

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

4013

2007 SENATE POLITICAL SUBDIVISIONS

SCR 4013

2007 SENATE STANDING COMMITTEE MINUTES

I/Resolution No. SCR 4013

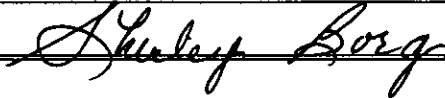
Senate Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: February 22, 2007

Recorder Job Number: 3703 and 3716 (Action)

Committee Clerk Signature



Minutes:

Chairman Cook called the Senate Political Subdivisions Committee to order. All members (5) present.

Chairman Cook opened the hearing on SCR 4013 relating to a concurrent resolution directing the Legislative Council to study the property tax exemption for public housing authorities.

Senator Lyson, District 1, Williston, ND, Introduced SCR 4013. The resolution you see in front of you is a problem that affects the City of Williston and other small communities. This is something that we have got to study so we understand what the proper procedures are in doing this. The situation is the cities are starting to lose tax dollars on taxable homes within their city.

John Kautzman, Williston City Auditor, testified in support of SCR 4013. (See attachment # 1)

Chairman Cook : The solution to this problem lies with some Federal Legislation, right?

John Kautzman: It would possibly be the only answer but with state support of that request, we would be more likely to get it. Maybe some funding after you meet some certain cap to a particular entity might be appropriate.

Senator Hacker: What about state housing authorities that we authorize, are they not taxed either.

John Kautzman: They are under an exemption also but the difference I saw in that is that they are normally simple structures in one area, so we have a defined exemption.

Dan Kealie, Serves as a chairman of Williams County and also serve on the Williston Township Board. The problem that we have in Williston Township which correlates with what the City of Williston and the rest of Williams County have. An example of that would be Town and Country Subdivision which was thirty six lots in the subdivision and the property owner request a paving district be put together. Six of the lots where owned by the Trenton Indians Services for future ownership of their organization. When it came time to do the special assessment district those lots where left out. So the other thirty people had to pay the assessments because no specials are assessed to the ownership of the Trenton Indian Services. It is a huge unfairness to the other members of the community. Leaving those areas unpaid was not an option. There is a problem there and we would appreciate the legislature taking a look at it.

No further testimony in support, opposed or neutral on SCR 4013.

Chairman Cook closed the hearing on SCR 4013.

February 22, 2007 Recorder # 3716 SCR 4013 (Action)

Chairman Cook told the committee that they had dealt with this in the legislation two years ago. We are dealing with the Federal Housing Authority that says they can not be assessed.

We can study this.

Senator Hacker: I was wondering if we should add some language to address this problem.

Senator Warner: I think the argument would be that unless congress funds it they have no business imposing it on the political subdivision. It is a lot more complicated.

Chairman Cook: This is a big challenge to North Dakota especially as these Indian Housing Authorities buy more and more property and there is nothing to keep them from coming into any town in North Dakota.

Senator Hacker moved a Do Pass

Senator Anderson seconded the motion.

Voice vote: all members in favor

Carrier: **Senator Cook**

REPORT OF STANDING COMMITTEE (410)
February 22, 2007 4:15 p.m.

Module No: SR-34-3705
Carrier: Cook
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SCR 4013: Political Subdivisions Committee (Sen. Cook, Chairman) recommends DO PASS (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4013 was placed on the Eleventh order on the calendar.

2007 HOUSE FINANCE AND TAXATION

SCR 4013

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SCR 4013

House Finance & Taxation Committee

Check here for Conference Committee

Hearing Date: 3/14/07

Recorder Job Number: 5030

Committee Clerk Signature

D. Penrose

Minutes:

Rep. Belter: Clerk read roll. We will open the hearing on SCR 4013. Clerk read title.

Sen. Stan Lyson: Sponsor, support. I am here to introduce the SCR. I have the city auditor from Williston here, that will explain all the details of it and will answer all of the questions you have. I brought it forward for the City of Williston.

Rep. Belter: Thank you. Further testimony in support.

John Kautzman, Williston City Auditor: (see attached testimony #1).

Rep. Belter: In other words, you are getting \$250 for these homes versus somewhere between \$1130-2930.

John Kautzman: Yes, that is correct and that is, of course, split between the taxing entities, so the city would normally receive about 20%, so we would get about \$50.

Rep. Weiler: That agreement for \$250 per home, was that an agreement between the Trenton Indian Housing Authority and the City of Williston.

