

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2390

2005 SENATE POLITICAL SUBDIVISIONS

SB 2390

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2390

Senate Political Subdivisions Committee

Conference Committee

Hearing Date February 4, 2005

Tape Number	Side A	Side B	Meter #
1	X		4891- End
1		X	0 -4000
Committee Clerk Signature <i>Shirley Borg</i>			

Minutes:

Chairman Cook opened the hearing on SB 2390 relating to city development impact fees. Five members present one absent.

Senator Joel Heitkamp, District 26, introduced SB 2390. The bill comes as a request of a friend of his from the City of Fargo. It is a piece of legislation that he is sure the committee will have a debate of whether its time has come or not. What the bill does is take a look at how you pay the bills. Allows the cities if they so desire to let you pay how you want to pay. This bill maybe should be a piece of legislation that is studied during the interim. Regardless of whether you are the home builders association or the realtors association or any other special interest group, really what this bill is about is the person who is buying and living in the home.

Chairman Cook: When you say paying the bills are you particularly referring to the cost of the infrastructure?

Senator Heitkamp: Yes, the curb, the gutters, the water, the sewer and everything you need to be part of a community and you have to pay for. Also it allows cities to be holding the debt.

Mike Williams, Fargo City Commissioner appeared in support of SB 2390. (See attachment #1)

Senator Hacker: Being a city commissioner is this something that need to happen at the state level or can this happen at a local level?

Mike Williams: Home Rule cities could do this on a local level. In Fargo we have formed a multi-jurisdictional advisory study on special assessments.

Chairman Cook: You indicated that other cities do this, so are you modeling this after some other programs that are out there?

Mike Williams: Yes you are right.

Senator Dever: Senator Heitkamp suggested that we turn this into a study. Is there an urgency with this that would suggest that we should move this forward?

Mike Williams: I think offering that flexibility to cities would be best to move it forward. I would hope we could at least have a study resolution.

Pat Zavoral, City Administrator, Fargo North Dakota, appeared in support of SB 2390. Senator Hacker you ask the question can the cities do it now. There has been some discussion at least with out legal that we probably could do it but we do have special assessment law in the state law and they would like to mirror some of the legislation for impact fees since it is an alternative to special assessments. That is a key that we want to emphasize in this legislation that it isn't an either or for special assessments. It would give the community as well as the development community within your community the opportunity to chose between having an impact fee or a special assessment.

Chairman Cook: Do you have developers that carve out an area and chose not to finance the infrastructure with special assessments. They would choose to build the infrastructure themselves?

Pat Zavoral: We have that ability right now but have not seen it done very often.

Further discussion: (Tape 1 Side B Meter 374 -1081)

Connie Sprynczynatyk, North Dakota League of Cites, appear in support of SB 2390. Their legislative committee discussed this issue and the committee is in support of the concept of impact fees as an alternative form of financing for development. Taking off her league hat and putting on her local hat, she spent eight months chairing a rather extensive study of storm water assessments. We had mostly citizens on our committee. We took every thing apart and put it back together. We looked at impact fees very carefully and it is an option that we may want to use in this community. There are a couple of cities in North Dakota that are already using them. The citizen members of the committee really looked very carefully at the difference between what you get when you special assess improvements and the benefits you can get with an impact fee. They would note that one thing they liked about the impact fee is that you are paying going forward you don't come back with multiple assessments. It is part of your financing package.

Chairman Cook: Do you think this bill is needed or can it be done right now? Do you think this should be put into a study?

Connie Sprynczynstyk: I think that someone suggested that the municipal attorneys should talk about this. Our feeling is if it is an option that a growing community feels they need then it needs to be seriously considered. I would feel more comfortable having a municipal attorney talk

to the issue. If you should put this into a study I can assure you that the cities would be very interested in participating because this is really an issue for any city that is experiencing growth.

Senator Hacker: Do you know what cities have the impact fees in place.

Connie Sprynczynstyk: Dickinson started using impact fees last year and I think they have two developments using them.

Testimony in opposition:

Doreen Riedman, Executive Officer, North Dakota Association of Builders, passed out testimony from Grand Forks (See attachment #2A) The North Dakota Association of Home Builders strongly opposes SB 2390. (Attachment # 2B)

Senator Triplett: You comment about leaving it to the local communities. Is it your understanding that this is available to cities that have home rule in place and not to any one else.

Doreen Riedman: Yes that is our understanding.

Chairman Cook: Would you support putting this into a study resolution or oppose it?

Doreen Riedman: At this time I believe it is best left to the local levels to talk about it. If a study resolution were the case we would cooperate fully on any kind of study resolution. At this point we oppose the bill.

