

2009 HOUSE FINANCE AND TAXATION

HB 1366

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1366

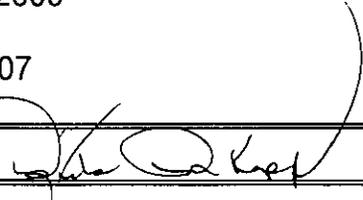
House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 26, 2009

Recorder Job Number: 7707

Committee Clerk Signature



Minutes:

**Chairman Belter:** We will open the hearing on HB 1366.

**Representative Jerry Kelsh: (Testimony 1). (4:40)**

**Representative Headland:** You are a county commissioner. Do you use state aid distribution dollars to fix roads?

**Representative Kelsh:** The state aid distribution dollars go into the general fund. General fund dollars go into the road fund as I understand it. General funds are the same levy. I can't tell you right off hand, but I think it is around 22 mills. Yes, general fund dollars can be appropriated for different things. We use emergency funds every once in awhile. Those can be replaced by a certain number of mills to bring that back. I am afraid this winter that we have had to use most of those emergency funds at this point.

**Representative Headland:** I would just like clarification. I didn't understand...do you use?

**Representative Kelsh:** We appropriate the money for highway dollars out of general fund dollars, yes. There is a road and bridge and there is a road fund. Road and general fund are the same levy.

**Representative Schmidt:** When was this formula first put in place and when has it been changed?

**Representative Kelsh:** The formula was first put in place in the mid 70's when they stopped the personal property tax; they went to a formula, which was .6 of 1% at that time. I believe that lasted until in the 90's. It was not a continuing appropriation as far as state law was concerned. Many times it would be capped. I came in 1984 and I believe it was capped at about \$52-57 or \$58 million at that time. I think it was in 1999 that it sent to .4 and would be a continued appropriation. I am not positive I have those timelines exactly right, but that is as I remember it.

**Chairman Belter:** Just a point of clarification in your testimony in that first paragraph. You did mean July 1, 2011. Correct?

**Representative Kelsh:** Mr. Chairman, that is true. That was a typo and 2001 should have been 2011. It goes up 1/10 of a percent this coming biennium and another 1/10 of a percent the next biennium. That would bring it back up to the 6/10 that it was. Mr. Chairman, Dickey County belongs to a five county region; Richland, Ransom, Sargent, LaMoure and Dickey County all heartily support this. I know there is a nine county region in the northeast corner of the state (I got some calls over the weekend) that heartily supports this. I don't know about the other county areas, if they do or don't.

**Chairman Belter:** I can assure you.

**Representative Kelsh:** If there are no further questions, we are hearing 1400 in the education committee so is it alright if I go back to that?

**Mark Johnson, ND Association of Counties: (Testimony 2)** I wanted to give you some information. My suggestion, in light of the fact that this did not show up in the Governor's budget, is that this would be a very substantive decision for you as committee members to start with and then leadership on both sides of the aisle to see where we go with this. (11:39)

**Representative Froelich:** Do you want me to make the motion now?

**Representative Headland:** Would the Association of Counties object to an amendment that would force all this new money towards county roads?

**Mark Johnson:** The general fund allocation that has been made has been used very effectively. We are going to see some road funding, I believe, before we leave here in April; that is my hope and I think it is going to be significant across the board. I think it has worked well as a general fund allocation to local government. It does fund roads. I can show you; in fact, I can provide you a sheet, where counties spend more money on roads than they receive from the various road levies they receive or that they are able to levy. In that, the conclusion is that they have to be spending some of the general fund money on roads because they don't collect enough money on the specific mill levies that are allocated to roads and the monies they receive from the state aid, the highway distribution funds.

**Representative Headland:** Yes, I would like to see that breakdown. You can provide that for everyone on the committee.