John Kautzman: That particular dollar amount is actually within the federal legislation, so the dollar amount is within the federal legislation that we're required to follow.

Rep. Weiler: Is that something that can be negotiated.

John Kautzman: The federal legislation cannot be. It can be amended if we can get congressional people to amend it, but at this point, we haven't been able to do that.

Rep. Weiler: The reason you don't have that ability to negotiate is?

John Kautzman: Not at the local level.

Rep. Drovdal: What do you hope would be the results of this study?

John Kautzman: Well, I think it's clear from the Senate testimony that it's probably a federal issue as much as it's a state issue, so I think the hope that we would have is that the state, at least next session, would at least pass a resolution of support and stand behind us or with us as we approach the federal side. I certainly don't think this is an impact that should just stay in Williston, ND. I have been under the impression within the testimony on the Senate side; the two communities in the state that are impacted are the most, are Williston and Parshall. If there are others, I'm not aware of them, but those are the two that I'm aware of that this particular federal legislation had an impact on.

Rep. Belter: If I'm not mistaken I think Sen. Dorgan was appointed the chair or something like this, over some tribal issues. Has he given any indication that this is something that they might look at?

John Kautzman: Our mayor and finance commissioner have approached our congressional people in the past, and to date, we have not been successful in having them take this issue up and go with it. Our thought was that at least the legislature would hopefully stand with us. It's hard for us to believe that Williston, ND is the only community that could be impacted. Part of the complaint that was filed was Indian Territory was the term that kept getting thrown at us. Williston, ND, in our opinion, is in no way more Indian Territory than any other community in the state. So we have to assume that every community in the state could potentially be impacted by this program.

Rep. Pinkerton: In Minot, we have a similar situation where the local housing authority worked with a group in Minneapolis that wanted a non-profit corporation. They are a for-profit entity. They were able to put it under a non-profit and get a large multi-million dollar low income housing project that pays no taxes at all. Under the federal housing authority, you're not the only one in this situation. How exactly does that affect your property taxes?

John Kautzman: Obviously every exemption has an impact on the community. Obviously, as you add more and more exemptions, that does impact you in terms of finding other tax dollars to make up that difference. It's important that everybody realize that Williston, ND had the housing authority. We've had a housing authority for years, those were rental units. This particular program, though, is meant for single family home ownership. The importance there is that they want everybody to have the opportunity to own a home. Our particular housing authority has not been successful in maintaining 100% occupancy. In fact, that was one of the points that were made. I believe our occupancy level at times, has been as low as 72% with a 28% vacancy rate. I think we have somewhere around 156 units in the city, in various parts of the town, in a rental capacity. The second part of that, obviously, was that you have special assessments as part of this equation. Our concern was that although we know that we have to absorb special assessments within our housing authority units, those were more limited or at least in certain areas. These are kind of spread throughout the community so that your impact, potentially is much greater.

Rep. Pinkerton: On your housing authority, are those taxes exempt?

John Kautzman: Yes, they are.

Rep. Pinkerton: Are they owned by a for-profit corporation or by the housing authority.

John Kautzman: They are owned by the housing authority which exists as an umbrella through the city. Once the housing authority was created by law, they kind of run on their own. But their board is appointed by the city commission.

Rep. Pinkerton: The situation of mine is that they are going to pass the exemption on homes which are going to be tax exempt but they are (can't hear)...federal law to avoid property tax.

John Kautzman: Again ours are owned by the local housing authority, they are tax exempt so they do not pay taxes. They do pay a payment in lieu of taxes which is similar to what this concept is set up under federal law where they are paying on a per-occupied unit type basis. So there is some small payment that they do make as part of their operating expense, but it is not anywhere near what you would normally pay for that structure in a property tax situation.

Rep. Froseth: Under the federal exemption, does that include special assessments, or is that an agreement with the city.

John Kautzman: That would be an added concern, yes; it does include the special assessments. So we, as a city, if we have an improvement go by their home, in that particular neighborhood, they incur a greater added cost because of the exemption that exists for that home, or as I testified on the Senate side, it was my belief that the city commission at that point, would utilize sales tax dollars to pay for that difference, but there is still a payment of public funds in total for that one private area.

Rep. Belter: Thank you. Further testimony in support.