Randy Cramer, works for a local developer in Fargo and also sit on the Board of Directors for the HBA in Fargo testified in opposition of SB 2390. We are not necessarily opposed to the concept but more work needs to be done on it. We did not have any input on how this was put together and we would like to have more input and feel it needs to be studied some more.

Tyrone Leslie, Heritage Homes, Fargo North Dakota, testified in opposition of SB 2390. We build fifty to sixty new homes a year. I also do developments as well in Fargo. The biggest

concern is the amount of time that they have had to look at the bill. He feels that no one really understand this and how it will impact or city. As a developer and builder for the home owner we have to look after their best interest. The impact fees are not going to take the place of specials, there are still going to be specials. It will handicap developers. We need to look at the bigger picture and negotiate better fees.

Claus Lemke, North Dakota Association of Realtors, testified in opposition of SB 2390. (See attachment #3) He pointed out misunderstanding and confusion of the bill.

Kelvin L Hullet, Bismarck Mandan Chamber of Commerce, ND Economic Developers Association and the Greater North Dakota Chamber of Commerce testified in opposition of SB 2390. He urges a Do Not Pass. When the question is ask "Do we need this in state law or can we do it at a local level". I think the answer is; we need a law to enable local municipalities to do it and maybe it should be a local discussion as opposed to maybe prescribing what it should look like.

Kelvin passed out the testimony of David Straley who represents Economic Development Association and the Greater North Dakota Chamber of Commerce of North Dakota (See attachment # 4)

No further testimony for or against the bill.

Chairman Cook closed the hearing on SB 2390.

Discussion on SB 2390

Chairman Cook asked if there was interest in putting this bill into a study resolution.

Senator Triplett said she would not want to start rewriting the bill and there were definitely some questions.

Senator Triplett will work on some amendments to put SB 2390 into a study resolution, so it is a discretionary decision by the counsel and we don't mandate it.

Senator Triplett asked for an explanation of the difference of discretionary verses mandatory resolutions for the senators that are new.

Chairman Cook explained .

Chairman Cook closed the discussion.

Chairman Cook called committee back to order.

Amendments prepared by Intern, Carlee Mcleod were passed out.

Senator Dever made a motion for a Do Pass on the Amendment to create a study on SB 2390

Senator Triplett seconded the motion.

Roll Call Vote: 5 Yes 0 No 1 Absent and not voting.

Chairman Cook: We have SB 2390 before us as amended.

Senator Dever moved a Do Pass on Amended bill.

Senator Triplett seconded the motion.

Roll call Vote: 5 Yes 0 No 1 Absent and not voting.

Carrier: **Senator Cook**

Date: 2-4-05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2390

Senate Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number 58323.0101 Title 0200

Action Taken Motion For Amendment To Create a study

Motion Made By Senator Dever Seconded By Senator Triplett

Senators	Yes	No	Senators	Yes	No
Senator Dwight Cook, Chairman	X				
Senator Nicholas P. Hacker, VC	X				
Senator Dick Dever	X				
Senator Gary A. Lee	X				
Senator April Fairfield		Absent			
Senator Constance Triplett	X				

Total Yes 5 No 0

Absent 1

Floor Assignment _____

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

Date: 2-4-05
Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2390

Senate Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number 58323.0101 Title .0200

Action Taken Do Pass 25 Amended

Motion Made By Senator Dever Seconded By Senator Triplett

Senators	Yes	No	Senators	Yes	No
Senator Dwight Cook, Chairman	X				
Senator Nicholas P. Hacker, VC	X				
Senator Dick Dever	X				
Senator Gary A. Lee	X				
Senator April Fairfield	Absent				
Senator Constance Triplett	X				

Total Yes 5 No 0

Absent 1

Floor Assignment Senator Cook

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

REPORT OF STANDING COMMITTEE

SB 2390: Political Subdivisions Committee (Sen. Cook, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2390 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative council study of city and county development impact fees.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE COUNCIL STUDY - CITY DEVELOPMENT IMPACT FEES. The legislative council shall consider studying, during the 2005-06 interim, city and county development impact fees. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly."

Renumber accordingly

2005 HOUSE POLITICAL SUBDIVISIONS

SB 2390

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2390

House Political Subdivisions Committee

Conference Committee

Hearing Date March 3, 2005

Tape Number	Side A	Side B	Meter #
1		x	8.5 to end
2	x		0.2 to 21.2
Committee Clerk Signature <i>Laura B. Erik</i>			

Minutes: **Rep. Devlin, Chairman** opened the hearing on SB 2390, a bill for an Act to provide for a legislative council study of city and county development impact fees.

Sen. Heitkamp representing District 26 and prime sponsor of the bill appeared to explain the bill and to support it. This is an infamous bill in that it started out to be a bill and ended up being a study resolution. Some believe it was a little too far ahead of itself. You will heard from a Fargo representative who will try to convince you to take a serious look at it this session. It comes down to a 'home owner'. The rights of the home owner to know what is on that house (taxes) are there fees that can be hidden, what do I owe -- if there are fees such as special assessments -- not only that but I don't think it is the responsibility of the city to feed the banker.