**Representative Froelich:** Just a point of clarification. You know that 34.73% is kind of erroneous?

**Mark Johnson:** I do know that it is totally erroneous, but I just thought I would point it out to you.

**Representative Pinkerton:** As the counties get this increased funding, are they going to reduce their taxes?

**Mark Johnson:** Absolutely, it is a direct infusion into lower property taxes.

**Representative Pinkerton:** Is it written into the bill somewhere?

**Mark Johnson:** It is not. If you want to write it in there and if that would pass the bill, we would consider that.

**Connie Sprynczynatyk, ND League of Cities:** Now that my colleague with the counties has promised the moon, I assume I won't have any hard questions. We were part of the effort back in 1997 to change the state aid and a number of other sources. It was personal property tax replacement; it was a number of things including an initiated measure back in, I think, 1978 to share a portion of the state's sales use income and excise tax with the political subdivisions. The big move in 1997, some of you will remember, is that it came off the appropriations process; we lowered it to 4/10 and it has just risen. It was, as Mark said, a good move for everybody. I should point out that it is not just the different counties that get a portion of this tax reduction because it does replace property tax at the local level. Park districts, townships and some of the other entities also share. If this body decides to increase that portion, that would be wonderful. As I have testified in this committee before, much of the city budget goes to public safety. This money comes into the general fund; much of the general fund is spent on public safety. It literally buys some property taxes. It is a little harder for us to provide 357 city's information; but if you required that, we would be happy to provide that.

**Representative Drovdal:** The bill sponsor indicated that funds are dropping by 40%, that they have about 650 bridges that need immediate attention, that increased costs are over 300%; how can anybody stand up there and guarantee us that this will automatically go into the mill rate reduction with all these expenses waiting to be done?

**Connie Sprynczynatyk:** Unless you put a provision in the bill, I am not going to guarantee anything because the same construction inflation that has hit the state has hit county road projects, it has also hit cities. In Representative Weiler's town, there are enough lane miles that we have been plowing this winter that could you go across the state and back again and then some. As you know, the cost has hit all of us very hard. We would be happy to look at your amendment.

**Representative Froseth:** There has been some concern about emergency funds in counties and cities, especially with all the snow in certain areas. Would it be objectionable to dedicate a portion of this to go to an emergency fund, to establish emergency funds, and put that money directly into an emergency fund to build that emergency fund to a level of a certain percent of your budget or something like that?

**Connie Sprynczynatyk:** As difficult as it is for Mark to talk to you about the differences in 53 counties, imagine what it is like in the cities where you have a city of 9 people the last census all the way to a city the size of Fargo. We have had conversations with a number of cities just as the state has been putting together a program for emergency relief. We have found that quite to our surprise that there are a number of towns that don't have any real emergency reserve funds. Some have enough reserves to take care of situations like we have been experiencing. It is literally all over the map; the resources are very very different. Bismarck's snow removal budget is very different from Kenmare's, for example. Yet the snow still has to be plowed; and in the spring, we will still have to patch the potholes and somehow find decent asphalt prices for those projects. That is a difficult question to answer.

**Representative Froseth:** They might be different, but the fund balances end up the same.

**Connie Sprynczynatyk:** They do and if you have looked at the requirements of the city and the county; first you have to have received 400% of average snowfall; then you take the January expenditures for the last five years; you take that average and you have to have spent 200% of that average. Still that may seem a little complicated and convoluted; but if those cities and counties get that aid—any aid that you provide is property tax dollars that do not have to be spent.

**Chairman Belter:** Further testimony in support of 1366?

**Ken Yentes, Executive Secretary of ND Township Officers Association:** I have been at the podium quite often in regard to this subject. Back in 1997 and forward, to be brief, whatever seems to be good for the counties in regard to funding is good for the townships. We share a load together and go forward together on this. I believe it would be a good idea to pass this bill. I also share the concerns that Mark had earlier.

**Representative Brandenburg:** I just wanted to verify a conversation I had with you this morning. I have to compliment Mark and Connie for their input into the discussion; but at least they have money to move the snow. I am on the township board and we can't even afford to move the snow and we have to mark the roads. We are closing roads down in the township because we can't afford to move snow. The county won't carry us anymore because we have used the whole two year budget right now.

**Chairman Belter:** Are there any other questions? Any other testimony in support of HB 1366? If not, is there any opposition? Any neutral testimony on HB 1366? If not, we will close the hearing on HB 1366.

# 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **HB1366**

House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 28, 2009

Recorder Job Number: 8070

Committee Clerk Signature



Minutes:

**Chairman Belter:** I have a motion for a "do not pass" from Representative Grande and a second from Representative Weiler. Any discussion?

**Vice Chairman Drovdal:** I am going to support the motion for "do not pass". I listened to the testimony and I realize every one of the counties across North Dakota has road problems, but so does the state of North Dakota. We all know that funding has been cut to the states and we also have roads that need to be fixed. When the Association of Counties got up to testify, I wrote down that that was the weakest endorsement I have ever heard on a bill. They got up and said they were really happy with the way we set up the fund in 1997-99. We don't want to mess with it. I think they recognize the position we are in in the state and that we are trying to find more money for our roads too.

**Chairman Belter:** Also didn't the Governor include \$120 million in his budget? There are a lot of dollars there that will more than likely roll into cities and counties on that issue. Any other discussion?

