2001-03 general fund appropriation, excluding state agency allotments.

11 The 2005 Legislative Assembly removed the senior citizen mill levy matching grant program from the Department of Human Services and provided, in Senate Bill No. 2287, that the State Treasurer distribute senior citizen mill levy matching grants pursuant to a continuing appropriation from the senior citizens' services and programs fund. The fund consists of sales and use and motor vehicle excise tax collections equivalent to two-thirds of one mill levied statewide each year.

MAJOR STATE APPROPRIATIONS AND REVENUE ALLOCATIONS FOR DIRECT ASSISTANCE TO POLITICAL SUBDIVISIONS COMPARISON OF 2007-09 BIENNIUM APPROPRIATIONS AND ALLOCATIONS AND 2009-11 BIENNIUM EXECUTIVE RECOMMENDATIONS

	2007-09 Appropriations/ Revenue Allocations	2009-11 Executive Recommendation	2009-11 Recommended Increase (Decrease) Compared to 2007-09 Appropriation	2009-11 Recommended Percentage Increase (Decrease) Compared to 2007-09 Appropriation
General fund appropriations				
State school aid per student formula payments	\$649,965,879	\$751,625,879 ¹	\$101,660,000	15.6%
Educational Technology Council grants	800,000	604,750	(195,250)	(24.4%)
Transportation aid payments to school districts	33,500,000	38,500,000	5,000,000	14.9%
Special education contracts	17,500,000	15,500,000	(2,000,000)	(11.4%)
Vocational education	14,165,749	14,400,000	234,251	1.7%
School food services	1,080,000	1,380,000	300,000	27.8%
Adult education	1,055,000	1,055,000	0	0.0%
Grants to public libraries	1,200,000	1,300,000	100,000	8.3%
Library Vision 2010 grants	237,500	237,500	0	0.0%
Homestead tax credit	8,104,000	5,964,000	(2,140,000)	(26.4%)
Aid to health districts	1,900,000	1,900,000	0	0.0%
Matching funds to counties and cities for senior citizen programs	1,000,000	1,106,400	106,400	10.6%
Indian welfare assistance to counties	955,124	1,409,603	454,479	47.6%
State administration of child support enforcement	7,105,247	4,663,599	(2,441,648)	(34.4%)
Boys and girls clubwork	53,000	53,000	0	0.0%
Soil conservation district grants	730,000	737,800	7,800	1.1%
Noxious weed control	67,817	67,817	0	0.0%
Payments in lieu of taxes on carbon dioxide pipeline property	1,365,000	1,211,000	(154,000)	(11.3%)
Clerk of court	13,987,187	15,376,816	1,789,629	13.2%
Grants to airports	550,000	550,000	0	0.0%
Statewide information technology network costs	3,413,972	5,568,970	2,154,998	63.1%
School district antivirus licenses	2,722,348	7,252,679	4,530,331	166.4%
Total general fund	\$761,057,823	\$870,464,813	\$109,406,990	14.4%
Percentage of total general fund appropriations	30.9%	28.0%		
Special funds appropriations and revenue allocations				
State school aid per student formula payments (state tuition fund)	\$76,200,000	\$85,500,000 ¹	\$9,300,000	12.2%
Grants for adult education programs (displaced homemaker fund)	240,000	250,000	10,000	4.2%
Noxious weed control	1,646,408	1,646,408	0	0.0%
State aid distribution funds to cities and counties	106,543,310 ²	110,920,695	4,377,385	4.1%
Public transportation services (public transportation fund)	5,700,000	7,803,754 ³	2,103,754	36.9%
Insurance tax to fire departments (insurance tax distribution fund)	6,200,000	6,200,000	0	0.0%
Gaming enforcement grants	617,000	617,000	0	0.0%
Community health grant program (community health trust fund)	4,700,000	2,180,371	(2,519,629)	(53.6%)
Tobacco education and cessation program grants (community health trust fund)	260,000	0	(260,000)	(100.0%)
Matching funds to counties and cities for senior citizen programs	2,297,942 ⁴	2,867,000 ⁴	369,058	16.1%
Energy development impact grants (oil and gas impact grant fund)	5,888,100	19,700,000 ⁵	13,811,900	234.6%
Grants to airports (Aeronautics Commission special funds collections)	2,950,000	5,280,000	2,330,000	79.0%
Indian welfare assistance to counties (Department of Human Services "retained" funds)	1,964,607	1,964,607	0	0.0%