Sen. Mathern representing District 11 and a sponsor of this bill also appeared to ask for support of the bill.

Doreen Riedman Executive Officer of the North Dakota Association of Builders appeared in support of the bill. A copy of her prepared remarks are attached.

Rep. Koppelman (14.2) To try to understand -- the original bill is now a resolution for a study -- cities are not able to establish impact fees because there is no enabling in the state law -- is that correct?

Doreen Riedman I believe the cities may have the ability to it with the Home Rule charter. But I believe the law is intended to put into place what we have for special assessments.

Rep. Ekstrom (15.0) Are impact fee significantly impacting the cost of housing development for affordable housing?

Doreen Riedman I don't know what the impact is in rural communities -- I don't know that it would effect the rural areas as much as the larger cities. The way the bill is written (the original) is that if a service area was build in the northwest side of the city the service area may include the entire city. So those cost from one development could be assessed over the entire area. So everybody could be paying more -- so it is a hidden tax.

Rep. Ekstrom (16.1) I am thinking of bedroom communities like Harwood outside of Fargo --

Doreen Riedman At this point I can't answer that.

Rep. Herbal, Vice Chairman (16.5) Do you have kind of an idea what the percentage increase this may have?

Doreen Riedman I don't have a percentage - every city and community is going to make that determination on their own -- but I do have some national average what similar impact fees are -- Chicago based American Planning Association puts the national average for impact fees -- that is the average -- at \$14,441 per dwelling -- an in some cities in California the impact fees are in excess of a \$100,000 per dwelling.

Rep. Kaldor (17.6) In your analysis, is there a justification for impact fees?

Doreen Riedman -- In our opinion --No. In our business we think special assessment operate more fairly.

Rep. Kaldor (18.1) I may be asking the wrong person but -- I am new to this impact idea -- is there instances where special assessments don't necessarily apply either?

Doreen Riedman -- there are a lot of questions there may times where it will work out. That is why we are supporting studying this.

Claus Lembke representing the North Dakota Association of Realtors rose to state their support of the engrossed bill.

Rep. Koppelman (19.8) did you support the original bill.

Claus Lembke --Rep. Koppelman we did not.

Rep. Maragos (20.1) Are city and county developments impacting -- a new fee for North Dakota?

Claus Lembke They have not been used either in the city or the county -- to best of his knowledge. Not in North Dakota.

Connie Sprynczynatyk Executive Director of the North Dakota League of Cities. She expressed their concern for the bill in its original form. The City of Dickinson is already using the impact fee and some of the Home Rule cities are also. These impact fees are useful in communities in new development and there is a desire to put the amenities in place -- the streets, the sidewalks, the lights, a park, -- impact fees have been used in other parts of the country for a long period of time. They are hew to us and the reason is that North Dakota has not had the explosive growth that communities in other parts of the country have experienced. These are used to fund new

development and I am not aware of them being used for rehabilitation. We have used special assessments. Special assessments are a known quantity. State law is very specific about the mechanism to assess benefits. The benefits -- the benefits is the key -- the improvements must be assessed to those who benefit. They are popular because the project gets done and the entity is the banker. The entity is saying we will get out and sell bonds to build the improvement and the revenue to pay off the bonds comes from the property owner. So you don't have the specials until the end of the project. With impact fees you are sort of speculating up front -- over the next 50 years -- what will you need to make the improvements in this neighborhood. Impact fees are a one time assessment. Impact fees are paid prospectively. So when the builders say that it adds to the cost of home ownership -- its a case of pay me now or pay me later. There is nothing hidden about it unless the developer chooses not to tell people -- like the price of the lot is say \$20,000 and by the way there are hidden fees in the amount of ---?/ say \$20,000 as far as factors in affordable housing there are a lot of other factors there in a community where you can use tax increment financing and other financing mechanisms -- so -- that is as short of a tutorial as I can give you -- I have had some experience of the past year here Bismarck where we looked at this for a drainage project in northwest part of the city. In the eight months study -- at first the people were ready to go impact fees -- we're going to make the developers pay -- so that was not realistic because it would be passed on but as they looked at it the kind of decided they may have to use both methods -- impact fee and special assessments.

Rep. Kaldor (27.0) What are the kinds of improvement where special assessments be Utilized? Say a new fire station?

Connie Sprynczynatyk I don't believe that would be a correct under current use of special

assessments and I can't tell you whether other communities would us impact fees or not. Usually the essential services facilities are funded out of the general fund and everybody pays.

