

2019 HOUSE POLITICAL SUBDIVISIONS

HB 1379

2019 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Prairie Room, State Capitol

HB 1379
2/8/2019
Job # 32490

- Subcommittee
 Conference Committee

Committee Clerk Signature	Carmen Hickle typed by Mary Brucker
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Explanation or reason for introduction of bill/resolution:

Relating to adoption and referral of preliminary budgets of cities, counties, school districts, and park districts; and to provide an effective date

Minutes:

Attachments 1-15

Chairman J. Dockter: Opens the hearing on HB 1379.

Representative Bellew: Introduced bill. Distributed written testimony, see attachments 1-2. Ended testimony at 2:40.

Representative Hatlestad: Isn't the pre-budget meeting a place to allow people to express their dissatisfaction?

Representative Bellew: Yes it is but they still don't get a say. In Minot the City Council raised our taxes even though everyone there opposed the tax. In the last two years the Minto City Council has raised city property taxes by 64% yet they are not listening to the people. This bill will ensure the people have a say in the process and what their taxes are going to be.

Chairman Dockter: Is there further support? Is there any opposition?

Terry Traynor, North Dakota Association of Counties. (Handout # 3). He read his testimony. He also handed out testimony 4, 5 and 6 from Debbie Nelson of Grand Forks County Auditor/Treasurer, Michael Montplaisir a Cass County Auditor, and Alexis Baxley of North Dakota School Boards Association. Ended testimony at 8:28.

Chairman J. Dockter: How many people show up for the budget hearings?

Terry Traynor: We don't see a lot of people unless there is a big issue.

Representative K. Koppelman: You're saying the important piece is the transparency with the preliminary information but you are opposing the ability of the people to react to that preliminary information. Do you have an alternative?

Terry Traynor: I don't see any value to do a preliminary budget. There may be value in referring a final budget but that's in October so how would you get everything done before taxes go out? There would have to be shift in order for it to work.

Chairman Dockter: Is there further opposition?

Devra Smestad, Ward County Auditor/Treasurer: (Handout #7). Ended testimony at 17:46.

Representative K. Koppelman: I'm not sure I would want to get rid of the local elected officials because I don't like the budget. How does a citizen respond?

Devra Smestad: We have gone from having three people to having anywhere from 35 to 40 people with possibly three speaking. When we pull our budget together the first question our commissioner is going to ask me is what kind of an increase are we looking at. For the last several years we're charged with keeping at a zero growth, 100% and we have met that challenge.

Representative K. Koppelman: We also deal with this in the legislature so I can understand how that could be skewed. To get an accurate read on how the people feel wouldn't the opportunity for the people to voice their opinion be through a referral or some kind of a vote?

Devra Smestad: It would be but how long do they have to get that referral to the commissioner, to the council, or wherever? If we're in the middle of finalizing budgets in October then we get a referral, how do we do our job without amending other section of the law?

Representative K. Koppelman: You may have to write the amendment.

Chairman Dockter: Is there further opposition?

Bill Wocken, League of Cities (Handout out #8): Testimony ended at 26:49. He also handed out testimony #9, 10, 11 from Keith Hunke, City Administrator for the City of Bismarck, Allyn Sveen, City Auditor for Stanley, and Mayor Phil Riely of Watford City.

Ken Vein, Vice President of the Grand Forks City Council: Distributed testimony from their Finance Director, Maureen Storstad (Handout #12). Testimony ended at 31:34.

Representative K. Koppelman: As an elected official if people are concerned about a budget, do you agree they should vote you out of office even if they don't like the one thing?

Ken Vein: I feel the number one thing to be responsible for as a council member is the finance of the city and managing and monitoring that. The other things I do are also important.

Chairman Dockter: Is there further opposition?

Mark Jantzer, City Council President in Minot: (Handout #13). Ended testimony at 40:43.

Representative K. Koppelman: Do you believe people should have less control over their local government than they do over their state government?

Ken Jantzer: I think that if we take the approach that is proposed in this bill it perhaps goes to an extreme where you end up with annual referrals of budgets because some people don't want to see a tax increase. I understand Representative Bellew's frustration over the increased property taxes. Due to our circumstances of the flood control project, the NAWS project, the decrease in revenues from areas it just wasn't possible.

Representative Ertelt: Your point #3 states that people were happy with their property taxes, is that true?

Ken Jantzer: I don't recall saying people were happy with their property taxes. People have told me that is was no big deal.

Chairman Dockter: Is there further opposition?

Dr. Amiee Copas, Executive Director for North Dakota Council for Educational Leaders (NDCEL): Distributed testimony #14. Ended testimony at 49:52.

Chairman Dockter: Is there anything else?

Dana Schaar Jahner, North Dakota Recreation and Park Association: Distributed written testimony, see attachment #15.

Chairman Dockter: Is there further opposition? Is there any neutral testimony? Seeing none we will close the hearing on HB 1379.

2019 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Prairie Room, State Capitol

HB 1379
2/14/2019
Job #32804

- Subcommittee
 Conference Committee

Committee Clerk Signature	Carmen Hickle typed by Mary Brucker
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Explanation or reason for introduction of bill/resolution:

Relating to adoption and referral of preliminary budgets of cities, counties, school districts, and park districts; and to provide an effective date.

Minutes:

No attachments

Chairman Dockter: This is the bill from Representative Bellew regarding preliminary budgets. There are a lot of complications with this bill.

Vice Chairman Pyle: MADE A MOTION FOR A DO NOT PASS. I think this bill complicates the budgeting process for all of the political subdivisions especially for the small town city auditors to complete with part-time staff.

Representative Longmuir: SECONDED

Chairman Dockter: Is there any discussion?

**ROLL CALL VOTE: 10 YES 4 NO 0 ABSENT
MOTION CARRIED**

Representative Adams will be the bill carrier.

Date: 2-14-19
 Roll Call Vote #: 1

**2019 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1379**

House Political Subdivisions Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Rep. Pyle Seconded By Rep. Longmuir

Representatives	Yes	No	Representatives	Yes	No
Chairman J. Dockter:	/				
Vice Chairman Pyle:	/				
Rep. Ertelt:		/			
Rep. Fegley:	/				
Rep. Hatlestad:	/				
Rep. Johnson:	/				
Rep K. Koppelman:	/	/			
Rep. Longmuir:	/				
Rep. Magrum:	/	/			
Rep. Simons:	/	/			
Rep. Toman:	/	/			
Rep. Strinden:	/				
Rep. Adams:	/				
Rep. Guggisberg:	/				

Total (Yes) 10 No 4

Absent 0

Floor Assignment Rep. Adams

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

REPORT OF STANDING COMMITTEE

HB 1379: Political Subdivisions Committee (Rep. Dockter, Chairman) recommends **DO NOT PASS** (10 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). HB 1379 was placed on the Eleventh order on the calendar.

2019 TESTIMONY

HB 1379

House Political Subdivisions Committee

Testimony on HB 1379

Referral of Preliminary Budgets for Cities, Counties, School Districts, and Park Districts

#1
2-8-19
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p. 1

Mr. Chairman, members of the House Political Subs Committee, my name is Representative Larry Bellew from District 38 in Minot. Thank you for allowing me to introduce HB 1379 and to support it.

This is a very simple bill. This bill would create a new section in chapter 57-15 of the NDCC. It would allow the citizens of a political sub-division to refer the preliminary budget of a city, county, school district, or park district.

Currently, there is no statutory authority under existing law for referral of budget and tax levy actions of political subdivisions. Currently, political subdivision budgets and tax levies are considered "resolutions". Because the budgets tax levies are "resolutions", they are not referable. Only ordinances can be referred.

