2011 HOUSE FINANCE AND TAXATION

HB 1225

2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1225
January 18, 2011
#13051

☐ Conference Committee

Committee Clerk Signature Mary Brucker

Explanation or reason for introduction of bill/resolution:

A Bill relating to the county emergency fund levy limitation; and to provide an effective date.

Minutes: *Please refer to attached testimony #1, #2, #3*

Representative Jon Nelson: Sponsor. Support. Please refer to attached testimony #1.

Vern Kongslie, McHenry County Commissioner: Support. Please refer to attached testimony #2.

Vice Chairman Craig Headland: You were able prior to the heavy snowfall we've had to build up your balance in your emergency fund and we did have a disaster and you spent it down. There are other mechanisms the state has given you to work your way through some of these things. One example I can think of is consolidation of levies. That is something that the Association of Counties has asked for but I don't think it's being used at the county level. I was wondering if you could possibly share with us why something like that wouldn't be used in this case. I think most of us understand that there are funds within county government with fairly large balances that may never be spent. Rather than putting the burden of these disasters on the backs of the property tax payers if you could use some of these other funds and we allowed it why wouldn't that be a direction the counties could go?

Vern Kongslie: Without researching that some more, we have not discussed that. I just started my second term as County Commissioner and in the last four years we really have not discussed that. It would be a possibility and I really can't answer that question fairly because we haven't discussed it. This is our third winter in a row like this plus the springs. We get a double whammy each year, not just with the snow but with the run off. We've really been hard on the emergency fund. Yes, it is a tax increase which is hard to get past. No body wants a tax increase but again, it's only a temporary tax increase. If we get some normal years then we'd be able to drop that mill levy so then the taxes would go down.

Vice Chairman Craig Headland: If, for example, legislature would decide they don't want counties to have this opportunity, how are you going to fund this emergency? Are you going to use some of the other tools? Are you going to look at some of the other tools that

have been made available such as consolidation of levies at that point rather than asking for a tax increase?

Vern Kongslie: Yes. We would have to look at whatever would be available to us. We'd have to look at other avenues. Or else the roads would go not fixed and we've had that situation happen. FEMA has been good to us but we've had some problems in getting some of the projects approved. There's been some confusion due to the fault of both the county or townships and FEMA. We had a project where a bridge had washed out and it took us a year and a half before we got it fixed again. We finally did get some FEMA assistance but then we ended up having to pay a larger portion due to the fault of both parties.

Terry Traynor, ND Association of Counties: Please refer to testimony #3.

Chairman Wesley R. Belter: Other than this emergency mill levy what other avenues are available to the counties to raise funds for this type of emergency?

Terry Traynor: I know of none without having to come to the legislature. The counties with the exception of the general fund the rest of the mill levies are dedicated for specific purposes. Now should the disaster be related to roads they could certainly by law use the road levies for that purpose but of course their road levies are pretty much dedicated to their regular maintenance budget. To use that money for emergencies would shorten their construction and maintenance for the summer that follows. The only undesignated fund that counties have is their county general fund which is also capped. At least 39 counties are at their cap so they can't raise that levy any further other than raising more dollars if valuations go up at an incremental basis. They do not have the ability to add mills on that to raise more funds.

Chairman Wesley R. Belter: Could the counties go to a vote of the people and ask for an increase in mill levies for this type of situation?

Terry Traynor: Currently, not under a statutory environment. If they chose to go to a home rule charter then they would have the ability to establish whatever mill levies they have. I believe two counties have done that, Cass being one, where they established a home rule charter that allowed them to do a consolidated general fund levy that they set at 75 mills. That levy is available for whatever statutory purposes are allowed under law.

Vice Chairman Craig Headland: I remember a few sessions back when you were in here testifying on behalf of a bill that would allow for consolidation of levies. To my recollection it was that these very types of issues that come up unexpectedly that was a justification of that being allowed and nobody has used it but one or two counties. The majority of them have chosen not to go that direction and I'm just wondering why?

Terry Traynor: I recall what you're talking about, it was a 2003 session. The bill number was 1024. It consolidated I believe 25 dedicated levies into the general fund and then established a statutorily allowed maximum of 134 mills. That was passed. That's outside of home rule. The counties that have done it through home rule is a different process but this was a process that could be accomplished by the county commission through their

motion was subject to referral of the citizens. Shortly after you adjourned the county auditors looked at implementing this but discovered a flaw in the legislation and we came back in the 2005 session HB 1025 to correct that flaw. That bill was not successful. Essentially what happened in the bill when you consolidated your levies you consolidated them at whatever the sum total of those 25 levies were at that time? If the total was 79 mills that was what your levy was. The ability to move off those 79 mills was very restricted and the county auditors advised their commissioners that they were actually better off and had more flexibility with the current situation of the multiple levies. Because the corrected language didn't pass in 2005 no one has adopted that.

Vice Chairman Craig Headland: From my recollection, it that all tied to the CPI? What were the restrictions that were not acceptable?

Terry Traynor: That's my recollection, that it's tied to the CPI and the concern was as we've seen, we've had close to or possibly CPI which would drive their general fund down rather than up.