**Representative Headland:** If you look at Mark Johnson's testimony, he says it is actually working pretty well the way it is. It seems to me that they will take the money if we give it to them, but I don't think... I guess I am agreeing with Representative Drovdal.

**Representative Pinkerton:** I think that the best government is the more local government so the more that we can push the money down to the local entities, the better off we are. I am going to support it, not just on the roads issue but thinking that the government that is closer to the people has a better chance of being effective.

**Chairman Belter:** If no further discussion, will the clerk read the roll.

**A roll call vote was taken, resulting in a vote of 8 yeas, 5 nays, and 0 absent/not voting.**

**Representative Froseth will carry the bill.**

**FISCAL NOTE**  
**Requested by Legislative Council**  
01/13/2009

Bill/Resolution No.: HB 1366

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

|                       | 2007-2009 Biennium |             | 2009-2011 Biennium |              | 2011-2013 Biennium |              |
|-----------------------|--------------------|-------------|--------------------|--------------|--------------------|--------------|
|                       | General Fund       | Other Funds | General Fund       | Other Funds  | General Fund       | Other Funds  |
| <b>Revenues</b>       |                    |             | (\$28,000,000)     | \$28,000,000 | (\$56,000,000)     | \$56,000,000 |
| <b>Expenditures</b>   |                    |             |                    |              |                    |              |
| <b>Appropriations</b> |                    |             |                    |              |                    |              |

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

| 2007-2009 Biennium |        |                  | 2009-2011 Biennium |        |                  | 2011-2013 Biennium |        |                  |
|--------------------|--------|------------------|--------------------|--------|------------------|--------------------|--------|------------------|
| Counties           | Cities | School Districts | Counties           | Cities | School Districts | Counties           | Cities | School Districts |
|                    |        |                  |                    |        |                  |                    |        |                  |

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

HB 1366 increases the share of sales, use, gross receipts, and motor vehicle excise tax collections that is allocated to the state aid distribution fund.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1 of HB 1366 increases the state aid distribution fund share of sales and motor vehicle excise tax collections from the current allocation (which equals 8% of the collections) to a computed amount that equals 10% of the collections. For the 2009-11 biennium, this is expected to increase revenues to the state aid distribution fund by an estimated \$28 million and decrease state general fund revenues by the same amount.

For the 2011-13 biennium, the allocation to the state aid distribution fund is again increased, from 10% to 12% of collections. This will result in an increase in state aid distribution fund revenues totaling an estimated \$56 million (plus a taxbase growth factor not yet estimated), and a corresponding decrease in state general fund revenues.

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

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

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

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

|                      |                      |                       |                            |
|----------------------|----------------------|-----------------------|----------------------------|
| <b>Name:</b>         | Kathryn L. Strombeck | <b>Agency:</b>        | Office of Tax Commissioner |
| <b>Phone Number:</b> | 328-3402             | <b>Date Prepared:</b> | 01/22/2009                 |

Date: January 28, 2009

Roll Call Vote #: \_\_\_\_\_

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1366

House FINANCE AND TAXATION Committee

Check here for Conference Committee

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

Action Taken  Do Pass  Do Not Pass  Amended

Motion Made By Grande Seconded By Weiler

| Representatives             | Yes | No | Representatives          | Yes | No |
|-----------------------------|-----|----|--------------------------|-----|----|
| Chairman Wesley R. Belter   | /   |    | Representative Froelich  |     | /  |
| Vice Chairman David Drovdal | /   |    | Representative Kelsh     |     | /  |
| Representative Brandenburg  | /   |    | Representative Pinkerton |     | /  |
| Representative Froseth      | /   |    | Representative Schmidt   |     | /  |
| Representative Grande       | /   |    | Representative Winrich   |     | /  |
| Representative Headland     | /   |    |                          |     |    |
| Representative Weiler       | /   |    |                          |     |    |
| Representative Wrangham     | /   |    |                          |     |    |
|                             |     |    |                          |     |    |
|                             |     |    |                          |     |    |
|                             |     |    |                          |     |    |
|                             |     |    |                          |     |    |
|                             |     |    |                          |     |    |

Total (Yes) 8 No 5

Absent 0

Floor Assignment Representative Froseth

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

**REPORT OF STANDING COMMITTEE (410)**  
January 29, 2009 10:00 a.m.

**Module No: HR-17-1182**  
**Carrier: Froseth**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1366: Finance and Taxation Committee (Rep. Belter, Chairman) recommends DO NOT PASS (8 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). HB 1366 was placed on the Eleventh order on the calendar.**

2009 TESTIMONY

HB 1366

Testimony 1  
January 26, 2009

HOUSE FINANCE AND TAXATION COMMITTEE

HB 1366

REPRESENTATIVE JERRY KELSH

MR. CHAIRMAN AND MEMBERS OF THE HOUSE FINANCE AND TAXATION COMMITTEE.