2009-11

	2007-09 Appropriations/ Revenue Allocations	2009-11 Executive Recommendation	2009-11 Recommended Increase (Decrease) Compared to 2007-09 Appropriation	Recommended Percentage Increase (Decrease) Compared to 2007-09 Appropriation
Motor vehicle fuel tax and registration fee allocations	130,100,000 ^a	179,486,340 ^a	49,386,340	38.0%
Telecommunications tax allocations	16,800,000 ⁷	16,800,000 ⁷	0	0.0%
Coal severance tax allocations	15,341,000	15,284,000	(57,000)	(0.4%)
Coal conversion tax allocations	6,635,592	5,535,392 ^b	(1,100,200)	(16.6%)
Oil and gas gross production tax allocations	80,850,073 ^c	75,167,213 ^c	(5,682,860)	(7.0%)
Cigarette tax allocations	3,132,474	2,520,000 ^b	(612,474)	(19.6%)
Financial institution tax allocations	20,000,000	23,750,000	3,750,000	18.8%
Total special funds appropriations and revenue allocations	\$488,066,506	\$563,272,780	\$75,206,274	15.4%
Total major direct assistance to political subdivisions	\$1,249,124,329	\$1,433,737,593	\$184,613,264	14.8%

*NOTE: This amount is based on the Office of Management and Budget's December 2008 revenue forecast. The forecast bases individual counties' maximum allocations on historic allocations; therefore, individual county amounts may vary based on actual oil price and oil production within each county for the second year of the 2007-09 biennium and for the 2009-11 biennium.

¹ The Office of Management and Budget anticipates additional funds may be available from the tuition apportionment fund and intends to introduce an amendment to the Department of Public Instruction appropriation bill, House Bill No. 1013, to make a funding source change of \$800,000 of funding for state school aid from the General fund to special funds.

² Revised 2007-09 estimate, the original estimate was \$90,669,528.

³ The 2009-11 public transportation services recommendation is based on the executive recommendation providing for a \$120 million transfer from the general fund to the highway tax distribution fund and an allocation of 1.53 percent of the money in the highway tax distribution fund for public transportation services.

⁴ The 2005 Legislative Assembly removed the senior citizen mill levy matching program from the Department of Human Services and provided, in Senate Bill No. 2267, that the State Treasurer distribute senior citizen mill levy matching grants pursuant to a continuing appropriation from the senior citizen services and programs fund (NDCC Section 57-15-56(5)). The fund consists of sales and use and motor vehicle excise tax collections equivalent to two-thirds of one mill levied statewide each year (Section 57-39.2-26.2).

⁵ The 2009-11 executive budget recommends increasing the cap on allocations of oil and gas gross production taxes to the oil and gas impact grant fund from the current level of \$6 million to \$20 million.

⁶ The 2007-09 gas tax allocation is based on the provisions that collection equivalent to one cent per gallon is allocated to townships and 37 percent of the money in the highway tax distribution fund is allocated to counties and cities. The 2009-11 allocation is based on the executive recommendation providing for a \$120 million transfer from the general fund to the highway tax distribution fund and that 35.19 percent of the money in the highway tax distribution fund is allocated to townships, cities, and counties.

⁷ The Tax Department is projecting that approximately \$20 million of telecommunications taxes will be collected during the 2007-09 biennium. Of this amount, \$16.8 million will be allocated to counties and \$3.2 million will be deposited in the general fund. The Tax Department estimates collections for the 2009-11 biennium to be \$20 million, of which \$16.8 million would be allocated to counties and \$3.2 million would be deposited in the general fund.

^a Per the Office of Management and Budget's December 2008 executive budget forecast.

#3

REFERRAL OPTIONS FOR POLITICAL SUBDIVISION PROPERTY TAX LEVIES

This memorandum explores possible changes to existing law which would allow voters more direct control through some form of referral process governing increases in property taxes, with minimal disruption to existing political subdivision budget preparation and deadlines.

It appears there is no authority under existing law for referral of budget and tax levy action of political subdivisions. This memorandum explores options to allow voter disapproval of budgets and levies to school districts, counties, and cities because these three kinds of political subdivisions levied more than 92.3 percent of property taxes statewide in 2006 and these subdivisions have the capacity to independently conduct elections.