Vice Chairman Craig Headland: I can understand if it's going to limit their ability to generate more dollars because they're going to be capped at something that doesn't change. Would it be more proper for us to look at something in that direction that would give them the ability to grow at a reasonable rate versus something we know is just a tax increase? I know there are counties that have dedicated mills that have just a tremendous reserve with those mills. There's no mechanism or no desires by commissions to stop collecting that money. I think it could be used for situations like this and I think the property taxpayer would appreciate some of that.

Terry Traynor: I think there are two different issues. The emergency fund wasn't in the consolidated levy, specifically all those levies that were triggered by such things as a declaration of emergency or the judgment levy that is triggered by a court judgment against the county or the emergency poor levy. Those things were not included in that because they had specific statutory triggers or limitations on that. I think counties would be reluctant to have this as part of their general fund because this is a specific provision to allow them to build up money to have it on hand when an emergency is declared. I think if they are trying to use the general fund for this purpose it would be very difficult to reserve that money on the side.

Representative Glen Froseth: I've always wondered about a question. In McHenry County one mill generates $26,000, that's today's valuation. Next year's valuation goes up one mill and generates $30,000. So you have a $4,000 increase in that valuation of that mill. Say you've reached the limit on the mills. Can you then add $40,000 to this fund because those mills are worth more or is that fund frozen at the level where it reached 10 mills?

Terry Traynor: It's my understanding that state law would allow you then to levy then the .2 mills or whatever it takes to incrementally keep that fund topped off but you could not levy to go beyond that.

Representative Glen Froseth: It would keep the fund at the current valuation?

Terry Traynor: Yes.

Vern Kongslie: I just wanted to add a bit more to that. The counties as far as using other levies, it's hard to do right now. The general fund is being taxed extremely hard because we had eight mortar graters in McHenry County. We have about 2,000 miles of road. Last year we budgeted a little over $1 million to operate those eight blades in county road and bridge fund. Also, the bridges have to be repaired and so forth. Our bridge repair is way behind. We've got bridges that we probably shouldn't be crossing. We have weight limits on them that need to be fixed but we don't have the funds. We went over our county road and bridge fund by about $150 some thousand in 2010 and we had to adjust that and take the money from the highway distribution fund we received. We have 90 miles of county pavement and we use those funds to try and keep that pavement in repair. We're just going deeper and deeper farther behind. I know tax increase is a dirty word to the taxpayer. I'm a taxpayer too. I own part of a ranch and some homes in McHenry County. I pay taxes too. But without the roads we might as well throw our farms and ranches away and our houses away because they aren't going to be worth anything. We may have to pay more in order to keep our roads going.

Larry Syverson, President of ND Township Officers Association: I would like to support this bill. We support the counties being able to maintain this response fund. We think it's very important for the rural residents.

Chairman Wesley R. Belter: No further testimony in support. No opposition to this bill. No neutral testimony. Closed hearing on HB 1225.

2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1225
January 24, 2011
#13324

☐ Conference Committee

Committee Clerk Signature Mary Brucker

Explanation or reason for introduction of bill/resolution:

A Bill relating to the county emergency fund levy limitation; and to provide an effective date.

Minutes: *See attached amendments.*

Chairman Wesley R. Belter: Passed out amendments (please refer to attached amendments). These are the amendments Representative Owens had prepared.

Representative Glen Froseth: Made a motion to move the amendments.

Representative Bette Grande: Seconded.

Representative Scot Kelsh: My only concern would be that if it is truly an emergency that setting up and conducting an election may not give the county or subdivision enough time to be able to respond to the emergency. My suggestion would be to put a sunset on this and revisit it in two years instead of requiring an election and that way the emergency would have passed and we can reduce the rate back to 2 mills.

Representative Glen Froseth: They wouldn't be able to assess this levy until after the next taxing year anyway so it wouldn't matter as far as snow removal for this winter. They wouldn't be able to enact this mill levy increase quick enough to get any revenue from it to handle this anyway at this time. It would be taxable years after December 31 so it would be on the 2011 taxable year which taxes aren't paid until February 2012. The sunset would allow it to be revisited in two years but as far as collecting the revenue I don't think it would matter at all.

Vice Chairman Craig Headland: I understand the need for more dollars to help get through these emergencies but we have given counties the ability to move levies around and to consolidate and they've chosen not to do it. They instead ask the taxpayer for more money. I'm not so sure that I'm going to support this bill even if we do amend it.

Representative Glen Froseth: the soonest they could vote on it would be June wouldn't it? So if they approve it at the June election it could go into affect 2011 taxing year anyway.

Representative Patrick Hatlestad: I think they would have to wait until the bill becomes law before they could schedule an election unless we put an emergency clause on it.

Representative Lonny B. Winrich: If they held an election in 2011 it would have to be a special election and would cost the county more money. We're expecting our counties to do a lot with no money.

Chairman Wesley R. Belter: This mill levy has been in effect for a long time and the counties are receiving the benefit of increased property valuations like everybody has. This is an emergency fund but doesn't necessarily designate that you're doing it because you have an emergency it's an ongoing fund for emergency purposes.

Representative Lonny B. Winrich: The problem is that it's inadequate. The counties have depleted their emergency funds. There is no money in those accounts.

Vice Chairman Craig Headland: This is the very type of thing that the Association of Counties used as an example as why we should give them the authority. Again, I think they have authority to consolidate levies into the general fund so they have the ability to use excess funds. If we looked I think we would find that most counties have the funds and they should use those funds first before we tax the property owner more.