If this bill is passed, political subdivision preliminary budgets will become ordinances. It is my hope this bill will generate public interest in their local budgeting processes and get the local taxpaying citizens more involved in that process. This bill will also allow voters more direct control, through the referral process, governing increases in property taxes.

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Mr. Chairman and members of this committee, as far as I know, all legislative actions are referable, including budget bills. Thank you for your positive consideration of this bill and for your time.

**ARTICLE III
POWERS RESERVED TO THE PEOPLE**

Section 1.

While the legislative power of this state shall be vested in a legislative assembly consisting of a senate and a house of representatives, the people reserve the power to propose and enact laws by the initiative, including the call for a constitutional convention; to approve or reject legislative Acts, or parts thereof, by the referendum; to propose and adopt constitutional amendments by the initiative; and to recall certain elected officials. This article is self-executing, and all its provisions are mandatory. Laws may be enacted to facilitate and safeguard, but not to hamper, restrict, or impair these powers.

REFERRAL OPTIONS FOR POLITICAL SUBDIVISION PROPERTY TAX LEVIES

HB1379

#2

2-8-19

p. 1

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

It appears there is no authority under existing law for referral of budget and tax levy action of political subdivisions. This memorandum explores options to allow voter disapproval of budgets and levies to school districts, counties, and cities because these three kinds of political subdivisions levied 94.8 percent of property taxes statewide in 2017, payable in 2018, and these subdivisions have the capacity to independently conduct elections.

The deadline for adoption of a tax levy for purposes of the budget for counties is the 1st week in October (North Dakota Century Code Sections 11-11-05 and 11-23-05). The deadline for preparing a preliminary budget for cities is August 10 (Section 40-40-04). The deadline for adoption of a final budget and tax levy by cities is October 7 (Sections 40-40-06 and 40-40-09). The deadline for adoption of a school district tax levy is August 10 (Section 57-15-13). The deadline for amending a budget for all taxing districts is October 10 (Section 57-15-31.1).

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

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

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

An issue that must be considered in setting limits on property tax increases is how to address changes in the property tax base. If property tax exemptions are granted by the city or county or a previously granted exemption expires, the tax base is affected. If market values rise or fall, the tax base for residential, commercial, and centrally assessed property is affected. If various factors change in the agricultural property valuation formula, the tax base is affected. New construction increases the tax base and may or may not be reflected in the allowable property tax increase before a referral would be allowed. If property goes back to the city or county through tax sale, the tax base is reduced. It would be advisable to consider an adjustment factor to recognize certain changes in the property tax base when setting allowable percentage increases in property taxes under a referral process.

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

Action	Time Allowed	Deadline to Complete
Adoption of preliminary budget		July 15
Publish notice of preliminary budget and deadline for referral	Once a week for 2 consecutive weeks	July 31
Circulation and filing referral petition	15 days	August 15
Determine sufficiency of petition	7 days	August 22
Prepare and print special election ballot	20 days	September 11
Publish notice of special election, allow absentees to request and return ballots, and hold election	14 days	September 25
Canvass election results	5 days	September 30
Restructure budget if referral is successful	10 days	October 10

Another option for consideration which would allow a shortened timetable and a longer time to adopt a preliminary budget would be to require a special election to obtain voter approval if the preliminary budget calls for an increase in property taxes from the prior year of more than a predetermined percentage. For example, if the preliminary budget calls for an increase in property taxes of more than 2 percent from the prior year, the governing body would be required to place a question on a special election ballot for voter approval or disapproval of the amount to be levied. If voters disapprove the proposed amount, the proposed property tax levy increase would have to be rolled back to 2 percent (or 1 percent or 0 percent) more than the amount levied in the prior year. A possible timetable for such a procedure is:

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

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

Testimony Prepared for the
House Political Subdivisions Committee
February 8, 2019
By: Terry Traynor, NDACo Executive Director



#3
HB1379
2-8-19

RE: OPPOSE House Bill 1379 – Preliminary Budget Referral

Good morning Chairman Dockter and committee members. Thank you for this opportunity to provide testimony opposing HB1379 on behalf of our state's 53 counties, and the county officials that serve the citizens of our state.

While the intentions of the bill have merit – to bring each political subdivision's citizens to the table early in the budget process – I don't believe they would find it helpful nor would your local officials find it functional.

First and foremost, this bill would ask citizens to weigh in on a preliminary budget – which would be analogous to allowing voters to refer the Legislative Appropriation for the Department of Corrections at crossover. Most preliminary budgets are adjusted – often many times – before they are finally approved in late September.

Secondly, this bill would not (and could not) provide the citizens accurate information regarding the potential effect of that budget on their property taxes, since the state board of equalization would not have met to finalize all values, but most importantly, the centrally assessed property values which are not initially established at the local level.

And finally, the time constraints for petitioning, proper notice of an election, ballot preparation, ballot printing, and holding a special election would be too tight, while waiting until a regular November election (if held that year) would place the results after levies had been certified and taxes prepared.

The North Dakota Association of Counties urges a DO NOT PASS on HB1379.

#4
HB 1379
2-8-19

Written Testimony for the
House Political Subdivisions Committee
February 8, 2019
Debbie Nelson, Grand Forks County Auditor/Treasurer

RE: Opposition to HB 1379 – Relating to adoption and referral of preliminary budgets for cities, counties, school districts, and park districts

Mr. Chairman and members of the Committee;

My name is Debbie Nelson and I am the County Auditor/Treasurer for Grand Forks County. I want to thank each of you for the opportunity to provide you testimony, and share both my concern and opposition to HB 1379.

This bill does not address the length of time a petition could be circulated or when the election must be held. Let us assume the petition could be circulated 30 days and the election must be held within 120 days after receipt of the petition, which would be a total of 5 months. If the process began 30 days from the second publication requirement of August 13th, we would be having an election in the middle of December for the budget for the following year.

This bill would go into effect after December 31, 2019, the 2020 General Election will be in November and, because of timing, we may have to have another election in December. This would be additional cost to the taxpayer.

Mill levies are calculated after budgets are received, NDCC 57-15-31.1 states the deadline date for amending budgets is October 10th. If elections are taking place in December, there will not be enough time to get the mill levies calculated by the time property tax statements are to be mailed, December 26th according to NDCC 57-20-07.1.

A petition could be filed even if your budget did not increase. We would have to have an election and according to HB 1379, if the majority of electors disapprove the governing body could not adopt a final budget exceeding the amount in dollars levied in the immediately preceding taxable year, adjusted by property added or removed from the prior year. That calculation could result in an increased budget compared to the published preliminary budget.

HB 1379 applies to all cities, school, and park districts regardless of their budget. The cost of the election could be greater than the budget for some small cities and park districts.

NDCC 57-15-02.2 requires an estimated tax statement and budget hearing notice be sent by August 31st. Taxpayers are mailed an estimated tax statement and taxpayers are informed when budget hearings are set, so they could attend those hearings. Will we continue this process if a petition has been filed?

We sent the required estimated tax statement and budget hearing notices for the first time in 2018, I think it worked well. The taxpayers were informed about how much their taxes were going to be and notified when the governing entities would be holding their budget hearings. Please give the new process time before the process is changed. Thank you for your consideration.

I would encourage a **DO NOT PASS** on HB 1379.