Rep. Koppelman (33.2) It doesn't take an impact fee to pay for the cost of the infrastructure in the price of a lot -- does ?

Connie Sprynczynatyk There developers in this state who will pay for all the costs up front -- we have had one -- there are many cities in the state that require the developers to pay a per cent of the public improvements to be paid up front.

Rep. Koppelman (33.6) Do we need enabling legislation in North Dakota because home rule cities can already do this-- I think you said you are sure that they can -- yet you also said that Dickinson is already doing it --

Connie Sprynczytak I have had contact with attorney's in North Dakota that say home rule cities can do this -- I am not an attorney each city is going to have to go to their own attorney. My understanding is Dickinson is.

Rep. Dietrich (34.8) What impact will this have on entry level affordable homes?

Connie Sprynczytak I am not sure -- it will depend on the community -- if you are community with a problem of enough affordable housing --- your going to look all of those issues before you go into this in your own community.

Mike Williams City Commissioner, City of Fargo spoke in support of the bill. A copy of his prepared remarks is attached.

Rep. Koppelman (50.0) If a city assesses a new property -- a new home -- and even if that buyer ends up getting in trouble -- the city still has a claim to that lot -- even in a bad market when it doesn't sell right away -- so where there the problem with special assessments?

Mike Williams We can all look back at Dickinson and Williston and other communities that have had bust and boom economies where they ended up with whole subdivisions a surplus of lots that didn't sell. Fargo and other cities have been gaining in revenue because valuations keep going up but if the stops or levels off -- there will be lay off effecting the markets -- we don't have to look very far.

End of tape 1 side b

Tape 2 side A

Mike Williams (continued from tape 1)

Rep. Koppelman (0.2) A city could good to the developer and say to him that he was going to put in all the streets and other things or is the city wanting to be in the drivers seat in banking these developments --

Mike Williams There is a formula in there for public hearings and everything else where there is a set amount for each of the things that are needed in a development so it doesn't go up incrementally whether you are inside adjacent or ten miles out but I do know the cities do like to make money.

Rep. Dietrich (1.6) Being Fargo is a Home Rule City why aren't you utilizing these (impact) Fees?

Mike Williams -- we have asked the City Attorney and we are not sure we can or not and also enabling -- we may go back and see if we can do this without this -- we believe there are some

advantages for the home owners and that the people we should -- the way things are set up we are not sure but what we have to keep the home owners interest in mind -- the wages go up about 2-3% a year -- housing value go up 6-8% a year -- so we are loosing ground - - valuations going up and you want to stay where you are at -- the medium price that sold last year is \$130,000 well if wages average \$25 -30,000 to qualify its getting harder to do -- so what happened by putting so much onto property tax -- we have got a 47% home ownership rate -- West Fargo about normal with the national average and Moorhead the same at about 66% -- we haven't been working as well as we should to making housing affordable and increasing wages as we should.

Rep. Maragos (4.1) Has your city attorney asked for an attorney generals opinion?

Mike Williams No -- we will. Really we have done a poor job in Fargo.

Rep. Dietrich (4.7) You made the statement that when you give something away somebody has to pay -- are you talking about tax abatements.

Mike Williams -- and property tax exemptions.

Rep. Dietrich (4.9) Isn't tax abatement controlled locally and tax abatement is on only the first portion -- in Grand forks its on the first \$75,000 -- but they are using it for a tool for economic growth and entry level homes -- is that what you are referring to ?

Mike Williams Well -- yes I wanted them to try not giving it to all on a new house for those that develop within your growth plan -- then use it as an incentive to ask developers and home owners buy within your growth plan but if you offer it carte blanche then you are losing some of your leverage -- and effectiveness of your program.

Don Dabbert a builder developer from Fargo -- When this came up again -- I didn't know what my testimony was going to be but now I have more than enough material - - listening to Sen

Heitkamp talk about hidden fees I think he was talking about 'impact fees'. I think they are just that they load the front end of your mortgages or should it be special assessed -- you can choose whether you are going to privately finance but you still pay 14% city engineering fees -- I am on the national board of the Home Builders -- I know that Sioux Falls after trying it are moving away from impact fees . You can put up a letter of credit with the city to develop your area -- the developer puts in amenities such as golf courses etc. That doesn't go into special assessments but it does go into the impact fee -- if the developer uses it as an incentive it goes into the cost of the lot -- remember there is no free lunch. The market will determine what you need to do to sell lots. I would support the study if you study the parameters, the definitions, eliminate the competition so the small developer can commit -- no abatements on raw land.

Gerald Eide -- Eide Company builders -- They have building entry level homes in Fargo for 35 years. It is clear that the bill need study. Mr. Eide present a report from the U S Department of Housing and Urban Development entitled **Removing Barriers to Affordable Housing** which shows the need for removing barrier to affordable housing -- in California impact fees add \$45,000 and up per unit not on some but on **all** new housing sold.