Representative Roscoe Streyle: I spoke to the Ward County engineer on Saturday and they are maxed at 5 mills. They can levy up to $800 and some thousand. They've got a ¼ million or less in there. I see this as county specific; I don't see this being a statewide problem. It certainly isn't a problem for Ward County even though it's a little larger than others.

A voice vote was taken: MOTION CARRIES.

Chairman Wesley R. Belter: What are your wishes on HB 1225?

Representative Glen Froseth: Motion for DO PASS.

Representative Patrick Hatlestad: Seconded.

Representative Dwight Wrangham: I would hope we would defeat this as property taxes have been a sore spot with the citizens for a long time. Here we are more than doubling the amount of mills allowed. Even though they have to go to a vote I am still going to oppose this.

Vice Chairman Craig Headland: I am also going to oppose this bill for the reasons I stated previously.

Representative Shirley Meyer: We're faced with such a unique situation in the last three years. I'm thinking this spring isn't going to be any better. It varies across counties but what are you going to do? I don't know what we in Dickinson are going to do as we are over our monies allocated for emergencies and we have another 10-12 inches of snow. I have no clue on how you deal with this in smaller counties who are impacted year after

year. We're going on the third year of a disaster and emergencies and this spring will be just another whopper.

A roll call vote was taken: YES 7 NO 5 ABSENT 2
MOTION CARRIED—DO PASS AS AMENDED
Representative Scot Kelsh will carry HB 1225.

FISCAL NOTE STATEMENT

House Bill or Resolution No. 1225

This bill or resolution appears to affect revenues, expenditures, or fiscal liability of counties, cities, or school districts. However, no state agency has primary responsibility for compiling and maintaining the information necessary for the proper preparation of a fiscal note regarding this bill or resolution. Pursuant to Joint Rule 502, this statement meets the fiscal note requirement.

Becky Keller
Senior Fiscal Analyst

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Title.02000

Prepared by the Legislative Council staff for
Representative Owens
January 20, 2011

VIC
1/25/11

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1225

Page 1, line 8, remove the overstrike over "~~two~~" and remove "five"

Page 1, line 8, after "mills" insert ", which may be increased to five mills if approved by a majority of the electors of the county voting on the question"

Renumber accordingly

Date: 1-24-11
Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1225

House Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Froseth Seconded By Rep. Grande

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter			Scot Kelsh		
Vice Chair. Craig Headland			Shirley Meyer		
Glen Froseth			Lonny B. Winrich		
Bette Grande			Steven L. Zaiser		
Patrick Hatlestad					
Mark S. Owens					
Roscoe Streyle					
Wayne Trottier					
Dave Weiler					
Dwight Wrangham					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____ VOICE VOTE

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

AYE NAY

MOTION CARRIES

Date: 1-24-11
Roll Call Vote # 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1225

House Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Froseth Seconded By Rep. Hatlestad

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter	✓		Scot Kelsh	✓	
Vice Chair. Craig Headland		✓	Shirley Meyer	✓	
Glen Froseth	✓		Lonny B. Winrich	✓	
Bette Grande		✓	Steven L. Zaiser	AB	
Patrick Hatlestad	✓				
Mark S. Owens	AB				
Roscoe Streyle		✓			
Wayne Trottier	✓				
Dave Weiler		✓			
Dwight Wrangham		✓			

Total (Yes) 7 No 5

Absent 2

Floor Assignment Rep. Kelsh

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

MOTION CARRIES

REPORT OF STANDING COMMITTEE

HB 1225: Finance and Taxation Committee (Rep. Belter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 5 NAYS, 2 ABSENT AND NOT VOTING). HB 1225 was placed on the Sixth order on the calendar.

Page 1, line 8, remove the overstrike over "~~two~~" and remove "five"

Page 1, line 8, after "mills" insert ", which may be increased to five mills if approved by a majority of the electors of the county voting on the question"

Renumber accordingly

2011 SENATE FINANCE AND TAXATION

HB 1225

2011 SENATE STANDING COMMITTEE MINUTES

Senate Finance and Taxation Committee
Lewis and Clark Room, State Capitol

HB 1225
3/2/2011
Job Number 14817

☐ Conference Committee

A. Rittmiller

Explanation or reason for introduction of bill/resolution:

Relating to the county emergency fund levy limitation

Minutes:

Chairman Cook opened the hearing on HB 1225.

Representative Jon Nelson – (See attached testimony A in favor of HB 1225)

Terry Traynor, North Dakota Association of Counties - (See attached testimony B in favor of HB 1225)

Chairman Cook – So you're not proposing any changes to the caps and the amount of money that a county can have, you are just trying to change it so they can reach that level quicker.

Terry Traynor, North Dakota Association of Counties – That is absolutely correct.

Chairman Cook – When this money that is used for county emergency, that is used in the county only?

Terry Traynor, North Dakota Association of Counties – It's supposed to be used only for the county. My understanding is that counties extend that to the townships at least in the situation of FEMA repairs and things that are of emergency nature with the idea that townships will be able to pay it back in the future. I think technically it's to be used for the counties infrastructure according to that law.

Chairman Cook – Do cities have their own emergency funds similar to this?