Sen. Dwight Cook, Chairman, Morton County Housing Authority: Support. We cover housing assistance for five counties. I just want to clarify one thing, ND Century Code makes it clear that if a housing authority owns property, that the property cannot be special assessed or taxes. That's in the century code. Morton County as a housing authority, we elect not to own any property. We don't own anything. Of course, the reason we don't and this is in the five

county area, is because we don't want to take property off the tax rolls; whether or not a housing authority owns property or not is a decision of the housing authority and that housing authority can answer either to a city or a county, dependent on what type of authority it is. So if there is an authority that owns a property that authority could by the direction of whoever they answer to, that is an option. In the case of Minot, if the housing authority owns the property, it cannot be taxes. If somebody else owns the property, if they form something with the local housing authority, my guess is that the decision was made at the local level, not the tax entity. I think this is an important study. The problem is federal legislation, and this problem could happen anywhere in the state.

Rep. Pinkerton: That was a local decision made by the local housing authority to allow that to be privately held. You're correct.

Sen. Cook: I think the decision was actually made by the city commission, not by the local housing authority about the tax issue.

Rep. Froseth: That kind of brings up an interesting scenario. If the federal law is changed so there would be tax owed on those properties to the municipalities, who would pay those taxes, it would end up being the federal government that would more than likely have to pay them; or would you make the Native American resident pay those taxes, the burden would probably fall back on the federal government.

Sen. Cook: All the dollars that a housing authority has to operate, it comes from the federal government, so you're correct, if they had to pay property tax, special assessments, that's where the dollars would come from. The federal government to the local political subdivision. Indian Housing Authorities are not created by the state of North Dakota, they are created by HUD, there is nothing in our law that even addresses Indian Housing Authority, and it's all federal law. This here is actually a family, I think is owning a house or the Indian Housing

Authority owns it and the family is paying them and someday they will take ownership I believe, but I'm not sure.

Rep. Belter: Thank you. Further testimony in support. Testimony in opposition.

Mike Zainhofsky, Director, Housing Authority in Bismarck: The first two points that I would like to make in SCR 4013 is that it only addresses the property tax exemption for public housing authorities; it does not address the essential governing function of the body of affordable housing for low income families and individuals in our community. It is my understanding in the second point that ND Century Code 23-11 provides for an exemption especially for property taxes. It does not mandate the exemption. My remarks are limited to our Housing Authority, and are intended to show the relationship of property tax exemption to our central governing function. Our housing authority was created in 1972 and with the consent of the local officials of both county government and city government, and as a result we entered into a property agreement with the city of Bismarck, that had the following provisions: it established a cap of 350 public housing units, and this was amended in 1986, which extended the cap to 365 units. The housing authority in Bismarck agreed to pay specials and a payment in lieu of taxes, which equals 10% of the adjusted gross rental receipts of our housing authority. We are now at a current level of 310 units, so we've had a drop. The reason for the drop is that we aggressively pursued a home ownership program with our single family units scattered throughout the city of Bismarck. Over the past nine years, we have sold 30 of those units to low income families who were formerly residents and recipients of public housing assistance. That valuation has come to about \$2.6 million and as a result, that transferred tax exempt property came to \$52,178. The other adjustment that we made in our inventory is that we directed units that served the developmentally disabled to support services. Our housing authority current book value is \$18.9 million. It taxes the current mill

levy rate of 440.04 mills that would equal property tax revenue of \$374,000. We currently pay a pilot of \$45,812. So what we look at is the community contribution of \$328,000. But what does this bring to our community; it brings us \$5.2 million in federal housing grants. We serve 1,558 low income head of households in our community, of which 1,168 are extremely low income and 390 are low income, and then if you look at that figure, over 68% of the 1,059 head of households are housed in the private sector; that's 72% of our housing assistance monies, or \$3.8 million go to the private sector, which equals about \$317,000/month. I would like to take this time here to concentrate a little bit more on where we serve. Approximately 40%, around 650 head of households are elderly or disabled. When I look at that, in the high rises that we own, we serve about 170 elderly. The average age is 80+. I would say that it only takes us 10 seniors to keep an independent living that would otherwise be placed in a skilled nursing facility at something like \$40,000/year. That's what our community is contributing, saving the state that much money from the transfer of these people into an early entry into a skilled nursing facility. Then we take a look at the developmentally disabled. We have been working with the state of ND, Dept. of Human Services over the past 10 years and under the Olmsted Commission, in which you are deinstitutionalizing these people under federal law, which costs there about \$40,000, we now housed about 10 of those individuals, so that's another savings to the state of \$400,000. I think our community in Bismarck is contributing a great deal, the tax exemption. Let's look a little bit about our needs. We currently have a waiting list of 991. We have the capacity under our budget authority to add an additional 20 more units or contracts to service those people, that's less than 3% of our waiting list. In 2007, we experienced a 20% cut in public housing subsidies and a 12% cut in our housing assistance in the private sector. When I look at this, I am a little perplexed; personally, the Governor has a task force to reduce homelessness. I somewhat consider this, at the