Rep. Dietrich (16.6) I know that you have been a 'niche' builder in Fargo -- entry level affordable housing builder in Fargo -- if you look a \$10,000 per unit -- what is the effect on affordable housing there?

Mr. Eide -- Impact fees would be a minimum of \$10,000 per unit if implemented and chance are that it will be higher -- these impact fees that are being discussed are in communities where the developer front ends the all of the costs of the infrastructure. These are fees on top of that.

That is what the impact fees legislation will permit.

Rep. Dietrich (17.9) You used the figure of 47% home ownership in Fargo -- adding an additional \$65 per month in payments for the \$10,000 -- how would that effect the entry level home market?

Mr. Eide --My answer is that I build in Moorhead too and they would love it.

Bill Wocken -- City Administrator for the City of Bismarck rose to speak in favor of the engrossed bill and gave his support to the bill. They have come to the conclusion that a combination of impact fees and special assessments may be the answer. We are not afraid of the study. We may come back in two years and say that impact fees were not the answer. But we don't think that special assessments by themselves are the whole answer.

There being no further testimony for nor against **Rep.Devlin, Chairman** closed the hearing on SB 2390. (19.6)

Rep. Kretschmar moved a 'Do Pass' motion for SB 2390. **Rep. Ekstrom** seconded the motion.

The motion carried on a roll call vote **8 ayes 0 nays 4 absent**. **Rep. Dietrich** was designated to carry SB 2390 on the floor. End of record (21.3).

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2390 b

House Political Subdivisions Committee

Conference Committee

Hearing Date March 3, 2005

Tape Number	Side A	Side B	Meter #
2		x	15.0 to 31.6
Committee Clerk Signature <i>Louise B. Zide</i>			

Minutes: In a brief work session, **Rep. Dietrich** moved to reconsider SB 2390. **Rep.**

Koppelman seconded the motion. The motion carried on a voice vote.

Rep. Dietrich discussed with the committee a conversation He had had with some of the people who had testified on the bill earlier in the day the fact that these impact fees would have at least a \$10,000 across the board fees for all homes according to the HUD report.

Other members of the committee brought out such considerations as the effect it would have on small developers who couldn't compete unless they could develop their areas and at the same time provide amenities like the larger operators -- they need the benefits of impact fees to compete. Also it was suggested to leave Fargo out of it and think of the other cities in the state who might want to use impact fees as a funding mechanism therefore the bill should stand. Again the question of affordable housing was explored along with the impacts. Other discussion

Page 2
House Political Subdivisions Committee
Bill/Resolution Number SB 2390 b
Hearing Date March 3, 2005

explored the potential effects on the Master Plan and planned growth. The reminder was brought out that the bill only provides for a study.

Rep. Koppelman (25.0) Moved a 'Do Not Pass" motion for SB 2390. **Rep. Dietrich** seconded the motion. There was a small amount of discussion with Rep. Herbel and Kaldor agreeing that it was more than a Fargo problem. Rep. Kretschmar did not foresee a problem in Venturia. On a roll call vote the motion failed **3 ayes 8 nays 1 absent.**

Rep. Ekstrom moved a 'Do Pass' motion . **Rep. Pietsch** seconded the motion. The motion passed on a roll call vote **8 ayes 3 nays 1 absent.** **Rep. Herbel, Vice Chairman** was designated to carry SB 2390 on the floor. End of record (31.6)

Date: March 3, 2005
Roll Call Vote:

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2390

House POLITICAL SUBDIVISIONS Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep. Kretschmar Seconded By Rep. Ekstrom

Representatives	Yes	No	Representatives	Yes	No
Rep. Devlin, Chairman	✓		Rep. Ekstrom	✓	
Rep. Herbel, Vice Chairman	✓		Rep. Kaldor	✓	
Rep. Dietrich	✓		Rep. Zaiser	A	
Rep. Johnson	✓				
Rep. Koppelman	A				
Rep. Kretschmar	✓				
Rep. Maragos	A				
Rep. Pietsch	✓				
Rep. Wrangham	A				

Total (Yes) 8 No 0

Absent 4

Floor Assignment Rep. Dietrich

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

Date: March 3, 2005
Roll Call Vote: 2

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2390

House POLITICAL SUBDIVISIONS Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken

Do Not Pass

Motion Made By

Rep. Koppelman

Seconded By

Rep. Dietrich

Representatives	Yes	No	Representatives	Yes	No
Rep. Devlin, Chairman		✓	Rep. Ekstrom		✓
Rep. Herbel, Vice Chairman		✓	Rep. Kaldor		✓
Rep. Dietrich	✓		Rep. Zaiser		✓
Rep. Johnson		✓			
Rep. Koppelman	✓				
Rep. Kretschmar		✓			
Rep. Maragos	A				
Rep. Pietsch		✓			
Rep. Wrangham	✓				