HB 1366 RAISES THE CONTRIBUTION TO THE STATE AID DISTRIBUTION FUND FROM .4 OF THE FIRST ONE CENT OF SALES TAX TO .5 FOR THE BIENNIUM BEGINNING JULY 1, 2009 AND TO .6 OF THE FIRST ONE CENT OF SALES TAX ON JULY 1, ~~2009~~  
2011.

REASONS:

- A. COUNTIES PURCHASING POWER HAS DECREASED BY OVER 25%:
- B. COUNTIES MAINTIAN A SIGNIFICIANT PORTION OF OUR INFRASTRUCTURE:
  - 1. OVER 10,000 MILES OF MAJOR COLLECTOR HIGHWAYS
  - 2. OV ER 65,000 MILES OF LOCAL ROADS
  - 3. OVER 3,229 BRIDGE STRUCTURE OF WHICH 20% HAVE AN EFFECTIVE RATING OF LESS THAN 50%
- C. COUNTIES FALL WAY SHORT OF THE MONEY NEEDED TO DO THE WORK
- D. FEDERAL FUNDING HAS DROPPED 40%
- E. NORTH DAKOTA COUNTIES SPENT 90 MILLION TEN (10) EYARS AGO AND 90 MILLION LAST YEAR
- F. 90 MILLION TEN (10) YEARS AGO IS WORTH LESS THAN 50 MILLION TODAY.
- G. COUNTIES HAVE SEEN UP TO 300% INCREASE IN ROAD COSTS OVER THE LAST SEVERAL YEARS & AN INCREASE IN ASPHALT COST OF 70% IN THE LAST THREE & 3) YEARS.
- H. WHAT WE DON'T MAINTAIN NOW WILL COST MUCH MORE LATER

FOR THE ABOVE REASONS AND MANY MORE SHORTFALLS IN COUNTY FUNDING; I ASK A DO PASS ON HB 1366.

THANK YOU.

Testimony To The  
**THE HOUSE FINANCE & TAXATION COMMITTEE**  
Prepared January 26, 2007 by  
Mark Johnson, CAE - Executive Director  
North Dakota Association of Counties

REGARDING HOUSE BILL <sup>1366</sup>1336

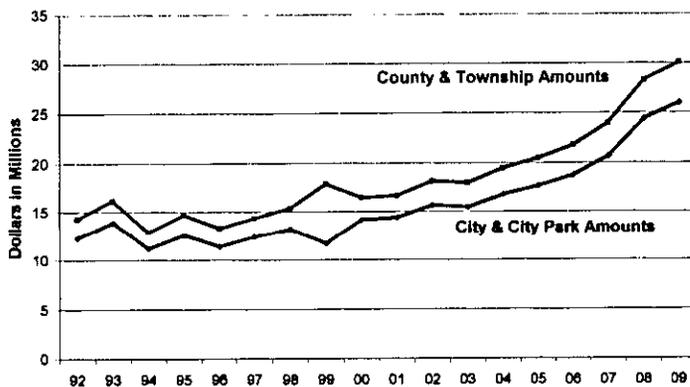
Thank you Chairman Belter and committee members for the opportunity to address HB<sup>1366</sup>1336 on behalf of county government. County officials are pleased that the Legislature is willing to examine the revenue and costs of county government in their effort to craft a workable property tax relief mechanism.

The State Aid Distribution Fund is one of the cornerstones of the fiscal relationship between the State and local government, and has been a critical interest of county officials since its replacement of the unpopular personal property tax in 1969.

As a number of you are well aware, this Fund has struggled throughout its thirty-year history, and until 1997 was never fully-funded as provided by law. Through the exceptional efforts of some of you here, some past legislative leaders, and many local government officials, a major change was crafted in the 1997 Session.

That change replaced the long-standing 6-tenths of the first penny of sales & use tax as the Fund's revenue source, with 4-tenths. County officials accepted that significant policy change with the promise of a permanent continuing appropriation that allowed the fund to rise and fall with the economy and fortunes of the State.