Terry Traynor, North Dakota Association of Counties – I believe they do but I won't answer with any certainty.

Vice Chairman Miller – What's the penalty for accumulating more in your fund balance? What could happen there if they had more money than they are statutorily allowed?

Terry Traynor, North Dakota Association of Counties – That is one of the things that the auditor will look at. They look at all the fund to make sure they are within the statutory requirements. If they were not, they would presumably have to rectify that in the coming year.

Vice Chairman Miller – Should there be some sort of different mechanism?

Terry Traynor, North Dakota Association of Counties – The mill rate relates to the individual properties and what is going to be taxed against them so I could see where there is value in that so no one individual property is burdened too greatly at any one time.

Vice Chairman Miller – I was thinking something more on a percentage of their total budget as opposed to 15 mills.

Sandy Clark, North Dakota Farm Bureau – Our only comment on the bill is that we oppose tax increases. When the bill was amended in the House that allowed for the vote, then we can support the bill. We believe that patrons should have an opportunity to vote if there is going to be a tax increase. We realize this is to replace dollars, but, no matter how you do it, it's still going to be a tax increase. We support the ability to vote.

Senator Dotzenrod – The caps that are in pace right now, they can only be arrived at by having these taxes of some form. The 2 mills or 3 mills or 5 mills, etc. There is going to have to be some taxes in place to get up to the cap. Is your organization fine with the way that the legislature has set these caps up and that the emergency funds are there and counties can have these funds and they are generated with local dollars?

Sandy Clark, North Dakota Farm Bureau – That's not something that we have examined a great deal but we don't have a problem with the way that's established.

Chairman Cook asked for testimony opposed to HB 1225. No one came forward.

Chairman Cook asked for neutral testimony for HB 1225. No one came forward.

Chairman Cook closed the hearing on HB 1225.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Finance and Taxation Committee
Lewis and Clark Room, State Capitol

HB 1225
4/4/2011
Job Number 16318

☐ Conference Committee

A Bitthiller

Explanation or reason for introduction of bill/resolution:

Relating to the county emergency fund levy limitation

Minutes: Committee Work

Chairman Cook opened discussion on HB 1225.

Senator Hogue – I did have a chance to talk to someone about that emergency snow money and I had the impression this morning that money was there for the asking and taking but really it's a 200% of their normal snow removal expenses and I think the House was going to change it to a 7 year formula, take out the high and the low, but I guess what I'm saying is I now got new information that tells me that money isn't freely available as I thought it was this morning. If the cities or the counties want to impose this for emergency I'm not as opposed to is as I was this morning.

Vice Chairman Miller – I think that counties have the ability to budget accordingly and I worry about creating essentially a slush fund that can be easily replenished. The whole point of the emergency fund is to use it for absolute emergencies. Counties can turn around and they can move dollars around in certain years when they have to, they can change their budgets accordingly and they do that all the time. I think it's important to recognize that too. By increasing it to 5 mills, that's over doubling it. That's a significant change.

Senator Oehlke – You're not doing anything to the total fund. You're just replenishing the fund. You're not doubling anything except the ability to get the fund replenished quicker.

Vice Chairman Miller – That's kind of my point. The point of the emergency fund is you have an absolute emergency but instead what is happening I think is that they are using the emergency funds and then not adjusting their budgets accordingly the following year and then continually using that emergency fund.

Senator Dotzenrod – I don't think it's going to be very easy for counties to put money in an emergency fund and then find ways to get that money out of there and use it for other purposes.

Chairman Cook closed discussion on HB 1225.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Finance and Taxation Committee
Lewis and Clark Room, State Capitol

HB 1225
4/4/2011
Job Number 16288

☐ Conference Committee

A. Bitthiller

Explanation or reason for introduction of bill/resolution:

Relating to the county emergency fund levy limitation

Minutes: Committee Work

Vice Chairman Miller opened discussion on HB 1225.

Senator Triplett – Just to get the conversation going I will move the amendments proposed by Terry Traynor from the Association of Counties.

Seconded by **Senator Oehlke**.

Senator Hogue – I know the bill doesn't increase their cap it just allows them to raise the money a little quicker but I wanted clarification on that and also, was the amendment that the Association of Counties offering, was that something that was considered by the House?

Terry Traynor, Association of Counties – The vote requirement wasn't on the bill when it was introduced. That was added by the House. Our amendment was just proposing to take it back to the way it was introduced.

Senator Hogue – This doesn't increase the cap though right?

Terry Traynor, Association of Counties – That is correct.

Vice Chairman Miller – So just to clarify, your amendments bring it back to the way the bill was originally introduced?

Terry Traynor, Association of Counties – That is correct.

Vice Chairman Miller – Ask the clerk to take the roll on the amendments. (3-4-0)

Chairman Cook – I will move a Do Pass.

Seconded by **Senator Hogue**.

Senator Triplett – At some level, especially for the smaller rural counties who have a hard time managing emergencies within the tight limits that we give them, the dollar amounts that they can raise are so limited that it's probably hardly even worth running an election. The cost of an election rivals the cost, the amount they could raise by the extra 3 mills. I just think we are putting unnecessary burden on our local government. They, like us, have to answer to the voters every 4 years and no one out there is a fan on raising taxes for the sake of raising taxes and certainly in the last couple of sessions the state has recognized the difficulties that the rural counties have been in.