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Written Testimony To
THE HOUSE POLITICAL SUBDIVISION COMMITTEE
Friday, February 8, 2019 by
Michael Montplaisir, Cass County Auditor
Cass County Government

REGARDING HOUSE BILL 1379

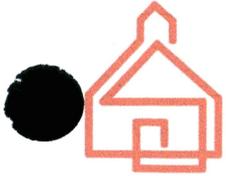
Chairman Dockter and members of the House Political Subdivisions Committee, I am Michael Montplaisir, Cass County Auditor, and am involved in local government budgeting and local property taxes. In the 2017 Legislature enacted Senate Bill 2288 which made major changes in how local governments budget and in how they interact with their constituents. That Bill moved the deadline for approving the preliminary budget to August 10 for local units and required the County send notices of Estimated Taxes to all property owners by the end of August.

Local governments moved their approval of their preliminary budgets to early August in order to certify those budgets to the county by August 10. In turn, the county prepared and mailed to all taxpayers whose property taxes were greater than one hundred dollars an Estimated Tax Statement by the end of August. Included on that statement was the budget hearing date, time, and place for all entities levying more than one hundred thousand dollars. In this manner, property owners were notified of changes in their property taxes from the 2017 tax year to the 2018 year prior to the local government holding their budget hearings.

This change worked in 2018. Property owners reviewed their Estimated Tax Statements and had the opportunity to contact the county or to appear at their local budget hearings. If they did call or appear at the budget hearings, they were adequately prepared with the Estimated Tax Statement for their property or properties. They had real confirmation of the effect the Preliminary Budget had on their property taxes.

Before we consider further changes, we need to let the process put in place in the last legislative session work. Cass County has been using this process for a few years before the 2017 law took effect and this notice process appears to be working better than published notices. The process has only been used for one year in the rest of the state and we need time to evaluate the effectiveness.

I urge you to recommend a do not pass on House Bill 1379.



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HB 1379
Testimony of Alexis Baxley
House Political Subdivisions
February 8, 2019

Chairman Dockter and members of the House Political Subdivisions Committee, my name is Alexis Baxley. I am the executive director of the North Dakota School Boards Association. NDSBA represents all 178 North Dakota public school districts and their boards. I am here today in opposition to HB 1379.

School districts are subject to public meeting and open records laws. Citizens of each district must be given reasonable notice before each meeting of the board.

School boards are required to publish their schedule of bills in the official district publication. School boards cannot make decisions that involve expenditure of funds in executive session, and a district's budget is approved annual in an open meeting.

School districts are limited to the amount they can increase their general fund levy without voter approval. Bonds and most other levies also require voter approval.

Finally, board members are elected to three or four year terms. At each regularly scheduled election, voters have the opportunity to decide if members of the board are being good stewards of local tax dollars. In between regularly scheduled elections, voters have the option to recall a board member if they disapprove of their actions.

All of these requirements provide citizens with ample, accessible, and regular opportunities to provide input on a district's expenditure of funds and management of the district. Requiring that a district's budget be approved by voters annually is not only unnecessary and redundant, but would place a significant additional burden on districts and other political subdivisions. As you've heard already, elections can be costly and time consuming. The citizens of a district have already elected school board members to manage the district and its funds, and they should be trusted to do their jobs. Requiring budget approval by citizens who do not have knowledge of the operation, needs, or expenses of the districts and student's it serves is dangerous.

School districts contract with teachers on a two-year basis. If there is a chance a districts budget may not approved in July, districts would be forced to withhold contracts until after the budget were approved.

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Not only does this conflict with existing state law, but would come at great detriment to students. Not being able to secure teachers until August leaves little time for teachers and districts to prepare for the upcoming school year. If a teacher, upon learning they may not receive the negotiated raise, opts not to renew their contract, the district would be left scrambling to find a replacement weeks before school starts.

Additionally, the inability for districts to marginally adjust their budgets is cause for concern. Districts currently are required to submit their preliminary levies and budgets explaining those levies to county auditors before August 10 each year. They are then able to amend that budget before October 10, which provides them with much needed flexibility. Many things can change in districts from July to October, and while adjustments are usually minimal, it is absolutely critical.

For these reasons, NDSBA stands in opposition to HB 1379 and encourages this committee to give it a do not pass recommendation. Thank you for your time, and I will stand for any questions.

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Testimony for:
House Political Subdivisions Committee
February 8, 2019
Prepared by Devra Smestad, Ward County Auditor/Treasurer

Chairman Dockter and committee members, I am Devra Smestad, Ward County Auditor/Treasurer and am here to speak in opposition to HB 1379.

This bill would require all preliminary budgets to be finalized by July 10 and to publish those preliminary budgets once each week for two weeks. The date is unreasonable, especially since the counties do not even receive the central assessed values until mid-July. In many counties, those values have a significant impact on their valuations and mill rate.

NDCC 57-15-02.2 requires a written estimated property tax statement be provided to each property owner by August 31st each year. Those statements include a column showing property tax in dollars levied by each taxing district against the parcel for the previous year and a column showing the estimated property tax in dollars based on the preliminary budgets of all taxing districts levying against that parcel. It must also indicate the difference between the taxing district's total levies from the previous year and include the word "INCREASE" in bold print if the proposed tax levy is larger in dollars than the levy of the previous year.

Section 1.2 of HB 1379 states the preliminary budget must contain a statement of the percentage and dollar amount of the increase or decrease in comparison to the previous year's budget and an estimate of the percentage and dollar amount of the increase or decrease in property taxes for an average property owner. The estimated tax statements are specific to each property, not based on an average. In Ward County, the cost to our tax payers was \$18,532.99 to process the estimated tax statements. The requirement to publish the estimated budgets will be an additional cost to the tax payers.

The referral of budgets to the qualified voters presents another concern. There is not a deadline by which the petition must be presented to the governing bodies requiring an election. Elections take approximately four (4) months to conduct. We must find poll workers, hold training classes, determine which taxing entities are to be included on the ballot, prepare and have ballots printed, get programming for the election machines completed, test accuracy of programming and machines, publish the ballot and polling locations, deliver machines to polling sites and pick them up, and conduct canvassing of the election. In Ward County, special elections cost \$10-15,000. This adds another expense to the tax payers. Even if the petition is presented to the governing bodies in mid-August, it would be very difficult to finalize budgets and process tax statements in December. NDCC 15-20-07.1(1) requires all tax statements to be mailed on or before December 26 of each year.

Taxes are driven by valuation of property and budgets. In 2016, Ward County increased spending by approximately \$5.8 million, but our tax levy decreased by 6.46 mills because the valuations increased from approximately \$317,100 per mill to \$341,000 per mill. In 2018, Ward County decreased spending by approximately \$3.8 million, but our tax levy increased by 6.8 mills because the valuations decreased from approximately 347,700 per mill to \$333,000 per mill. I believe the governing bodies do the best they can to keep property taxes down while meeting the costs of services provided.

HB 1379 has a lot of expenses that will be passed onto the tax payer and time-lines that will be difficult to meet. I urge you to vote DO NOT PASS on this bill.

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Testimony in Opposition to House Bill 1379
February 8, 2019
House Political Subdivisions Committee
Bill Wocken on behalf of the North Dakota League of Cities

Good Morning Mr. Chairman and members of the House Political Subdivisions Committee. For the record, my name is Bill Wocken, appearing in behalf of the North Dakota League of Cities in opposition to House Bill 1379. In my previous life I worked for the City of Bismarck for 44 years, as City/County Planning Director and for the last 23 years as City Administrator. I have been personally involved with the annual budget during most of those years.