beginning of the legislative task force to increase homelessness. Let me give you some prime examples. We have one project in south Bismarck that has 44 units, the average rent is \$63 a unit. That's what they pay because they pay 30% of their income. If we were to add full property tax to that low income unit, that would raise their rent to 150% of what they are paying and they cannot afford that, and our housing authority could not afford to run that project, so we'd close. So we take a look at our high rise, 160 people, average age over 80, average income of less than \$9,000/year. They are strapped every year; it is getting tighter for those elderly. Then looking at increased costs of Medicare, part D, they are looking at increased costs under part D, the prescription program and they are facing a multitude of various illnesses, which increases their out-of-pocket expenses. Can they afford a \$90 rent? No they cannot. So it's a matter, if our community didn't step forward, and provide this property tax exemption, our only recourse is as I'm looking at reducing, is as Sen. Cook said, we would no longer have any property that we would own, so where would these people go. We can't take care of our present needs now, so in all fairness, I would urge a no vote on SCR 4013, if the study is only limited to property tax exemptions. I would urge a yes vote if you would amend 4013 to study a state subsidy to local entities for public housing authorities. I think the state needs to step up to the plate. We are saving the state money by keeping our elderly our skilled nursing facilities; we are assisting the state in paying money in the deinstitutionalization of Grafton. We have no assistance from the state. I think on behalf of our housing authority and on behalf of our city, I would ask that you expand that to include that in the study, which would cost about \$3.5-4 million dollars a year. Our communities are doing their job, so I would ask that the state do their part. That's how this all fits together.

Rep. Pinkerton: Do you know if local housing authorities make decisions that, school districts don't have any interest in what (can't hear), there has to be a solution here.

Mike Zainhofsky: My problem with that is, it's what a community does for all its citizens. I think a community can only grow in statute, when we look at all the needs of all our citizens, including our minorities, seniors, disabled, hard working low income families and I think when we take a look at that in perspective, that when we do our planning, you're right, if we present our needs to the state and case to the state, that's a decision in cooperation with local governments that is made. What is the impact on the city in total. This study only isolates only one single item, and I would say that probably this property tax exemption, if the study could include what is the impact, is the state coming to help, and contributing back to the communities an amount equal to what they have given or some kind of cost sharing. The burden is on the local community right now. Much of the work is undertaken and cost savings in our skilled nursing, \$40,000/year, our subsidy from housing is \$90 under the tax exemption. This doesn't make sense to me, that's my problem.

Rep. Pinkerton: You're advocating that each time the state or federal government mandates that a piece of property be taken off the local tax rolls, that the state or federal would come in and pay that.

Mike S.: Yes definitely, why should it be a full burden on the community.

Rep. Belter: Thank you. Further testimony in opposition.

Tom Pearson, Executive Director of Minot Housing Authority: Our housing authority was established down in 1969 and when we worked through this process the community stepped up and saw this as a need to provide affordable housing for elderly, disabled and low income families. At that time, there was an agreement that was made between us, HUD, and our local community to provide 219 units for rental. Later in on 1986 an additional 40 units were added for housing of families throughout the community. In both of those agreements, part of it was a cooperative agreement that stated that it would be pilot payment made in lieu of taxes, as like

in Burleigh. It is based on rent that is collected off the properties. Our property tax is just under \$22,000. Again the reason that we came together to do this, was to provide affordable housing. We saw a need in the community to provide these services and we have tried to do that. I understand there is a question regarding a housing authority being in Minot. The Housing Authority does not own this property that was discussed. They are owned by a non-profit organization from Minneapolis, under a tax credit program. The people that we deal with, for example, for one person, local income is \$18,000 or less, most of our people are half of that amount. We only charge them 30% of their income for rent. We cannot charge them any more, that is a federal statute. If we increase the property taxes, where is the money going to come from. HUD's budget that we are running on currently, is 76% of the base rate for public housing budget. That's what we get. The money's not there. I don't know where we would come up with it.