Chairman Cook – If we move forward with what we are thinking about on HB 1194 where there would be a hearing required then we reach what we are trying to accomplish by going to a vote of the people I think through that hearing would we not? If we gave them the flexibility to go to 5 mills and they chose that election and went to 5 mills it should show up as a requirement that would be discussed during their budget hearing if we required them to have a notice of a property tax increase. That might accomplish what I thought was the value in this bill as it came from the House.

Senator Hogue – We've got a bill that was going to appropriate $35 million to help cover these emergency situations. My thought was I'd certainly be willing to be flexible in letting the counties levy mills for emergencies when we stop paying for them with state funds. My understanding of the way the process works now is they provide the evidence that they have exceeded for example their normal expenses for snow removal and we the state reimburse them to make them whole. We don't even require the property taxpayers from that county to pay it so I guess my thought is this might be appropriate if we were in fact already covering this.

Senator Dotzenrod – I think the snow removal money, I don't know what the status of that bill is either but earlier in the session it had some restrictions on it in order to get the money you had to exceed 200% of the normal snow removal budget. With the situation that we've been in the last few years they could use the last 5 years to determine what that average is.

Senator Oehlke – When you look at some of these counties, take Walsh for example, at 2 mills, $70,000 would take a significant amount of time to get to their, they can't do it in one year, they can't do it in 2 years, even 3 years wouldn't get them to $350,000. We've had back to back emergencies how many times in the last 10 years? That's something to consider as well.

Senator Triplett made a motion to table the bill.

Seconded by **Chairman Cook**.

Vice Chairman Miller – All in favor say yea, opposed? (7-0-0)

Chairman Cook closed discussion on HB 1225.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Finance and Taxation Committee
Lewis and Clark Room, State Capitol

HB 1225
4/5/2011
Job Number 16355

☐ Conference Committee

A. Bittmiller

Explanation or reason for introduction of bill/resolution:

Relating to the county emergency fund levy limitation

Minutes: Committee Work

Chairman Cook opened discussion on HB 1225.

Chairman Cook – I withdraw my motion to a Do Pass if Senator Hogue will agree to withdraw his second.

Senator Hogue – Yes, I will withdraw my motion.

Chairman Cook – We have before us HB 1225. Discussion on the amendments?

Senator Triplett – I think with emergency services, the idea of it goes beyond just road maintenance and care and includes the work on emergency managers generally and I think that for the most part those are across the board. Cities and counties work together. It may be more intense sometimes to do emergency services inside a city but certainly people who live inside a city get benefit from having roads that extend outside the city and go somewhere. If there is a flood for example the cities and counties work together to do flood protection, so they kind of have divvied up their work and most counties kind of leave the specific work that's inside a city to the city, but there is a lot of cooperation overlap and mutual beneficial work that goes on and so I just don't see that saying people who live inside the city don't have to contribute as though they weren't members of the county also. I spent my time as a County Commissioner reminding people who live inside the city of Grand Forks that they were my constituents too and the decisions I was making affected them and hopefully benefitted them and this notion that somehow we carve cities out and say they are not part of a county just doesn't seem appropriate.

Chairman Cook read from Chapter 57-15-48. I would guess these emergency funds are for the same type of disaster if one applies to a county and one applies to those things in the city and the real concern I have is that the county emergency funds that they have aren't going to pay for those same types of disasters inside of a city. That is why the city has the responsibility of taking care of them.

Senator Triplett – You are right that cities have developed and want to maintain their own streets for example and generally to a higher level than county roads are maintained, but that's not to say that the emergency services that are provided by a county don't benefit those who live inside cities too.

Chairman Cook – We are talking about emergency services, not roads or snow removal.

Senator Dotzenrod – This is a fund for a specific natural disaster as I understand it. I don't think they can pay for their emergency director out of this mill fund so the emergency services wouldn't come out of this money, these are natural disasters.

Senator Dotzenrod – If there is a major problem in Mandan, with the equipment, I assume that Morton County Highway Department has some fairly good pieces of equipment that they would make available if it was needed for an emergency that was in Mandan. Maybe I'm all wrong about it.

Chairman Cook – All I know is that what is county funds is county funds and city funds are city funds.

Senator Triplett – Where I'm from the cities and counties have worked as one team in emergency management.

Vice Chairman Miller – I will move a Do Not Pass.

Seconded by **Senator Burckhard**.

Chairman Cook – Ask the clerk to take the roll. (4-3-0)

Carried by **Chairman Cook**.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL No. 1225

Page 1, line 8, overstrike "two" and insert immediately thereafter "five" and replace ", which may be increased to five mills if approved by" with a period

Page 1, remove line 9

Renumber accordingly

Date: 4-4-11
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1225

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Triplett Seconded By Senator Oehlke

Senators	Yes	No	Senators	Yes	No
Dwight Cook – Chairman		X	Jim Dotzenrod	X	
Joe Miller – Vice Chairman		X	Connie Triplett	X	
Randy Burckhard		X			
David Hogue		X			
Dave Oehlke	X				

Total (Yes) 4 No 3

Absent 0

Floor Assignment _____

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

roll call vote on Terry Traynor proposed amendment

Date: 4-4-11
Roll Call Vote # 2

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1225

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Triplett Seconded By Senator Cook