House Bill 1379 seeks to set a new schedule for preparation of the preliminary budget for political subdivisions and to make that budget subject to referral. This concept has been discussed in previous legislative sessions but always before the advent of the consolidated taxpayer notice requirements enacted last session. In my testimony I will attempt to describe the existing budget process and the impact of House Bill 1379 on this process.

At present NDCC 40-40-04 requires a completed preliminary budget by August 10th of any given year. The preliminary budget needs to be in the County Auditor's hands by August 10th so that the County Auditor can prepare a notice for all taxpayers giving them each taxing jurisdiction's preliminary budget numbers and the date on which each jurisdiction will hold a public hearing on their final budget. This notice also includes some comparative budget information.

Each local jurisdiction then must hold the public hearing on their final budget on the date described in the County Auditor's consolidated notice and, after the public hearing is concluded, each jurisdiction must calculate the amount of the real property tax levy needed to fund that budget. The levy calculation and the final budget must be provided to the County Auditor by October 10th. After October 10th the county consolidates the

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levy information from all the jurisdictions and prepares the annual tax statements we all receive before the end of calendar year.

House Bill 1379 pushes the date of completion of the preliminary budget up (forward) one month. This directly conflicts with NDCC 40-40-04 which is not referenced in the new section of code this bill seeks to establish in NDCC 57-15. But even if this conflict was resolved we still have a very tight budget preparation season with a potential referral all happening at the height of the small grain harvest season.

The biggest problem with House Bill 1379 is the potential referral election. NDCC Section 40-21-02 Subsection 5 stipulates that the minimum time needed between the published notice of the election and the actual election date is 64 days. I am told this is also in federal law. Even if the budget preparation date could be moved one month earlier there still is no time for an election since the final budgets and the property tax levies they drive must be in the County Auditor's hands no later than October 10th.

Mr. Chairman and committee members the budget process envisioned by House Bill 1379 is unworkable. It conflicts with the Century Code (attached) in several key areas. Even if the consolidated taxpayer notice provisions enacted last session were repealed, it would be very difficult to make this bill work. Last session local government cooperated with the Legislature in moving times and processes to make the consolidated notice work. We believe the public has a say in the annual budget each local jurisdiction prepares. We ask you for a Do No Pass recommendation on House Bill 1379.

Enclosures: NDCC Chapter 40-40
NDCC 40-21-02

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**CHAPTER 40-21
MUNICIPAL ELECTIONS**

40-21-01. Qualified electors in municipal election - Restrictions.

Every resident of a municipality who is qualified to vote therein at general elections may vote at all municipal elections held therein. When elections are held by wards or precincts, a person may not vote in any place other than the ward or precinct of which the person is a resident.

40-21-02. City elections - When held - Notice - Polls - Agreements with counties - Judges and inspectors.

Biennial municipal elections must be held on the second Tuesday in June in each even-numbered year.

1. Thirty days before the filing deadline for candidate names to be printed on the ballot, an official notice of this deadline along with a list of the offices to appear on the ballot must be published in the official newspaper of the city as provided by section 40-01-09.
2. Ten days' notice of the time and place of the election and of the offices to be filled at the election must be given by the city auditor by publication in the official newspaper of the city as provided by section 40-01-09.
3. The governing body of a city shall enter into an agreement with the governing body of the county or counties in which the city lies concerning the use of a single canvassing board, the sharing of election personnel, the printing of election materials, the publishing of legal notices, and the apportioning of election expenses.
4. For city elections that are not held under an agreement with any county, the governing body of the city shall appoint one inspector and two judges of election for each polling place in the city at least ten days before the election is held and the polls must be opened and closed as provided for the opening and closing of polls at statewide elections. In voting precincts in which over three hundred votes are cast in any previous election, the governing body may appoint two election clerks for each polling place. For a city election that is not held under an agreement with any county in a precinct in which seventy-five or fewer votes were cast in the last city election, the governing body of the city may appoint one inspector and one judge for each polling place.
5. When a city enters into an agreement with the county to hold the city election in conjunction with the county election, the deadline for giving notice of the city election along with the offices to be filled at the election may be adjusted in order to meet the publishing requirements of the county. Each city governing body that enters into an agreement with the county must notify the county auditor, in writing, immediately after the candidate filing deadline on the sixty-fourth day before the election of the offices to be filled at the election and any measures to appear on the ballot.

40-21-03. Elections in council cities - Polling places - Polls open - Notice - Judges, clerks, and inspectors - Agreements with counties.

Repealed by S.L. 1995, ch. 390, § 3.

40-21-03.1. Designation of polling places for municipal elections.

The governing body of any city at the time of calling any general or special municipal election, or prior to the time of registration for said election, if such registration is required by law, when officers of said city are not to be elected by wards or districts, may by resolution designate such voting precincts and polling places for said election as it may deem necessary for the conduct of the same and shall in giving notice of said election designate such voting precincts and polling places.

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**CHAPTER 40-40
MUNICIPAL BUDGET LAW**

40-40-01. Short title.

This chapter shall be known and cited as the municipal budget law.

40-40-02. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "Governing body" means the city council, board of city commissioners, park commissioners, or city manager.
2. "Municipality" means any city or park district in this state.

40-40-03. Fiscal year of municipality.

The fiscal year of each municipality shall commence on the first day of January of each year and shall terminate on the thirty-first day of December of that same year.

40-40-04. Municipality to prepare preliminary budget statement.

The governing body of each municipality, annually on or before August tenth, shall make an itemized statement known as the preliminary budget statement showing the amounts of money which, in the opinion of the governing body, will be required for the proper maintenance, expansion, or improvement of the municipality during the year.

40-40-05. Contents of preliminary budget statement.

The preliminary budget must include a detailed breakdown of the estimated revenues and appropriations requested for the ensuing year for the general fund, each special revenue fund, and each debt service fund of the municipality. The revenue and expenditure items for the preceding year and estimates of the revenue and expenditures for the current year must be included for each fund to assist in determining the estimated revenues and appropriation requested for the ensuing year. The budget must also include any transfers in or out and the beginning and ending fund balance for each of the funds. The budget must be prepared on the same basis of accounting used by the municipality for its annual financial reports.

The amount paid for salaries may be shown as a single line item expenditure in each fund. There must be on file with the governing body and open to public inspection a detailed statement showing the names of all persons receiving salaries, the annual amount paid to each person, and the fund charged.

While preparing the budget, municipal officials may include an expenditure item for equipment replacement, the amount of which may not exceed the total of the anticipated reasonable costs of depreciation for the ensuing year, based on current costs, of all equipment owned by the municipality. The expenditure for equipment replacement must be placed in a separate special revenue fund. No expenditure may be paid from the equipment replacement fund except for equipment purchases to replace equipment that is worn out, damaged, or obsolete. The term "equipment" does not include structures or building fixtures.

While preparing the budget, municipal officials may include an expenditure item for a building reserve fund, the amount of which may not exceed the total of the anticipated reasonable costs of depreciation for the ensuing year, based on the original costs of all buildings and structures owned by the city. The expenditure for building reserve must be placed in a separate capital projects fund. No expenditures may be paid from the building reserve fund except for the purchase, construction, or remodeling of buildings or structures that are obsolete, substandard, or generally unfit for public use.

40-40-06. Notice of preliminary budget statement - Contents - How given.

1. On or before August tenth of each year, after the governing body has prepared the preliminary budget statement, the auditor of the municipality shall:
 - a. Provide the county auditor with a copy of the preliminary budget statement.