The deadline for adoption of a tax levy for purposes of the budget for counties is the first week in October (North Dakota Century Code (NDCC) Sections 11-11-05 and 11-23-05). The deadline for adoption of a preliminary budget for cities is September 10 (Section 40-40-04). The deadline for adoption of a final budget and tax levy by cities is October 7 (Sections 40-40-06 and 40-40-09). The deadline for adoption of a school district tax levy is August 15 (Section 57-15-13). The deadline for amending a budget for all taxing districts is October 10 (Section 57-15-30.1).

From the October 10 deadline for amending budgets until December 10, the county auditor is required to spread tax levies against every parcel of taxable property in the county and prepare tax lists. By December 10, the county auditor must deliver tax lists to the county treasurer (NDCC Section 57-20-06). Upon receipt of the tax lists, the county treasurer must prepare property tax statements and mail them to property owners by December 26 (Section 57-20-07.1). It appears that providing minimal disruption of existing budget and tax administration processes would require leaving the final deadline for amendment of budgets and tax levies at approximately October 10.

To provide a means of voter referendum on budgets and levies would require establishing timeframes for necessary procedures by "counting back" from October 10 a sufficient number of days to allow the necessary procedures in a referral process to occur. Obviously, existing deadlines for adoption of budgets would not allow sufficient time for a referendum process to occur before the October 10 deadline for amending budgets. A method to resolve this problem could be a requirement that at an earlier date a school district, county, or city must adopt a preliminary budget specifying the revenue to come from property taxes and a provision that the final budget could not exceed the amount of property taxes specified in the preliminary budget. The amount of

property taxes specified in the preliminary budget could then be subject to referendum by voters of the taxing district.

Because there only will be sufficient time for one opportunity for voters to approve or disapprove a preliminary budget and resulting property tax levy, it appears it would be necessary to establish the consequences if the voters disapprove the amount of property taxes to be levied under the preliminary budget. Another option for consideration may be to allow the taxing district a designated percentage increase in property taxes levied from the prior year without an opportunity for disapproval by voters. For example, if a taxing district levies not more than 2 percent more in property taxes than the amount levied in the previous year, the levy would not be subject to voter disapproval. However, if the property tax increase from the previous year exceeds 2 percent, the levy would be subject to referral by voters. If the voters disapprove through referral the amount of property tax levied in the preliminary budget, the final budget levy could be required to be rolled back to no more than 2 percent (or 1 percent or 0 percent) more than the amount levied in the prior year. If the tax levy is disapproved by the voters, time would have to be allowed for the governing body to restructure the budget based on the "rolled back" amount of revenue from property taxes. The percentages used in these examples are for illustrative purposes only.

An issue that must be considered in setting limits on property tax increases is how to address changes in the property tax base. If property tax exemptions are granted by the city or county or a previously granted exemption expires, the tax base is affected. If market values rise or fall, the tax base for residential, commercial, and centrally assessed property is affected. If various factors change in the agricultural property valuation formula, the tax base is affected.

New construction increases the tax base and may or may not be reflected in the allowable property tax increase before a referral would be allowed. If property goes back to the city or county through tax sale, the tax base is reduced. It would be advisable to consider an adjustment factor to recognize certain changes in the property tax base when setting allowable percentage increases in property taxes under a referral process.

Based on the example above, a possible timetable for necessary procedures to allow voter referral of a proposed property tax levy is:

Action	Time Allowed	Deadline to Complete
Adoption of preliminary budget		July 15
Publish notice of preliminary budget and deadline for referral	Once a week for two consecutive weeks	July 31
Circulation and filing referral petition	15 days	August 15
Determine sufficiency of petition	7 days	August 22
Prepare and print special election ballot	20 days	September 11
Publish notice of special election, allow absentees to request and return ballots, and hold election	14 days	September 25
Canvass election results	5 days	September 30
Restructure budget if referral is successful	10 days	October 10

Another option for consideration which would allow a shortened timetable and a longer time to adopt a preliminary budget would be to require a special election to obtain voter approval if the preliminary budget calls for an increase in property taxes from the prior year of more than a predetermined percentage. For example, if the preliminary budget calls for an

increase in property taxes of more than 2 percent from the prior year, the governing body would be required to place a question on a special election ballot for voter approval or disapproval of the amount to be levied. If voters disapprove the proposed amount, the proposed property tax levy increase would have to be rolled back to 2 percent (or 1 percent or 0 percent) more than the amount levied in the prior year. A possible timetable for such a procedure is:

Action	Time Allowed	Deadline to Complete
Adoption of preliminary budget		August 22
Prepare and print special election ballot	20 days	September 11
Publish notice of special election, allow absentees to request and return ballots, and hold election	14 days	September 25
Canvass election results	5 days	September 30
Restructure budget if voters reject increase	10 days	October 10

The options presented in this memorandum are for illustrative purposes and an infinite number of variables exist in how a referral process could be established. Political subdivision representatives are likely to object to any property tax referral proposal. Those objections should be reduced if such a proposal is structured to leave existing budget and tax levy processes intact to the greatest extent possible.

H4

REFERRAL OF POLITICAL SUBDIVISION BUDGETS OR PROPERTY TAX LEVIES

This memorandum was requested to summarize any opportunities under existing law for voters to refer a political subdivision budget or property tax levy. There is no statutory provision providing general authority for referral of a budget or property tax levy of a taxing district.

CURRENT LAW ON REFERRAL

Under North Dakota Century Code (NDCC)

Chapter 40-12, any ordinance adopted by a city governing body is subject to referral upon petition signed by electors equal to at least 10 percent of the vote cast in the most recent election for the executive officer of the city. Filing of a petition to refer an ordinance suspends the ordinance until the measure is voted upon. A referendum must be submitted at the next regular election or at a special election. Regular city elections are held on the second Tuesday in June in each even-numbered year (Section 40-21-02). If adoption of a budget and imposition of a property tax levy by a city is an "ordinance" within the meaning of Chapter 40-12, then those matters could be referred and submission of a referendum petition would require a special city election on very short notice to determine the issue before December 10.

It appears that with regard to the question of the legal significance of the use of the term "ordinance," courts are fairly unanimous in holding that not all action taken by a city governing body is an ordinance. It appears that a budget and tax levy are not permanent in nature and would not be considered an ordinance. Courts have generally concluded that resolutions and ordinances of cities are different because a resolution is ministerial or temporary in character while an ordinance prescribes a permanent rule of conduct of government. This appears to be the conclusion of the North Dakota Supreme Court in two cases the court has considered. The court concluded that:

A tax levy comes within none of the definitions of an ordinance. It is not a law; not a rule of action. It has no permanency It carries no command to the public generally, it is not a thing that can be violated. It has no single element of what is generally understood to be an ordinance. It never properly, and seldom in fact, assumes the form or name of an ordinance. It is generally made by a resolution of the proper body. (*Shuttuck v. Smith*, 69 N.W. 5 (N.D. 1896)).

A "resolution" is not a law or an ordinance, but merely the form in which a legislative body expresses a determination or directs a particular action. An "ordinance" prescribes a permanent rule for conduct of government, while a "resolution"

is of a special or temporary character. (*Mitchell v. City of Parshall*, 108 N.W.2d 12 (N.D. 1961)).

It appears there is no authority for referral of city budget and tax levy action. It appears there is no general authority for referendum on any decision of a board of county commissioners or school board.

TIMING ISSUES IF REFERRAL IS TO BE PROVIDED

The deadline for adoption of a budget for counties is the first week in October (NDCC Sections 11-11-05 and 11-23-05). The deadline for adoption of a budget by cities is October 7 (Sections 40-40-06 and 40-40-09). The deadline for adoption of a school district levy is August 15 (Section 57-15-13). The deadline for amending a budget for all taxing districts is October 10 (Section 57-15-31.1).

From the October 10 deadline for amending budgets until December 10, the county auditor is required to prepare tax lists. By December 10, the county auditor must deliver tax lists to the county treasurer (NDCC Section 57-20-06). By December 26, the county treasurer must mail property tax statements to property owners (Section 57-20-07.1).

If statutory provisions are to be created to allow referendum on city, county, or school district budgets and property tax levies, the timeframe for a petition and election process would be restricted by the current schedule for submitting and amending budgets. From October 10 to December 10, the county auditor does a significant amount of work to complete the tax lists for delivery to the county treasurer. A referendum petition and election process would be extremely compacted to be completed before December 10 and, even if that is possible, it may be impossible for the taxing district to revise its budget and levy and the county auditor to change the tax lists after a referendum election if the December 10 deadline is to be observed.