Senators	Yes	No	Senators	Yes	No
Dwight Cook – Chairman			Jim Dotzenrod		
Joe Miller – Vice Chairman			Connie Triplett		
Randy Burckhard					
David Hogue					
Dave Oehlke					

Total (Yes) 7 No 0

Absent 0

Floor Assignment _____

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

Verbal vote to table the bill

Date: 4-5-11
Roll Call Vote # 3

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1225

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☒ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Miller Seconded By Senator Burckhard

Senators	Yes	No	Senators	Yes	No
Dwight Cook – Chairman	X		Jim Dotzenrod		X
Joe Miller – Vice Chairman	X		Connie Triplett		X
Randy Burckhard	X				
David Hogue		X			
Dave Oehlke	X				

Total (Yes) 4 No 3

Absent 0

Floor Assignment Senator Cook

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

REPORT OF STANDING COMMITTEE

HB 1225, as engrossed: Finance and Taxation Committee (Sen. Cook, Chairman) recommends **DO NOT PASS** (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1225 was placed on the Fourteenth order on the calendar.

2011 TESTIMONY

HB 1225

1-18-11

Testimony #1

p.1

TESTIMONY FOR HB 1225

REP. JON NELSON

Good Morning Chairman Belter and members of the House Finance and Tax Committee. My name for the record is state representative Jon Nelson and I serve District 7 in the North Dakota Legislature. I come before you today to introduce HB 1225.

Prior to the beginning of this session, I was approached by a group of county commissioners from McHenry County regarding the growing expense their county is experiencing in responding to emergency disaster situations. In the four counties that comprise District 7, a commissioner from Sheridan, Pierce, or Benson County could just as well approached me as the situation is the same across the entire area, more emergency situations are occurring more often and the cost for county response is increasing at a level they can no longer support with the 2 mill levy limit they are required to operate with.

With that said, I come before you today to ask your support to allow county commissioners the additional discretion to levy up to 5 mills in their emergency fund so they can respond to these situations.

I would like to remind the committee that this increase in the emergency mill levy is permissive and counties would only levy this increase if the situation warrants more funding.

As you might remember the state of North Dakota incurred the same problem that counties are experiencing in responding to emergency situations and as a result of that the State Disaster Relief Fund was established to respond more quickly and more efficiently to these events. When that fund was established in the 2007-09 legislative session $43,000,000 was transferred from the general fund to create the funding mechanism for statewide response.

I know as well as anyone in this chamber how small the appetite for any tax increase is but I also know that the expectation for services are as well and this

bill only gives county commissions the tools that they need to respond in a responsible manner to the citizens they represent.

Chairman Belter, I urge you and the committee to listen to those following me today and give HB 1225 a Do Pass recommendation. Thank you for allowing me to come before you today.

1-18-11
HB 1225
Testimony #1 p. 3

Section 57-15-14 was amended 2 times by the 2009 Legislative Assembly. Pursuant to section 1-02-09.1, the section is printed above to harmonize and give effect to the changes made in section 2 of chapter 535, Session Laws 2009, Senate Bill 2199; and section 47 of chapter 175, Session Laws 2009, House Bill 1400.

57-15-28. Emergency fund — County. The governing body of any county may levy a tax for emergency purposes not exceeding the limitation in subsection 22 of section 57-15-06.7. The emergency fund may not be considered in determining the budget or the amount to be levied for each fiscal year for normal tax purposes but must be shown in the budget as an "emergency fund" and may not be deducted from the budget as otherwise provided by law. Each county may create an emergency fund, and all taxes levied for emergency purposes by any county, when collected, must be deposited in the emergency fund, and must be used only for emergency purposes caused by the destruction or impairment of any county property necessary for the conduct of the affairs of the county, emergencies caused by fire or by the entry by a court of competent jurisdiction of a judgment for damages against the county. The emergency fund may not be used for any road construction or maintenance, except for repair of roads damaged by nature within sixty days preceding the determination to expend emergency funds, or for the purchase of road equipment; however, the emergency fund may be used to match federal funds appropriated to mitigate damage to roads related to a federally declared disaster that occurred more than sixty days preceding the determination. Any unexpended balance remaining in the emergency fund at the end of any fiscal year must be kept in the fund. When the amount of money in the emergency fund, plus the amount of money due the fund from outstanding taxes, equals the amount produced by a levy of five mills on the taxable valuation of property in a county with a population of thirty thousand or more, ten mills on the taxable valuation of property in a county with a population of less than thirty thousand but more than five thousand, or fifteen mills on the taxable valuation of property in a county with a population of five thousand or fewer, the levy authorized by this section must be discontinued, and no further levy may be made until required to replenish the emergency fund.

Source: S.L. 1943, ch. 268, § 3; R.C. 1943, § 57-1528; S.L. 1969, ch. 478, § 1; 1971, ch. 544, § 1; 1983, ch. 593, § 63; 1983, ch. 606, § 81; 1985, ch. 620, § 1; 2007, ch, 308, § 16; 2009, ch, 536, § 1.

Effective Date.
The 2009 amendment of this section by section 1 of chapter 536, S.L. 2009 became effective August 1, 2009.

The 2007 amendment of this section by section 16 of chapter 308, S.L. 2007 became effective August 1, 2007.