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- b. Set a public budget hearing date no earlier than September seventh and no later than October seventh for the purpose of adopting the final budget and making the annual tax levy.
- c. Provide notice of the public budget hearing date to the county auditor.
2. For municipalities anticipating levying less than one hundred thousand dollars in the current year, notice must:
 - a. Contain a statement of the total proposed expenditures for each fund in the preliminary budget, but need not contain any detailed statement of the proposed expenditures;
 - b. Be published at least once, not less than six days prior to the budget hearing, in a newspaper published in the municipality, if there is one, and if no newspaper is published in the municipality, the notice must be published not less than six days prior to the meeting in the official city newspaper as provided by section 40-01-09; and
 - c. Provide that any taxpayer may appear and discuss with the governing body any item of proposed expenditures or may object to any item or amount.

40-40-07. Copy of preliminary budget sent to county auditor - Open to inspection.

Repealed by S.L. 1965, ch. 291, § 1.

40-40-08. Hearing of protests and objections - Changes in preliminary budget - Preparation of final budget - Contents.

The governing body shall meet at the time and place set pursuant to section 40-40-06 and shall hear any and all protests or objections to the items or amounts set forth in the preliminary budget statement. At the hearing, the governing body shall make any changes in the items or amounts shown on the preliminary budget statement as it may deem advisable except as limited in this chapter, and shall prepare the final budget, which must consist of the preliminary budget with the addition of columns showing:

1. The final appropriations for the various expenditure items specified in the preliminary budget statement. The final appropriation of any fund total may not exceed the total amount requested in the preliminary budget.
2. The estimated amount of unencumbered cash on hand at the end of the current year may not include cash or investments of the equipment replacement fund as provided in section 40-40-05.
3. The levy amount determined by subtracting the total resources from the total appropriations and cash reserve for each fund. The governing body may increase the levy an additional five percent for delinquent tax collections.
4. The certificate of levy which includes a summary of the amount levied for each fund and the total amount levied.

40-40-09. Determination of amount to be levied - Adoption of levy - Limitations.

After completing the final budget on or before October seventh, the governing body shall proceed to make the annual tax levy in an amount sufficient to meet the expenses for the ensuing year as determined at the budget meeting. In determining the amount required to be levied, the governing body first shall ascertain its net current resources by adding the estimated revenue for the ensuing year other than property taxes, any transfers in, and the estimated fund balance at the end of the current year. Then the governing body shall ascertain its appropriation and reserve by adding the final appropriation for the ensuing year, any transfers out, and the cash reserve. The net current resources must be deducted from the appropriation and reserve and the balance shall be considered the amount that is required to be raised by taxation during the ensuing year. The determination of the amount of the levy that can be collected within the ensuing year must be made by the governing body based upon the past experience of the district. The levy as finally adopted must be approved by a majority vote of the members of the governing body and noted in the proceedings of the governing body. The amount levied is subject to the limitations as prescribed by the laws of this state and is subject to the further

limitation that the amount may not exceed the levy requested by the municipality. The levy adopted must appropriate in specific amounts the money necessary to meet the expenses and liabilities of the municipality.

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40-40-10. Certified copies of levy and final budget sent to county auditor.

Immediately after the completion of the final budget and the adoption of the annual tax levy by the governing body of a municipality in accordance with the provisions of this chapter, and in no case later than October tenth, the auditor of the municipality shall send to the county auditor a certified copy of the levy as adopted and a certified copy of the final budget.

40-40-11. County auditor to calculate and reduce tax rates - Extending tax levy.

After the county auditor has available the data showing the total taxable valuation of a municipality, the auditor shall calculate the necessary tax rates to produce the sums called for in the final budget. If the auditor finds that any amount or amounts called for in the levy cannot be produced by a tax rate within the limitation prescribed by the laws of this state, the auditor shall reduce the amount so that it can be produced by a tax rate within legal limitations. The auditor shall extend the levy, including the levy for judgments against the municipality, upon the tax lists of the county for the current year against each description of real property and all personal property within the municipality in the same manner and with the same effect as other taxes are extended. The county auditor shall notify the governing body of the municipality at once of any reductions made in the levy.

40-40-12. County auditor to transmit annual tax levy and final budget to state auditor.

Repealed by S.L. 2001, ch. 122, § 11.

40-40-13. County treasurer to collect municipal taxes.

The county treasurer shall collect all municipal taxes, together with the interest and penalties thereon, if any, in the same manner as the general taxes are collected, and shall pay over to the city auditor, on or before the tenth working day of each calendar month, all taxes so collected during the preceding month, with interest and penalties collected thereon.

40-40-14. Municipal taxes collected to be credited to appropriate funds.

The city auditor shall apportion the amounts received for taxes from the county treasurer and shall credit each fund with its proportion or share according to the levy made by the governing body of the municipality. The county treasurer, at the time of paying over such funds, shall furnish the city auditor with a statement of the amount collected for each year separately, and such amount shall be credited to the proper funds for the year for which it was collected.

40-40-15. Expenditures made or liabilities incurred beyond appropriation - Joint and several liability of members of governing body.

Except as otherwise provided in section 40-40-18, no municipal expenditure may be made nor liability incurred, and no bill may be paid for any purpose in excess of the appropriation made therefor in the final budget. Expenditures made, liabilities incurred, or warrants issued in excess of the appropriations are a joint and several liability of the members of the governing body who authorized the making, incurring, or issuing thereof or who were present when they were authorized and did not vote against authorizing the same.

40-40-16. State's attorney to sue for excessive expenditures.

Upon good and sufficient information presented to the state's attorney by any taxpayer in the municipality or obtained from any other source, the state's attorney of the county in which the municipality lies shall bring suit to recover from the members of the governing body, jointly and severally, the amount of expenditures, payments, or warrants in excess of the amount shown in any group of the final budget.

40-40-17. Transfer from other items of appropriation when appropriation insufficient.
Repealed by S.L. 1987, ch. 497, § 3.

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**40-40-18. Amounts taken from various funds and borrowings to meet emergency -
Vote required - Contents of resolution.**

Upon the happening of any emergency caused by the destruction or impairment of any municipal property necessary for the conduct of the affairs of the municipality, or by epidemic or threatened epidemic, or by the entry by a court of competent jurisdiction of a judgment for damages against the municipality, the governing body may meet any such emergency in the manner provided in this section. If there is a sufficient unexpended balance in any fund or funds except funds established for debt retirement to provide for the emergency, the governing body, by a resolution adopted by the vote of two-thirds of the members present at any meeting, or, if the governing body consists of less than three members, by a unanimous vote of all the members thereof, may take the amount necessary to meet the emergency from any such fund or funds. If the municipality has not reached its debt limit, the governing body, by the vote required to take moneys from a designated fund, may order its executive officer and financial committee to borrow an amount sufficient to meet the emergency. Any amount so borrowed must be for a time not to extend beyond the close of the fiscal year, and such amount and the interest thereon must be a part of the next budget. The resolution authorizing any emergency expenditure must recite the facts showing the existence of an emergency of the kind specified in this section.

40-40-19. Liabilities may be incurred after July first and before a new appropriation is made - Exception.

Repealed by S.L. 1983, ch. 464, § 5.

40-40-20. Contracts made prior to appropriation prohibited - Contracts for water for fire protection excepted.

Except as otherwise provided in this chapter or in section 40-05-05, no contract shall be made by the governing body of a municipality and no expense shall be incurred by any officers or departments of the corporation unless there shall have been a previous appropriation providing for such expense. The governing body may enter into contracts with persons, associations, corporations, or limited liability companies for the furnishing of water for fire protection to the municipality, and in case such contract extends over a term of years, it shall be unnecessary that a previous appropriation shall have been made except to cover the amounts payable under the contract for the first year thereof. Such a contract shall not be made for a longer period than twenty years.