State Aid Distribution Fund  
Fiscal Year Distributions



While it was a risk, looking back, it was a risk well worth taking. As the chart indicates, since that time this fund has grown at a rate at least equaling inflation. Although the increases in mandated social service costs, criminal prosecution expenditures, jail expansion, etc. have certainly kept pace, the current formula is far superior to the pre-1997 situation that left the fund stagnant for a decade or more.

We appreciate the important relationship this fund represents, and are committed to working with the Legislature to examine whether this is an appropriate vehicle for property tax relief.

| COUNTY        | State Aid     |             | Mills |
|---------------|---------------|-------------|-------|
|               | County Amount | Dollars     |       |
| ADAMS         | \$214,381     | \$53,595    | 6.96  |
| BARNES        | \$545,481     | \$136,370   | 3.51  |
| BENSON        | \$385,207     | \$96,302    | 6.84  |
| BILLINGS      | \$154,207     | \$38,552    | 7.04  |
| BOTTINEAU     | \$389,321     | \$97,330    | 3.69  |
| BOWMAN        | \$236,461     | \$59,115    | 4.86  |
| BURKE         | \$183,421     | \$45,855    | 5.20  |
| BURLEIGH      | \$1,918,623   | \$479,656   | 2.19  |
| CASS          | \$3,068,661   | \$767,165   | 1.79  |
| CAVALIER      | \$292,925     | \$73,231    | 3.37  |
| DICKEY        | \$333,447     | \$83,362    | 4.60  |
| DIVIDE        | \$183,068     | \$45,767    | 4.73  |
| DUNN          | \$279,553     | \$69,888    | 5.46  |
| EDDY          | \$211,965     | \$52,991    | 8.02  |
| EMMONS        | \$304,503     | \$76,126    | 5.21  |
| FOSTER        | \$246,678     | \$61,670    | 4.73  |
| GOLDEN VALLEY | \$177,382     | \$44,346    | 7.58  |
| GRAND FORKS   | \$1,792,518   | \$448,130   | 2.61  |
| GRANT         | \$234,158     | \$58,539    | 6.39  |
| GRIGGS        | \$208,668     | \$52,167    | 5.46  |
| HETTINGER     | \$208,841     | \$52,210    | 5.21  |
| KIDDER        | \$212,926     | \$53,231    | 5.00  |
| LaMOURE       | \$288,275     | \$72,069    | 3.82  |
| LOGAN         | \$209,370     | \$52,343    | 7.04  |
| McHENRY       | \$343,751     | \$85,938    | 3.80  |
| McINTOSH      | \$268,824     | \$67,206    | 6.44  |
| McKENZIE      | \$348,585     | \$87,146    | 4.93  |
| McLEAN        | \$523,980     | \$130,995   | 4.39  |
| MERCER        | \$549,511     | \$137,378   | 7.05  |
| MORTON        | \$949,761     | \$237,440   | 3.56  |
| MOUNTRAIL     | \$370,695     | \$92,674    | 5.59  |
| NELSON        | \$250,936     | \$62,734    | 5.54  |
| OLIVER        | \$208,607     | \$52,152    | 7.67  |
| PEMBINA       | \$465,693     | \$116,423   | 3.72  |
| PIERCE        | \$310,748     | \$77,687    | 5.42  |
| RAMSEY        | \$568,277     | \$142,069   | 5.09  |
| RANSOM        | \$338,133     | \$84,533    | 4.85  |
| RENVILLE      | \$201,545     | \$50,386    | 4.84  |
| RICHLAND      | \$685,160     | \$171,290   | 3.21  |
| ROLETTE       | \$656,493     | \$164,123   | 16.23 |
| SARGENT       | \$273,822     | \$68,455    | 4.23  |
| SHERIDAN      | \$175,915     | \$43,979    | 6.55  |
| SIOUX         | \$298,207     | \$74,552    | 34.73 |
| SLOPE         | \$132,175     | \$33,044    | 6.16  |
| STARK         | \$887,312     | \$221,828   | 4.55  |
| STEELE        | \$185,801     | \$46,450    | 4.10  |
| STUTSMAN      | \$779,727     | \$194,932   | 3.54  |
| TOWNER        | \$217,956     | \$54,489    | 4.60  |
| TRAILL        | \$485,525     | \$121,381   | 4.39  |
| WALSH         | \$570,448     | \$142,612   | 4.30  |
| WARD          | \$1,610,572   | \$402,643   | 2.93  |
| WELLS         | \$305,825     | \$76,456    | 3.97  |
| WILLIAMS      | \$729,450     | \$182,362   | 4.00  |
| COUNTY TOTAL  | \$25,843,347  | \$6,493,369 | 3.44  |