57-15-31. Determination of levy. The amount to be levied by any county, city, township, school district, park district, or other municipality authorized to levy taxes shall be computed by deducting from the amount of estimated expenditures for the current fiscal year as finally determined, the required reserve fund determined upon by the governing board from the past experience of the taxing district, the total of the following items:

1-18-11
Testimony #2

Testimony Regarding House Bill 1225
To the
HOUSE FINANCE & TAXATION COMMITTEE
Prepared by
Vern Kongslie, McHenry County Commissioner

Chairman Belter and members of the House Finance and Taxation Committee, this letter is in support of HB1225 that would raise the county emergency levy up to 5 mills from 2 mills.

Since the winter of 2008-2009 McHenry County and many other counties have had to face back to back extreme weather events which have caused much damage to our infrastructure. We have had to use our emergency funds to help repair the damages and our emergency funds are being depleted faster than we can replace them under current law. For example, in 2008 we ended the year with $236,927 in the emergency fund. In 2009 our year-end balance was $37,636. For 2010 our year-end balance was $53,510.

Currently one mill in McHenry County generates about $26,000 and current law allows us to request up to 2 mills. We are limited to have an equivalent of 10 mills in the emergency fund which could have been about $260,000 instead of our current balance of $53,510 for tax year 2010. Due to the extreme wet year we had in 2010 and the current above normal snowfall we have the potential of additional disaster events this winter and in the spring of 2011.

Currently we have very limited funds in our emergency fund to handle any near future disasters. This bill would allow the counties to replenish the emergency fund at a faster rate so that we can repair our infrastructure systems in back to back adverse weather events. If we have more normal weather the counties would have to reduce the mill levy once they have reached the maximum amount allowed by state law. Again I thank you for your consideration for HB 1225 and would be glad to answer your questions.

Testimony #3
P.1

Testimony To The
HOUSE FINANCE & TAXATION COMMITTEE
Prepared January 18, 2010, by
Terry Traynor, Assistant Director
North Dakota Association of Counties

REGARDING HOUSE BILL No. 1225

Chairman Belter and members of the Committee, the Association of Counties asked Rep. Nelson to sponsor this emergency fund legislation and we thank him for his interest in getting the bill before you. County officials are solidly in support of the bill's passage.

As is evident by the language of the bill, counties are currently allowed to levy up to 2 mills to restore the balance of their emergency funds. Once a county reaches the fund maximum allowed by law, they may no longer levy mills for this purpose. The section of Century Code governing county emergency funds is printed on the next page with that portion highlighted.

Counties with a population of more than 30,000 may levy until they have a balance equal to 5 mills of property tax. Those with a population between 5,000 and 30,000 may levy until they reach the equivalent of 10 mills, and those with less than 5,000 are required to terminate the levy when they reach a balance equal to 15 mills. The table of the back of my testimony divides the counties into those three categories and indicates the limit based on the value of a mill used for 2010 budgets.

The problem, faced by many counties, has been the repeated emergencies that have forced counties to tap these funds over and over again. For the smallest, the fact that it takes 8 years to restore the balance in the fund, makes it difficult to prepare for snow and water emergencies that have been coming every other year, if not every year. Looking at the first county in the list, Adams, you quickly see that under current law they can replace $15,000 per year in their emergency fund. When a county must resort to overtime and contracted heavy equipment to move snow or repair flooded roads, it becomes quickly apparent that the annual amount is often insufficient. In the spring of 2009, forty counties spent a total of $16 Million ($400,000/county) just to move snow.

This bill would not change the maximum that a county can retain in their emergency fund, only the speed in which they can restore the funds spent. Mr. Chairman and committee members, the county commissioners and road officials of North Dakota urge your support and request a "do pass" recommendation on HB1225.

1-18-11
Testimony
#3
P

Analysis of County Emergency Fund Levy Limits

	2009 Value of 1 Mill (2010 Budget)	Maximum Emergency Fund Balance	
		Mills	Dollars
ADAMS	7,844	15	117,661
BILLINGS	6,105	15	91,579
BOWMAN	14,650	15	219,751
BURKE	9,411	15	141,158
CAVALIER	27,616	15	414,238
DIVIDE	10,273	15	154,095
DUNN	14,157	15	212,355
EDDY	6,991	15	104,859
EMMONS	14,686	15	220,286
FOSTER	14,030	15	210,450
GOLDEN VALLEY	6,140	15	92,103
GRANT	9,263	15	138,952
GRIGGS	10,026	15	150,385
HETTINGER	10,303	15	154,545
KIDDER	11,705	15	175,580
LAMOURE	20,022	15	300,329
LOGAN	7,933	15	118,994
MCINTOSH	10,785	15	161,772
NELSON	13,435	15	201,529
OLIVER	8,384	15	125,766
PIERCE	14,737	15	221,054
RENVILLE	11,022	15	165,337
SARGENT	17,975	15	269,632
SHERIDAN	6,939	15	104,092
SIOUX	2,334	15	35,013
SLOPE	5,869	15	88,038
STEELE	14,544	15	218,156
TOWNER	12,651	15	189,765
BARNES	48,568	10	485,684
BENSON	15,554	10	155,545
BOTTINEAU	34,153	10	341,529
DICKEY	22,076	10	220,757
MCHENRY	23,575	10	235,747
MCKENZIE	19,720	10	197,200
MCLEAN	35,079	10	350,790
MERCER	21,076	10	210,759
MORTON	75,531	10	755,308
MOUNTRAIL	20,625	10	206,246
PEMBINA	33,896	10	338,960
RAMSEY	30,527	10	305,269
RANSOM	19,980	10	199,802
RICHLAND	55,903	10	559,034
ROLETTE	10,538	10	105,383
STARK	62,302	10	623,023
STUTSMAN	60,386	10	603,863
TRAILL	29,864	10	298,635
WALSH	35,057	10	350,573
WELLS	19,854	10	198,545
WILLIAMS	60,851	10	608,509
BURLEIGH	258,997	5	1,294,987
CASS	464,365	5	2,321,825
GRAND FORKS	186,714	5	933,571
WARD	160,279	5	801,395