**40-40-21. Balance at end of fiscal year to become part of unappropriated balance -
When special appropriation to lapse.**

At the end of the fiscal year, the balance to the credit of each annual appropriation becomes a part of the general unappropriated balance in the municipal treasury, except that the unused balance to the credit of the equipment replacement fund provided for in section 40-40-05 does not become a part of the general unappropriated balance in the municipal treasury, but no special appropriation lapses until the work for which it was made has been completed, the bills paid, and the accounts closed. The governing body of a city may elect, at the end of the fiscal year, to carry over the unencumbered cash balance in the general fund or other budgeted funds and designate the balances for subsequent years.

House of Representatives Political Subdivisions Committee

Representative Jason Dockter, Chair

Representative Brandy Pyle, Vice-Chair

February 8, 2019

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Chairman Dockter, Members of the House Political Subdivisions Committee:

My name is Keith Hunke and I am the City Administrator for the City of Bismarck.

I am providing written testimony on behalf of the City of Bismarck in opposition to House Bill 1379.

The Bismarck City Commission voted unanimously at its January 22, 2019 city commission meeting to oppose HB 1379. Currently, the City of Bismarck's annual budget preparation process starts May 1st. This start date is necessary to meet the requirements of NDCC 40-40-06 which states that the preliminary budget statement must be prepared by August 10th.

My understanding of HB 1379 leads me to believe that the City of Bismarck's budgeting process will need to start April 1st in order to meet the new preliminary budget deadline of July 10th as proposed in HB 1379. (see attachment). Our experience shows that we are able to prepare better estimates of department revenue and operating costs for future budgets when we are able to incorporate as much current year to date information as possible into our financial analysis. The deadline proposed in HB 1379 will only allow us to use one quarter of actual financial data in our budget preparation process. HB 1379 will also require us to factor in time for a special election if the preliminary budget is referred by voters. We estimate the cost of a special election to be \$25,000.00.

The changes to North Dakota Century Code defined in HB 1379 will have a negative impact on the City of Bismarck's ability to effectively schedule and manage an efficient, annual budget preparation process.

On behalf of the City of Bismarck, I urge you to give HB 1379 a DO NOT PASS recommendation.

Thank you for the opportunity to provide testimony in opposition to House Bill 1379.

Keith J. Hunke, City Administrator
City of Bismarck
701-355-1300
khunke@bismarcknd.gov

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City of Bismarck
2020 Budget Schedule
HB 1379 Impact Shown in Red Text

- | | |
|--|--|
| May 1 April 1 | Departments receive Employee Budget, Fees & Charges, and CIP Worksheets |
| May 13 April 15 | Departments submit Employee Budget worksheets for current full-time employees to Fiscal Services
Departments submit proposed employee changes to Human Resources |
| May 20 April 22 | Departments e-mail updated Fees & Charges worksheets and enter revenue projections in the New World System |
| May 28 April 29 | Departments e-mail technology request forms to Director of Finance |
| June 3 May 3 | Departments e-mail Capital Improvement Project Forms to Fiscal Services

Departments receive SEAs, Organizational Charts and narratives of mission statement and goals and objectives |
| June 17 May 13 | Departments receive budget forms, guidelines and instructions
General Fund Departments receive base budget allocations from Finance |
| July 1 June 3 | Departments enter budget expenditures in New World System
Departments e-mail (if applicable) priority initiative requests new or changes for employees, base funding and one-time expenditures to Director of Finance |
| July 8 - 12
June 10 - 14 | Budget Committee schedules meeting with Departments on priority initiatives requests for employees, base and/or one-time budget expenditures and other budget related issues and with Human Resources on employee and benefit costs. |
| August 5 July 8 | Departments e-mail SEAs, Organizational Charts and narratives of mission statement and goals and objectives to Fiscal Services |
| August (prior to 10th)
July (prior to 10th) | Budget Committee presents department requests and budget recommendations to City Commission. City Commission approves and adopts preliminary budget |

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July 10 – July 30 Publish Notice of Preliminary Budget – Once each week for two consecutive weeks, with the second publication to be made no later than July thirtieth.

August 1 - ? Tentative Special Election Date

September 10 Budget Ordinance introduced by City Commission

September 24 City Commission adopts Budget Ordinance

October 7 City submits Budget Ordinance to County Auditor

Blake Crosby

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HB1379

2-8-19

From: Allyn Sveen <allyn@stanleynd.us>
To: jddockter@nd.gov; bpile@nd.gov; mkadams@nd.gov; sertelt@nd.gov; cfegley@nd.gov; Ron Guggisberg; phatlestad@nd.gov; marycjohnson@nd.gov; kkoppelman@nd.gov; Longmuir, Donald; jmagrum@nd.gov; lsimons@nd.gov; mstrinden@nd.gov; nptoman@nd.gov
Cc: bertanderson@nd.gov; tbjones@nd.gov; Shane Goettle; Blake Crosby; Gary Weisenberger
Subject: HB #1379

Dear Chairman Dockter and Honorable Members of the Political Subdivisions Committee:

I am respectfully requesting you to support a **"DO NOT PASS"** on House Bill #1379 relating to adoption and referral of preliminary budgets of cities, counties, school districts and park districts.

First, let me thank you for your support in defeating similar property tax bills limiting the ability for local political subdivisions to make decisions which have a direct impact on local services. House Bill #1379 also restricts the ability of local governments to operate efficiently if an entity's budget is referred to the vote of the people and the preliminary budget is disapproved by the electors. Again, I am asking that your trust the people we elect at the local levels of government that they do not place any unnecessary tax burdens on the citizens.

Also, in regards to HB #1379, annual budgets should not be brought before the vote of the people. In small cities especially where voter turnout is low, the number of required signatures (10%) amounts to a few disgruntled taxpayers. In the case of Stanley City, the votes cast for the office of governor of the state at the last regular election would be 962 votes requiring only 96 votes to put on the ballot. Think of the cities that have fewer than 50 voters. The budget could easily be referred on a yearly basis for cities with a very small voting population.

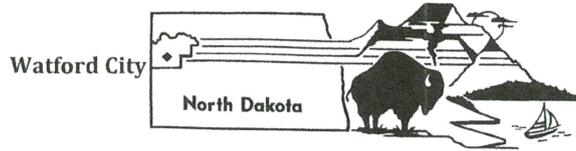
Assuming the time frame involved as proposed in HB #1379, cities would likely need to hold a special election each year and even then would not be able to meet time restraints. Currently a preliminary budget has to be submitted by August 10th of each year to the county auditor (NDCC 57-15-02.2). How would a city or other local subdivision under this proposed house bill meet the August 10th deadline if an entity's budget is referred to vote of the people? There are election requirements that would need to be followed that likely could not be met by the August 10th deadline.

Please do not place this unnecessary burden on local governments, your support for a **"DO NOT PASS"** on House Bill #1379 is greatly appreciated.

Sincerely,

--
Ms. Allyn Sveen, City Auditor
City of Stanley
8 South Main
PO Box 249
Stanley, ND 58784

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City of Watford City

213 2nd St. NE | P.O. Box 494

Watford City, ND 58854

Ph. 701-444-2533

Fax 701-444-3004

www.cityofwatfordcity.com

February 8, 2019

02/08/2019

9:30 AM – Prairie Room

Urge a DO NOT Pass on HB 1379

Chairman Dockter and members of House Political Subs,

The city of Watford City stands with the League of Cities and the North Dakota Association of Counties and asks you to recommend a DO NOT Pass on HB 1379. In recent sessions, the efforts of the legislature to consolidate mills, to provide zero increase notices, and most recently to provide consolidated increase notices have all improved the public input process, transparency in budgeting, and an opportunity to receive robust public feedback on proposed budgets between preliminary hearing notice publication and final budget adoption by elected boards of political subdivisions.