Rep. Weiler: I think that the purpose of this resolution is to eventually come to the agreement that we need to ask the people who are living in these units to help pay the property taxes. I think the purpose of this is to get the word to the federal government, that if you're going to do this, you need to start paying the property taxes on it. I think and the previous speaker both got up at the wrong time, you should be in support of this piece of legislation, not opposed to it. That's a comment, not a question.

Rep. Belter: Thank you. Further testimony in opposition, neutral testimony. We will close the hearing.

Rep. Weiler: In regard to Rep. Pinkerton's question, how does that affect taxes because they're not paying the property taxes, they still need the services, though. Therefore the tax gets spread out to everybody else. It's a similar situation that we're going through on this committee, to where we've taken up a collection for flowers, and we've got some that are

paying and some that aren't paying, and they still need to be paid for. I just had to bring that up.

Rep. Belter: We will go on to the next bill.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SCR 4013

House Finance & Taxation Committee

Check here for Conference Committee

Hearing Date: 3/14/07

Recorder Job Number: 5031

Committee Clerk Signature

D. Penrose

Minutes:

Rep. Belter: We will take a look at SCR 4013. What are the committee's wishes.

Rep. Grande: I move a Do Pass and place on the Consent calendar.

Rep. Headland: Second.

Rep. Belter: Voice vote. Motion carried.

14 YES 0 NO 0 ABSENT

DO PASS AND PLACE ON CONSENT CALENDAR

CARRIER: Rep. Drovdal

Date: 3-14-07
Roll Call Vote #: 4013

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

House _____ Finance & Tax _____ Committee

Check here for Conference Committee

Legislative Council Amendment
Number _____

Action Taken Do Pass and Put on Consent Calendar

Motion Made By Rep. Grande Seconded By Rep. Headland

Representatives	Yes	No	Representatives	Yes	No
Chairman Belter			Rep. Froelich		
Vice Chairman Drovdal			Rep. Kelsh		
Rep. Brandenburg			Rep. Pinkerton		
Rep. Froseth			Rep. Schmidt		
Rep. Grande			Rep. Vig		
Rep. Headland					
Rep. Owens					
Rep. Weiler					
Rep. Wrangham					

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep. Drovdal

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

* Voice Vote

REPORT OF STANDING COMMITTEE

SCR 4013: Finance and Taxation Committee (Rep. Belter, Chairman) recommends DO PASS and BE PLACED ON THE CONSENT CALENDAR (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4013 was placed on the Tenth order on the calendar.

2007 TESTIMONY

SCR 4013

Thank you Mr. Chairman,

*same
to House*

I am John Kautzman, Williston City Auditor. The City of Williston asks for your support in getting this SCR 4013 bill passed. This bill is simply asking that the legislative council study the property tax exemptions for public housing authorities and report findings to the sixty-first legislative assembly.

It is important to recap why we are concerned about exemptions for public housing. Some years ago, the Trenton Indian Housing Authority (TIHA) approached the City of Williston about buying homes in the city of Williston. Under the advice of legal counsel, the City initially did not agree to the terms that TIHA proposed. TIHA then filed a discrimination complaint with the Justice Department against the City, including the mayor and auditor individually. New legal counsel advised the City that Trenton Indian Housing Authority is allowed to hold property in the city of Williston under the federal Native American Housing Assistance and Self-Determination Act (NAHASDA). Based on that advice, the City entered into a conciliation agreement with Trenton Indian Housing Authority, allowing TIHA an unlimited number of homes in the city, with a maximum annual payment of \$250 per home in lieu of property taxes and special assessments. Presently the city of Williston has thirteen homes with an estimated total value of \$1,100,000 under this agreement, resulting in a loss to all local taxing entities in excess of \$25,000 per year. Taxes on these properties would normally range between \$1,130 and \$2,930 depending on the home value. This amount will only increase as TIHA continues to buy or build more homes in the community.

While the City of Williston supports home ownership of its Native American residents, the 1997 Native American Housing Assistance and Self-Determination Act (NAHASDA) results in a federal mandate that is not only unfunded, but affects certain areas of the country more than others, depending on the existence and zeal of a local authority. We are asking that you study this situation and its effect on North Dakota taxing entities.