57-15-28. Emergency fund - County. The governing body of any county may levy a tax for emergency purposes not exceeding the limitation in subsection 22 of section 57-15-06.7. The emergency fund may not be considered in determining the budget or the amount to be levied for each fiscal year for normal tax purposes but must be shown in the budget as an "emergency fund" and may not be deducted from the budget as otherwise provided by law. Each county may create an emergency fund, and all taxes levied for emergency purposes by any county, when collected, must be deposited in the emergency fund, and must be used only for emergency purposes caused by the destruction or impairment of any county property necessary for the conduct of the affairs of the county, emergencies caused by nature or by the entry by a court of competent jurisdiction of a judgment for damages against the county. The emergency fund may not be used for any road construction or maintenance, except for repair of roads damaged by nature within sixty days preceding the determination to expend emergency funds, or for the purchase of road equipment; however, the emergency fund may be used to match federal funds appropriated to mitigate damage to roads related to a federally declared disaster that occurred more than sixty days preceding the determination. Any unexpended balance remaining in the emergency fund at the end of any fiscal year must be kept in the fund. When the amount of money in the emergency fund, plus the amount of money due the fund from outstanding taxes, equals the amount produced by a levy of five mills on the taxable valuation of property in a county with a population of thirty thousand or more, ten mills on the taxable valuation of property in a county with a population of less than thirty thousand but more than five thousand, or fifteen mills on the taxable valuation of property in a county with a population of five thousand or fewer, the levy authorized by this section must be discontinued, and no further levy may be made until required to replenish the emergency fund.

TESTIMONY FOR HB 1225

REP. JON NELSON

Good Morning Chairman Cook and members of the Senate Finance and Tax Committee. My name for the record is state representative Jon Nelson and I serve District 7 in the North Dakota Legislature. I come before you today to introduce HB 1225.

Prior to the beginning of this session, I was approached by a group of county commissioners from McHenry County regarding the growing expense their county is experiencing in responding to emergency disaster situations. In the four counties that comprise District 7, a commissioner from Sheridan, Pierce, or Benson County could just as well approached me as the situation is the same across the entire area, more emergency situations are occurring more often and the cost for county response is increasing at a level they can no longer support with the 2 mill levy limit they are required to operate with.

With that said, I come before you today to ask your support to allow county commissioners the additional discretion to levy up to 5 mills in their emergency fund so they can respond to these situations.

I would like to remind the committee that this increase in the emergency mill levy is permissive and counties would only levy this increase if the situation warrants more funding.

As you might remember the state of North Dakota incurred the same problem that counties are experiencing in responding to emergency situations and as a result of that the State Disaster Relief Fund was established to respond more quickly and more efficiently to these events. When that fund was established in the 2007-09 legislative session $43,000,000 was transferred from the general fund to create the funding mechanism for statewide response.

I know as well as anyone in this chamber how small the appetite for any tax increase is but I also know that the expectation for services are as well and this

bill only gives county commissions the tools that they need to respond in a responsible manner to the citizens they represent.

Chairman Cook, I urge you and the committee to listen to those following me today and give HB 1225 a Do Pass recommendation. Thank you for allowing me to come before you today.

B

Testimony To The
SENATE FINANCE & TAXATION COMMITTEE
Prepared March 2, 2011, by
Terry Traynor, Assistant Director
North Dakota Association of Counties

REGARDING ENGROSSED HOUSE BILL No. 1225

Chairman Cook and members of the Committee, the Association of Counties requested this emergency fund legislation and we thank the sponsors for their interest in getting the bill before you.

As is evident by the language of the bill, county commissions are currently allowed to levy up to 2 mills to restore the balance of their emergency funds. What is not clear from the bill is that once a county reaches the fund maximum allowed by law, they may no longer levy mills for this purpose. The section of Century Code governing this limitation is printed on the next page with that portion highlighted. This bill would not change the maximum that a county can retain in their emergency fund, only the speed in which they can restore the funds spent.

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In the House Committee, it was felt that a citizen vote to permit a levy in excess of the current two mills should be added. County commissioners do not believe this is necessary, as the levy is effectively capped by the maximum limit in 57-15-29, and respectfully request the Committee's consideration of the attached amendments to remove the added language – and with that change they urge a "do pass" recommendation.

Analysis of County Emergency Fund Levy Limits

	2009 Value of 1 Mill (2010 Budget)	Maximum Emergency Fund Balance	
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