In considering the proposed timeline in HB 1379 for publishing preliminary budget, there have been concerns with accuracy in budgeting, which is already an issue for the current timeline. The acceleration will add additional uncertainty to the process.

Two other issues that would be created by the proposed timeline and process in HB 1379:

- 1) Currently, during a public hearing, the public may weigh in on concerns of a certain department's budget or services. In the current process, the elected body of the LPS can adjust allocations based on public input before final budget (provided that adjustment is a decrease, not an increase). The current proposal discourages public input and encourages governing by petition of the minority.
- 2) It is burdensome and costly to have a special election (by 10% petition). It is a strain on local resources (time, monies). Local election officials and auditors have not quantified this burden, but consider it substantial.

Again, the current process works well and has encouraged public input. Also, there is a reminder that at a local level, these are elected officials. If they are not following the will of the people, the people will resolve this issue at the ballot box.

Chairman Dockter and committee members, thank you for the opportunity to share our concerns with you and for giving us the opportunity to urge a DO NOT Pass recommendation on HB 1379.

Mayor Phil Riely, Watford City
Phil_riely@yahoo.com



City of Grand Forks

255 North Fourth Street • P.O. Box 5200 • Grand Forks, ND 58206-5200

Michael R. Brown
Mayor

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(701) 746-2607
Fax: (701) 787-3773

TESTIMONY ON HOUSE BILL 1379

House Political Subdivision Committee

**Maureen Storstad, Finance Director
City of Grand Forks, ND**

February 8, 2019

Mr. Chairman and members of the committee, my name is Maureen Storstad, and I am the Finance Director for the City of Grand Forks. I want to thank you for the opportunity to provide testimony and express my concern and opposition to this legislation.

House Bill 1379 relates to adoption and referral of preliminary budgets for cities, counties, school districts, and park districts. If this bill were to pass, the preliminary budget would need to be approved by July 10th, and would be subject to referral. This early preliminary adoption date and the possibility of an election as part of the budget process are both causes for concern.

HB1379 proposes a preliminary budget be approved by July 10th. Much detail goes into a budget. Moving this date up would cause the need for greater dependence on estimates as much of the information needed in putting budgeted numbers together is not available at such an early date. Recent changes in state law moved the preliminary approval date to August 10th. This change went into effect in 2018 and also requires a consolidated notice of estimated property taxes to include all taxing entities. Taxpayers are mailed an estimated tax statement and taxpayers are informed when budget hearings are set for each taxing entity. This goes out to all households. This allows taxpayers to see the impact on their specific tax bill. The timing is set in a way that gives the taxpayer sufficient time to ask questions and give feedback prior to final approval. This worked well with the City of Grand Forks 2019 budget process. As a city, we also hold budget work sessions throughout the spring and summer months. These are televised and open to the public. All information is shared on

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our website and we ask for feedback from the public. We also share information through social media. I am pleased to say that no one came to our public hearing regarding the 2019 budget to share concerns.

HB1379 also makes the preliminary adopted budget subject to referral. The bill does not address a timeframe for a petition to be submitted. But, even if the petition were submitted one week following preliminary approval, an election would not fit the timeframe of budget deadlines. Based on current law, council would need to call for a special election 75 to 90 days prior to the election being held. This allows time for the necessary publications and approvals required. Legally, the final budget must be adopted by October 7th and be filed with the county no later than October 10th of each year. The required timelines of the budget and elections do not coincide to make this possible. An election also causes increased expense and staff time during an already busy budget process.

HB1379 creates uncertainty in the budget and planning process. Our locally elected officials currently have authority to adopt the budget. This bill compromises that authority. Creating this uncertainty may cause concern with bond rating agencies. It is important that we can show our bondholders that we have the ability to pay for our services, that we have the financial flexibility to manage our own finances, the ability to control costs with long term planning, and retain sufficient fund balances. To compromise this authority would create uncertainty.

It is for these reasons that I would recommend a DO NOT PASS recommendation of House Bill 1379.

Thank you for your consideration.

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North Dakota House of Representatives

House Political Subdivisions

Chairman Jason Dockter

By: Mark Jantzer
City Council President, City of Minot
mark.jantzer@minotnd.org
701-857-4750

HB 1379

Chairman Dockter and members of the House Political Subdivisions Committee, my name is Mark Jantzer and I am the City Council President for the City of Minot. Thank you for the opportunity to provide testimony in strong opposition today regarding HB 1379.

I have several concerns with this bill including:

1. The unrealistic timeframes proposed to complete the budget and potentially hold an election.
 2. The process that would be required to satisfy this bill's intentions.
 3. The potential constraints of a political subdivision to react to changes in the economic climate.
 4. The inability to plan long term as a political subdivision.
 5. Potential impacts to political subdivisions on future borrowing.
 6. The failure to address required changes in other sections of the Century Code to effectively implement this bill.
1. The first concern that I will address is the compressed timeframe that would be required to develop the budget, publish it, hold an election, modify the budget, hold public hearings and have two readings of the proposed budget ordinance prior to the statutory deadline imposed in NDCC 40-40-06.

The bill does not impose a deadline for submitting the petition for referral of the preliminary budget. NDCC 40-12-08 provides that the petition to refer an ordinance must be presented within ten days after the ordinance became effective. Current law requires that the governing body **prepare** the preliminary budget and submit it to the county by August tenth. The language included in HB 1379 directs the political subdivision to **adopt** a preliminary budget by July tenth.

2. Secondly, the language **adopt** infers that the preliminary budget would in fact be an ordinance, but in the current form and process it is not. To do so would require a public hearing and two readings to pass, adding to an already compressed timeframe. NDCC 40-12-08 outlines the process required to refer an ordinance. Unless the preliminary budget is **adopted** and in fact becomes an ordinance, it doesn't appear that this section would apply. Moreover, the burden of conducting elections for potentially every political subdivision in the county would be difficult and expensive to manage for the county. If the county did not agree to conduct the elections, political subdivisions would be forced to conduct their own elections, something that many cities are not equipped to do.
3. Thirdly, this process will also hamper a political subdivision's ability to adequately and promptly react to economic changes and/or variables in funding sources. The City of Minot has experienced a dramatic reduction in sales tax revenues since 2015. Couple that with a 33% decrease in Hub City and other State Funding and an increase in property tax delinquencies all which resulted in the need to slash budgets and raise revenue from other sources. The inability to make these adjustments in economic downturns, resultant of this bill, may have the unintended consequence of maintaining higher rates in periods of economic prosperity. The City of Minot decreased its mill rate nearly 40% from 2005 to

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2016 – something we likely would never have considered were legislation enacted such as that being proposed here.