It appears it would be necessary to establish earlier deadlines for adoption of budgets or require adoption of a preliminary budget at an earlier date to allow adequate time for a referral process. Time would be needed to make taxpayers aware of the budget as adopted, to circulate referral petitions, and to set up and conduct a special election. If the process could be completed by October, it should allow time for necessary budget revisions by the current October 10 deadline without disrupting the schedule under current law for turning budgets into taxes by December 10.

It appears that establishing a budget referral process would allow time for only one chance for voters to disapprove a budget. The question after

disapproval would be what limits does that impose on adoption of a revised budget. Successful referral of a budget would not by itself result in a reduced budget.

Scheduled times for political subdivision elections may also be an issue regarding budget referral. Regular city elections are held on the second Tuesday in June of even-numbered years. School districts must hold annual elections between April first and June thirtieth, and may hold an election in conjunction

with the city. County elections are held in conjunction with statewide general elections. Township elections are held in March.

An alternative to budget referral might be to establish an opportunity for citizens to use a variation of an initiative process, which if approved by the voters would impose a limit on the amount a political subdivision could budget or levy in property taxes.

#4

TESTIMONY TO THE
HOUSE POLITICAL SUBDIVISIONS COMMITTEE
Prepared by Kevin J. Glatt, Burleigh County Auditor/Treasurer

HOUSE BILL 1473

Mr. Chairman and members of the committee, I appear before you to express my opposition to HB1473.

- Developing a budget 15 months to 27 months in the future will be very challenging and will require a great deal of estimation and speculation – especially on big ticket items such as ENERGY COSTS & HEALTH INSURANCE. *The past 12 months has shown how dynamic – how fast things change in today's global economy.*
- Many county costs are directly affected by Legislative action, and in October of 2008, we would have had no idea of how much the 2009 Legislature would impact our 2010 budget.
 - If the Legislature adopts a new PERS Insurance Contract, counties must pay or go elsewhere,
 - If the Department of Human Services budget includes changes to county participation rates (Foster Care change in 2007) counties simply pay,
 - If state salary ranges are changed by the Legislature (2007) county social service salary ranges are automatically adjusted up,
 - If the Legislature adds a new property tax exemption that is left unfunded (disabled veterans) the taxes on all other property must go up,
 - If the Legislature enacts changes to the PERS retirement contribution rate, counties must pay or discontinue its retirement program,
- While the time periods for notice, petition filing and election are more flexible in this bill than HB1454, one or more special elections may be required at considerable cost. The last election held in Burleigh County cost \$82,000 to conduct. ALL PROPERTY TAXES.

Mr. Chairman, members of the House Political Subdivisions Committee I respectfully request a do not pass for HB1473.

Thank You.

Kevin J. Glatt
Burleigh County Auditor/Treasurer

1 **North Dakota House of Representatives**

2 **Political Subdivision Committee Hearing 1/30/2009**

3 **City of Fargo Testimony on HB 1473 by Kent Costin, Director of Finance**

4 Honorable Chair Wrangham and members of the Political Subdivision Committee. The City of
5 Fargo is opposed to House Bill 1473 and would like to share some real life examples and
6 concerns about the impact of this bill.

7

8 My testimony this morning during HB 1454 is also relevant to this bill with regard to the bi-
9 ennial budget cycles and the need for a public vote on political subdivision budgets. We
10 expressed concerns about increasing administrative costs in the budget development process
11 and the need for further taxpayer transparency before a mandate as proposed in this bill.

12

13 The process described in this bill seems unmanageable. For instance, let's say that there is a
14 voter petition that is successful to vote on each political subdivision preliminary budget. The
15 taxpayer would have to have working knowledge of up to six political subdivision budgets to
16 make an informed vote. Currently, the Fargo Board of Education, Cass County, City of Fargo,
17 City of West Fargo, Fargo Park District, Southeast Cass Water District, and the Kindred Schools
18 levy tax on properties within the City of Fargo. The Fargo Board of Education currently
19 consumes about 65% of the total tax dollars levied so it would be logical that a taxpayer would
20 focus most exclusively on that portion of their budget review. All of the other taxing entities
21 consume a much smaller share of the tax burden. The City of Fargo's share of the
22 consolidated mill levy is about 12% of the total tax bill.