Total (Yes)

3

No

8

Absent

1

Floor Assignment

failed -

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

Date: March 3, 2005
 Roll Call Vote: 3

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2390

House POLITICAL SUBDIVISIONS Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep. Ekstrom Seconded By Rep. Pietsch

Representatives	Yes	No	Representatives	Yes	No
Rep. Devlin, Chairman	✓		Rep. Ekstrom	✓	
Rep. Herbel, Vice Chairman	✓		Rep. Kaldor	✓	
Rep. Dietrich		✓	Rep. Zaiser	✓	
Rep. Johnson	✓				
Rep. Koppelman		✓			
Rep. Kretschmar	✓				
Rep. Maragos	A				
Rep. Pietsch	✓				
Rep. Wrangham		✓			

Total (Yes) 8 No 3

Absent 1

Floor Assignment Rep. Herbel

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

REPORT OF STANDING COMMITTEE (410)
March 7, 2005 8:22 a.m.

Module No: HR-41-4229
Carrier: Herbel
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2390, as engrossed: Political Subdivisions Committee (Rep. Devlin, Chairman)
recommends **DO PASS** (8 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING).
Engrossed SB 2390 was placed on the Fourteenth order on the calendar.

2005 TESTIMONY

SB 2390

Proposed Amendments to Senate Bill 2390

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative council interim study of city development impact fees.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. City development impact fees – Legislative council study. The legislative council may study, during the 2005-2006 interim, city development impact fees. The legislative council may report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly."

**Dear Mr. Chairman and Committee members
Testimony on SB #2390 Impact Fees
By Mike Williams Fargo City Commissioner
Submitted February 4th, 2005**

Currently, city street and utilities installation costs are recouped only to the extent the improvements are proven to "benefit", through special assessments, the particular lots involved; however, other legitimate expansion and development costs borne by the city, such as the expansion of police and fire protection for example, cannot be recouped through the special assessment laws. In addition, certain trunk line sewer mains, arterial roadways and other public improvements may serve a larger area within a city than typical local sewer, water, street, curb and gutter improvements.

The special assessment process is not always the most equitable means of allocating such costs among the city users. Often times, these additional city expenses are being generated by development in peripheral areas of the city. These types of costs may more equitably be recouped from a charge to the developer, an impact fee.

Many other states have enacted "impact fee" legislation that authorizes cities to develop plans for growth, estimates for the impact of such growth on public budgets and to recoup a proportionate share of that cost from the development. Legislation that enables cities to impose such impact fees would give North Dakota cities that economic tool.

Homeowners would benefit from an impact fee in several ways:

- Cities will be able to do a better job of spreading the cost of major capital facilities over the total area to benefit. Impact fees would allow cities to collect the same amount for each housing unit. Improvements would be installed in the future as they are needed. The present system of special assessments creates different districts for each component of an infrastructure system. This creates different assessment levels for the same basic infrastructure.
- Impact fees would be built into the cost of the home, allowing homeowners to finance the improvement over the term of the loan. If impact fees cover all major infrastructure costs, there would not be the need for additional assessments, and unplanned costs for the homeowner in the future.
- Impact fees would provide that new housing pay its fair share of the cost of expanding infrastructure, including public facilities such as new fire stations and public works facilities. This would benefit existing homeowners who would otherwise have to pay a portion of expanding city infrastructure.
- When infrastructure for lots in new developments is separate from the property, homeowners cannot deduct the cost of financing those specials.

Thank you for your kind consideration and the opportunity to testify.

In Opposition to Senate Bill 2390 – Impact Fees with the State of North Dakota

For those of you who have not been directly involved in any type of land development for the last 25 years, this is not a new concept.

I think the first time I heard about it was probably in the 80's when the world was changing, interest rates were climbing and overall development was at a stand still.

As visionaries and developers it is always hard to guess market conditions, define costs, determine the impact and calculate return on investment every time a new idea emerges.

At this point we have to ask ourselves, why is this again being considered and is it really good for the State of North Dakota and the relatively few people we have inhabiting it?

Are we as a State trying to slow development or do we think we are subject to rapid growth that will actually overburden each individual city's facilities as defined in this bill? Are we trying to compare our state to California, Arizona or any other large state that is experiencing a rapid growth and major infrastructure shortfalls? If we combined the entire population in the whole state, we would be hard pressed to call ourselves a major city.

Because our population is spread out through out the state in small pockets, to write a bill such as this that will have a big impact on every person within the state seems to require more time to consider the consequences. Each city that has home rule charter already has the ability to levy impact fees.