4. Fourthly, many of the western cities have made significant investments in infrastructure over the past decade and in some cases, there is available capacity. As these cities continue to grow, they may experience an increased demand on services without the ability to pay for those services. There are a number of apartment buildings that currently have vacancies. As those properties fill up, the additional occupants translate into increased demands on services. These properties are already on the tax rolls so they would not result in an increase in the taxable valuation of the district and therefore no ability to raise revenue under the language of this bill.
5. The fifth point I'd like to make is that this bill may also have the unintended consequence of increasing the cost of borrowing or limiting the ability of the political subdivision to borrow at all. Even in cases of revenue bonds or sales tax bonds, the guarantee of the political subdivision's ability to levy tax to ensure payment of the bonds is a factor in the cost of funds. If that ability to levy tax to service debt is limited, it may result in a higher cost of funds or the inability to secure debt funding.
6. The fifth point I'd like to make is that bill as written fails to address conflicts with other sections such as NDCC 57-15-02.2 and 40-40-06 creating an impossible compliance concern.

Finally, the proposed process established in this bill would disrupt the legislative process in local governments. Local government's ability to adapt to local impacts and needs may be undermined. The necessity to plan for a potential election to be held during every budget cycle would force political subdivisions to prepare budgets earlier in the year and may affect the accuracy of forecasts used in the preparation of the budgets. I am attaching a copy of the budget

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schedule for the City of Minot that was used for the preparation of the 2019 budget. As you will see, preparations already begin in late March to meet the current deadline of August 10th.

The City of Minot has been very transparent in its budget process and has provided information regarding the preparation of our budget through a series of budget workshops, a citizen's focus group and several detailed budget presentations. We have involved our public in every step of the way.

This bill abandons the principle of "representative government" – whereby community leaders are elected by the people to represent their interests in governmental affairs, just as your constituents elected you and rely on you to make good judgements at the state level on their behalf. I urge you to preserve that privilege and avoid the disastrous consequences of this bill by voting no on HB 1379.

Thank you.

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2019 CITY OF MINOT
BUDGET SCHEDULE

- March 30 Preliminary Budget forms to department heads
- April 9-13 City Manager budget planning meeting with President of Council, Mark Jantzer
- April - May Pay Plan and Classification Study (Human Resources)
- April 27 Send social service budget request forms (Tami)
- May 18 Income estimates due from Finance Department
- May 29 Budgets due to Finance by Noon
- June 13 Annual Plan presentation to Civil Service Commission (Human Resources) 10 a.m.
- June 11 Budget request forms (including social service budget request forms) due in City Manager's Office
- June 14 & 21 Budget Workshops to be held 4:00 – 6:30 p.m.
- June 18 to June 29 Meetings with the Department Head, City Manager and Finance to go over Individual Budgets – Time blocked on June 21st -23rd to meet individually with each department to discuss the budget.
- June 28 Annual Pay Plan Public Meeting (Human Resources) 10 a.m.
- June 30 – July 22 Finance - Work on budget and budget message and presentation
- July 25 Have budget ready to copy and bind
- August 6 Proposed budget and Annual Plan to City Council
- August 28 Committee of the Whole Meeting – Questions & Answers 4:15 p.m. in Auditorium Room 201
- September 4 President of the Council message due
- September 18 Special City Council meeting - public hearing on Budget Ordinance; Committee of the Whole meeting on budget; and first reading of Budget Ordinance 6:30 p.m.
- September 25 Special City Council meeting - Final adoption of budget ordinance 6:30 p.m.



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HB 1379 – Budgets/Referral
NDCEL – Testimony in Opposition

Chairman Dockter and members of the House Political Subdivisions Committee, my name is Aimee Copas. I serve as the Executive Director for NDCEL representing our North Dakota K12 School Leaders. We stand before you today in opposition to HB 1379.

This bill does a number of them things – as educators we have the tendency to try to find the positive in most anything...and try as we might, we struggle to find an area in this bill that does anything that is in the best interest of the students in this state.

The first paragraph of section 1 of this bill goes in direct conflict with the hard work of the taxation committee and this governing body completed just last session in 2017. Through a pilot and much collaboration, the property assessment process has been realigned in North Dakota and painstakingly the budget timelines had been aligned as well in 2017 by all the political subdivisions to reflect an August 10th deadline. Even that date has been quite a stretch for our state to meet. To expect that budgets could project even a month earlier is truly beyond the reach of schools. To meet the July 10 deadline the budget process would need to be completed and approved far earlier than that if the second publication is to be in the paper by July 13th - realistically the budgets for schools could need to be completed sometime in June to receive initial board approval to be able to publish in the paper by the first week of July. Not only would central assessments be nowhere near complete by that time, neither would anything else. Honestly, many districts aren't even out of negotiations in June if they've gone into impasse. To have budgets due by this time would not allow the districts the time for appropriate due diligence to create an accurate budget for taxpayers. This is just the beginning of the problem.

As you know, the tax code of North Dakota is very delicately interwoven with the ND School Funding Formula and any adjustments to tax code can have negative implications to the school funding formula thereby negatively impacting districts. This bill has that common negative implication if enacted. As the formula stands, and as property valuations naturally increase, the



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funding formula automatically recalculates the 60-mill deduct to match that increase up to the 12% cap. Having the referral piece in place puts districts into a real scenario of having the state impute or deduct additional dollars thereby costing the district more money and essentially taking local taxpayer dollars allocated for schools and shifting them to the state.

Further to require an election to manage funds could hurt school budgets in an exponential fashion. With the dates established as they are – the election would put school budgets a full year behind, they could well be penalized by the deduct, and the process will repeat itself again the next year driving schools even farther behind.

There are safe guards in place to protect our taxpayers at this time. Some of these protections are already arguably stricter than some might prefer. The opportunity for election and decisions regarding budgets **already does** take place in each district. It takes place during the school board elections. Our laws are enacted to entrust local school boards to make responsible budgets. If communities are dissatisfied with the decisions and the process, there are processes in place whereby those school board members can be replaced. There are monthly meetings and mandatory budgetary hearings where taxpayers can be heard. By-in-large less than 1% attend these hearings and feedback indicates that they are satisfied with the conservative fiscal nature by which their schools are currently operated.

This bill removes local decision making and powers that currently exist with our local boards. We'd ask that you leave the local control where it needs to be – with our local boards. In support of our schools and students in North Dakota, we respectfully ask that you recommend a DO NOT PASS of HB 1379. Thank you for your time.

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NDRPA

North Dakota Recreation & Park Association •

advancing parks and recreation for quality of life in North Dakota

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Testimony of Dana Schaar Jahner
North Dakota Recreation and Park Association
House Political Subdivisions Committee
Opposition to HB 1379
Friday, February 8, 2019

Chairman Dockter and Members of the Committee, my name is Dana Schaar Jahner, and I am executive director of the North Dakota Recreation and Park Association (NDRPA). NDRPA represents more than 700 members across the state, primarily park districts, and works to advance parks, recreation and conservation for an enhanced quality of life in North Dakota. I am here on behalf of NDRPA to oppose House Bill 1379.

During the last legislative session, political subdivisions worked collaboratively with legislators and the Tax Department to revise the budget adoption timeline for local government in order to increase transparency and opportunity for public comment on preliminary budgets of political subdivisions. This included moving adoption of the preliminary budget one month earlier to August 10 and requiring a tax notice with preliminary budgets and hearing dates for all political subdivisions levying more than \$100,000 in property tax to be mailed to all taxpayers.

This bill requires adoption of a preliminary budget yet another month earlier and requires additional publication requirements, which negates the tax notice requirement that was effectively implemented in the current tax year. It will also prove challenging for newly elected park board commissioners to provide input on the preliminary budget, as they take office just three weeks before the proposed July 10 deadline. Further, the bill gives citizens the right to refer a preliminary budget, which may in fact be lowered but may not be increased by the locally elected political subdivision board by October 10, rather than a final budget.

NDRPA supports a do not pass recommendation on HB 1379. Thank you.