23

24 We think that some of the taxing entities which currently levy taxes might be unduly restricted
25 simply because taxpayers would need to spend significant time to fully understand budget
26 proposals and the impact on their services. There is a real risk of an uninformed vote that

could have a detrimental impact on our community services currently being provided by many different taxing entities.

The other clause of this bill which appears arbitrary is that it allows voters to increase budgets by up to ten percent, or reduce then by up to five percent. This may have the impact of delaying major capital projects needed in growing communities. A great example of how a capital project might impact overall budget growth is currently underway in Fargo. The City Commission approved moving ahead with a new fire station needed to protect the rapidly growing south Fargo neighborhoods. The overall new construction cost of the Fire station, the fire truck, and the twelve firefighters that staff this facility 24/7 have a direct impact on our budget growth. The initial capital costs to build the facility, plus the first year's operational costs are in excess of \$4 million. This calculates to about 6% of our approved General Fund budget of \$66.4 million. The cost of fire protection is just one example of basic public safety services that needs to be adequately funded.

Local elected officials are most informed about City-wide needs and long term plans. We feel that voter intervention in the budget development would have a negative impact on our operations.

We urge a DO NOT pass on this bill and would welcome any questions.

Thank you for this opportunity to testify.

Mr. Chairman and members of this committee,

My name is Brett Narloch. I'm the executive director of the North Dakota Policy Council, a liberty-based think tank in Bismarck. I rise today not to support or oppose any proposed legislation but to deliver some information that we've gathered about public participation in the political process.

On December 20, the North Dakota Policy Council, along with several other organizations, held the first Public Policy Institute. There, elected leaders at every level of government stated their hope that the public would become more engaged in the political process.

After talking to many of the more than 70 citizens that showed up at the event I got the distinct impression that the public feels very disconnected from their local leaders and the local political process. Almost everyone I talked to mentioned that they have very little information about their local government and that even if they did they do not feel like contacting their local leaders will help solve any of their problems or answer any of their questions. In other words, they feel like their local leaders aren't accountable to them. There is a tremendous amount of apathy... apathy that elected leaders told us they want to eliminate.

Will HB1454 bring more people into the political process? Will it bring more accountability to the process? Will it cure the level of apathy among citizens? We think it will, but ultimately that is for this committee to decide. The people are looking for ways to become more involved and it's up to this committee to deliver the people the tools to get them involved.

Mr. Chairman, that concludes my testimony, and I would be happy to answer any question you might have.

North Dakota Taxpayers' Association - PAC

Friday, January 30th, 2009

HB 1473

Mr. Chairman, and Members of the Committee,

North Dakota prides itself as one of the most citizen friendly states for initiating and referring legislation.

House Bill 1473 seeks to expand that openness by giving local residents the ability to refer local budgets.

This will give local voters and local taxpayers the ability to challenge the budgeting process made at the local level.

This benefits local officials by allowing them to make their case to their constituents that their budgeting decisions are proper and publicly supported.

Anyone who opposes state imposed property tax caps should love this bill as it gives local citizens the ability to cap local budgets rather than the state doing it. If I was a city commissioner, I'd much rather have to answer to my own voters than to the state legislature.

House Bill 1473 empowers taxpayers, it empowers voters, it empowers homeowners, and it empowers local officials.

-Dustin Gawrylow, Executive Director (Lobbyist # 198)

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1473

Page 1, line 2, after "to" insert "approval by voters of requirements for"

Page 1, line 8, after the boldfaced underscored period insert "This section becomes effective for a city, county, or school district upon approval by a majority of the qualified electors of the city, county, or school district voting on the question at a regular or special election of the city, county, or school district. The question of placement on the ballot of the question of applying the provisions of this section in the city, county, or school district may be placed on the ballot by the governing body of the city, county, or school district or by presentation to the governing body of a petition signed by qualified electors of the city, county, or school district equal in number to ten percent of the votes cast in the most recent regular election of the city, county, or school district."

Renumber accordingly

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1473

Page 1, line 3, remove "and" and after "date" insert "; and to provide an expiration date"

Page 2, line 4, after "**DATE**" insert "- **EXPIRATION DATE**" and after "for" insert "the first four"

Page 2, line 5, after the period insert "This Act is ineffective after July 31, 2013."

Renumber accordingly