Each of our cities is very unique in population, climate, elevation and contour. Each of our cities is subject to growing pains at sometime and each of our cities have a governmental body in place whose responsibility is to provide the planning, governing, taxing and overall well being for each citizen within their community.

If you as legislators believe that our local City Councils and Planning Commissions don't have the foresight, knowledge and ability to maintain orderly growth, plan for expansion and provide adequate funding methods, then this form of "Impact Legislation" as proposed may be required.

I have been involved in Land Development in the City of Grand Forks for the last 25 years. I see Senate Bill 2390 to be another major hurdle and a real detriment to helping our state grow.

Please vote against this bill.

Respectfully,

Steven L. Adams, Greenberg Development
Grand Forks, ND



**Testimony on Senate Bill 2390
Senate Political Subdivisions Committee
February 4, 2005**

**Doreen Riedman, Executive Officer
North Dakota Association of Builders**

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Vicky Flagstad, Executive Officer

- NORTH DAKOTA ASSOCIATION OF BUILDERS
Doreen Riedman, Executive Officer
Lara Wisniewski, Administrative Assistant

Chairman Cook and members of the Senate Political Subdivisions Committee, the North Dakota Association of Builders (NDAB) strongly opposes Senate Bill 2390, relating to city development impact fees.

The NDAB represents 1,585 members statewide, and is affiliated with five local builders associations in Bismarck-Mandan, Dickinson, Fargo-Moorhead, Grand Forks, and Minot; and is part of a larger federation, the National Association of Home Builders (NAHB), which has over 215,000 members.

Impact fees are charges levied against new development in order to generate revenue to pay for capital improvements. Usually, impact fees fund infrastructure needs such as schools, roads, and water and sewer service. Such fees are, in effect, **a hidden tax on the purchase of a new home.**

The fees are supposedly assessed to pay for new development, but municipalities sometimes try to use them for projects they've been considering for a while, ones that will benefit existing homeowners, too.

Economists and homebuilders alike acknowledge that these fees are simply passed on to the consumers—those families that purchase a new home. In some places, **impact fees are becoming a real barrier to homeownership** for many moderate-income families. Impact fees don't just affect the price of new homes. By raising the price of new housing, they affect the price of all homes—including rental housing—in the market.

A lot of planners don't realize that we're just middlemen. They think they're taxing builders and developers when they're really taxing homebuyers. And at a time when local governments are begging for affordable housing, it is particularly ironic. The higher the impact fees, the more likely builders are to focus their



efforts on high-end homes where the buyers can absorb the additional cost.

In some parts of the country that are experiencing acute housing affordability problems, high impact fees are clearly a big part of the problem. An excellent, though troubling example, is Livermore, California, where impact fees and regulatory costs on a new home can top \$118,000. That's not the cost of the home. That's the cost of the fees and regulations on each home.

Many jurisdictions, faced with tremendous fiscal challenges, are choosing to raise impact fees as a way to solve their budget woes. This unfair tax makes buyers of new homes pay for capital improvements that are used by everyone in the community. This bill does that on page 3, line 12 where it says the "service area" may include the entire city.

Permitting an entire city to encompass a service area can be problematic in that fees attributed for proposed development in any segment of a city can be applied to infrastructure anywhere else in that city. Legally, by defining a service area to include an entire city, one runs the risk of violating standards that require impact fees to be related both in nature and extent to a proposed development project. In other words, a builder who develops a small subdivision in a particular quadrant of the city might be paying impact fees that are being utilized to fund infrastructure in a completely different region of the city. The fees being paid (and utilized by the city) are possibly not even related to the impacts being generated by the builder's small subdivision project, or the amount of the fees being paid are not proportional to the minimal impacts being generated by the proposed development.

The Chicago-based American Planning Association puts the national average for cumulative impact fees at \$14,441 per dwelling unit. Fees top \$100,000 in some parts of California. Since they're added to a mortgage with interest, the net impact is even higher.

No matter how much they are, **impact fees bump up construction costs and hurt housing affordability.** NAHB's Economics Group has determined that, nationwide, every \$1,000 increase in housing costs prices about 400,000 would-be buyers out of the market.

Impact fees negatively affect a town's economy: They **reduce homeownership rates**, which hurts local businesses and can contribute to unemployment. Even worse, they eventually **drive up prices of existing houses** when that may be all people can afford to buy.

As the California example illustrates, **too many fiscally challenged communities are turning to impact fees that penalize homebuyers.** The reality is that bond issues and other finance mechanisms are more cost effective and a more fair distribution of the costs of infrastructure that benefits the entire community.

We respectfully ask this committee to oppose Senate Bill 2390, and leave the impact fee issue to be decided upon at the local level.

SOLD on North Dakota



Attachment #3

North Dakota Association of REALTORS®

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February 4 2005
Testimony on SB 2390

To: Senate Political Subdivision Committee

From: Claus Lembke, Executive Vice President
North Dakota Association of Realtors®

Chairman Cook and members of the committee:

Our position is that bill in its present form is unacceptable. There are too many loopholes that could lead to government excess in mandating these fees. However, we do believe that the idea of impact fees should be explored further as a good alternative to special assessments.





**Testimony of David Straley
Greater North Dakota Chamber of Commerce
Presented to the Senate Political Subdivisions Committee
February 4, 2005**

SB 2390

Mr. Chairman and members of the Senate Political Subdivisions Committee, my name is David Straley. I am here today representing the Economic Development Association of North Dakota (EDND) and the Greater North Dakota Chamber of Commerce. I am here today to urge you to **oppose** Senate Bill 2390.

We believe that although it may look as there is a compelling reason to enact this legislation, in reality there is not. Economic developers have found ways to recover the business' installation and use of services. Cities have a governmental body in place whose responsibility is to provide the planning, governing, taxing and overall well-being for each citizen within their community. Currently, businesses are already taxed with special assessments; therefore, we are opposed to this bill.

Economic development is already competitive and passing this bill would be hurting economic development in North Dakota. It will impede economic developers from getting their job done. We feel that this will drive businesses to other states that do not have such fees.

Thank you, Chairman Cook and members of the Committee, for this opportunity to discuss the business community's position on Senate Bill 2390. We urge a **DO NOT PASS** for SB 2390. Thank you and I would be happy to answer any questions at this time.

Here is some update on this issue:

There is some good in this bill. If you trust your City Councils and Commissioners this might give them some more flexibility. If impact fees are used properly then special assessments will be reduced by an equal amount (a wash). It also can help the purchaser by paying a higher price for the lot and then financing it over a longer period.

Reading the bill I like to point this out:

1. Page 2 line 24: this affects Parks and recreation. The city may require donated land or dollars as a condition
2. Page 3 line 4: could assess impact fees for State and Federal roadways
3. Page 3 line 8: contradicts # 2 above
4. Page 3 lines 14 & 15: looks like the community at large is outside the city
5. Page 3 line 16: city can assess impact fees for "future facilities"
6. Page 5 Line 3 to 6: allows impact fees for past costs and future costs
7. Page 7 lines 14 to 16: exempts impact fees for low housing (which is good) and for other development with broad public purpose
8. Page 7 lines 17 to 19: allows impact fees for previously constructed improvement (I read this to be like the deferred special assessment provision.
9. Page 8 lines 11 to 18: reads like no hearing is needed for an impact fee proposal if no protest is filed
10. Nowhere do I find the ability to refer any plan like you can with 60% of signatures for special assessments



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Tanya Wisniewski,
Administrative Assistant

**Testimony on Senate Bill 2390
House Political Subdivisions Committee
March 3, 2005**

**Doreen Riedman, Executive Officer
North Dakota Association of Builders**

Chairman Devlin and members of the House Political Subdivisions Committee, the North Dakota Association of Builders (NDAB) supports Engrossed Senate Bill 2390, relating to an interim study of city development impact fees.

The NDAB represents just over 1,600 members statewide, and is affiliated with five local builders associations in Bismarck-Mandan, Dickinson, Fargo-Moorhead, Grand Forks, and Minot; and is part of a larger federation, the National Association of Home Builders (NAHB), which has over 215,000 members.

Impact fees are charges levied against new development in order to generate revenue to pay for capital improvements. Usually, impact fees fund infrastructure needs such as schools, roads, and water and sewer service. Such fees are, in effect, **a hidden tax on the purchase of a new home.**

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Many jurisdictions, faced with tremendous fiscal challenges, are choosing to raise impact fees as a way to solve



their budget woes. This unfair tax makes buyers of new homes pay for capital improvements that are used by everyone in the community. The original bill did this where it said the "service area" may include the entire city.

Permitting an entire city to encompass a service area can be problematic in that fees attributed for proposed development in any segment of a city can be applied to infrastructure anywhere else in that city. In other words, a builder who develops a small subdivision in a particular quadrant of the city might be paying impact fees that are being utilized to fund infrastructure in a completely different region of the city. The fees being paid (and utilized by the city) are possibly not even related to the impacts being generated by the builder's small subdivision project, or the amount of the fees being paid are not proportional to the minimal impacts being generated by the proposed development.

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Impact fees negatively affect a town's economy: They **reduce homeownership rates**, which hurts local businesses and can contribute to unemployment. Even worse, they eventually **drive up prices of existing houses** when that may be all people can afford to buy.

We respectfully ask this committee to support Engrossed Senate Bill 2390, and leave the impact fee issue to be studied during the interim session.