

**2013 HOUSE FINANCE AND TAXATION**

**HB 1380**


# 2013 HOUSE STANDING COMMITTEE MINUTES

## House Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1380  
January 29, 2013  
Job #17919

Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

A Bill relating to creation of safety and emergency services improvement districts and levy of special assessments against property exempt from property taxes for a share of the cost of providing law enforcement, fire, and ambulance service benefiting those properties.

### Minutes:

*Attached testimony #1, 2, 3, 4, 5*

**Chairman Belter:** Opened hearing on HB 1380.

**Representative Keiser:** Introduced bill. Attached testimony #1. I brought a visual and placed it on the wall. On the right legend is an identification of the various types of entities that are currently nontaxable in the city of Bismarck. As you look as a committee how to change the design of our property taxes there will be a lot of approaches and I'm offering one of the approaches which I recommend strongly for your consideration. This is a bill to create special assessment districts first, it's enabling by giving local political jurisdictions the authority it doesn't create this system it just gives them the authority to establish if they desire a special assessment district for those properties within their jurisdiction which are currently nontaxable. It creates a safety and emergency service improvement district. If we were to put a special assessment district on the state capitol the citizens are already paying for that through taxes so we would just be adding to their tax. It requires the governing bodies to provide equivalent tax relief to taxable properties in the current assessment district. It is an attempt for the properties in your jurisdiction which are not government entities currently receiving 80% or more from the taxpayer that you could establish a special assessment district and charge them for that portion of the property tax associated with emergency services. In 2013 the budget of property tax collection for Bismarck is \$16,904,095. We will collect in all of Bismarck of all the properties that are taxable less in taxes than the budget for emergency services. Police and fire protection is an essential service. My business gives a lot to charity and I would love to be nontaxable. Right now we have approximately 50% of the land mass in Bismarck paying 100% of the taxes. I'm surprised that the charities don't feel they have a moral obligation to the citizens of Bismarck to pay their fair share. If they shouldn't be paying for police and fire I would encourage you to remove their payment for water and sewer and that's my challenge to you because they can't afford it. The people who are paying it can't afford it anymore.

**Representative Froseth:** Do have any kind of system to gauge how much a nonprofit would pay for the emergency services? Is it negotiable between the city and the entity?

**Representative Keiser:** This bill allows them to negotiate as a special assessment district. They won't pay a disproportionate amount though.

**Representative Kelsh:** I'm very torn about this because I can think of charitable institutions, Hospice for example, that provide a real deeply needed service in the community and that may break them if they are forced to pay an additional property tax. How can you separate that out?

**Representative Keiser:** The political subdivision will create the special assessment district and assess people. It will have to be based on some rational basis. What is the footprint of hospice?

**Representative Kelsh:** In Fargo they have a pretty substantial size building.

**Representative Keiser:** Not where they provide services, where is their footprint of their office?

**Representative Kelsh:** They occupy the old Great Plains Software building in Fargo.

**Representative Keiser:** All of it? Every square foot?

**Representative Kelsh:** Not every square foot but a great majority of it.

**Representative Keiser:** If they are that big they are not broke. I would disagree with your premise. You do not occupy great square footage when you're going broke.

**Representative Kelsh:** I believe the property was donated to them by a donor.

**Representative Keiser:** Once again if you are occupying that space regardless of how you got it you are not broke.

**Representative Zaiser:** This is a special assessment and not a tax?

**Representative Keiser:** This is structured as a special assessment district.

**Representative Zaiser:** I assume you're familiar with other people who have created these public safety special assessment districts?

**Representative Keiser:** In many other states they have gone to this approach to address this very same problem.

**Representative Kelsh:** If you've looked into it that far I assume you've looked into what means did you special assess; by square footage, by value, by traffic, by potential use?

**Representative Keiser:** As many areas as there are there's probably that many approaches. This is up to the local political subdivision to determine the special assessment district and how the assessments will be done.

**Chairman Belter:** Any other testimony in support of 1380?

**Bill Wocken, testifying as an individual:** See attached testimony #1. This bill deals with the cost of providing public safety services to exempt properties. Taxes or special assessments are really charges for services since local government is unable to achieve a profit. Tax exempt properties does not mean those charges go away; those costs of services are still there but being paid by someone else. The more exempt properties there are the more charges there are to be paid by those who do pay the taxes. It really becomes a fairness question. Two solutions to address this issue include having fewer exemptions and have exempt properties paying a part of the services which is how this bill does it.

**Representative Zaiser:** Knowing that you have worked with Representative Keiser, are you familiar with how some other cities have used this mechanism and what do they use as an approach to a special assessment?

**Bill Wocken:** There are a couple of different approaches. In Bismarck now the Burleigh County Housing Authority has several parcels that pay taxes to the city in payment of lieu of tax format. I can see a special assessment format also being possible and special assessments require that you have to assess the benefits to the property and have the monetary contribution equal to the benefits. I can see that being done on a square footage basis, on a number of patrons basis, and being done differently on a homeless shelter. There are a number of possibilities that could be pursued.

**Representative Zaiser:** That would be local control or this is enabling legislation where one city might do it one way and another city might do it another way.

**Bill Wocken:** Yes that is correct or maybe the city wouldn't do it at all.

**Representative Hatlestad:** Does the city of Bismarck charge for a fire call?

**Bill Wocken:** The city of Bismarck does not charge for any responses whether it be police, fire, or other emergency. The only exception is when a person has a multitude of false alarms.

**Chairman Belter:** Further testimony in support? Any testimony in opposition?

**Dana Schaar, Executive Director for North Dakota Association of Nonprofit Organizations:** See attached testimony #2.

**Representative Trottier:** Looking at these nonprofits that are opposed, are there any that would have upper level salaries or employees?

**Dana Schaar:** Nonprofits are required to have reasonable compensation based on regulations set up by the IRS and all salaries are disclosed and approved by the board of directors which is typically a volunteer board to look at reasonable compensation.

**Representative Schmidt:** I was with the impression that 501 (c) (3) and nonprofits were not allowed to lobby. Isn't lobbying when a nonprofit writes strongly urges a Do Not Pass?

**Chairman Belter:** I'm not aware of that rule.

**Dana Schaar:** Charitable nonprofits are allowed to lobby as long as it's a substantial part of their activities and it is an IRS regulation and I'm happy to provide documentation to the committee regarding this.

**Chairman Belter:** Further opposition to 1380?

**Kelly Gunsch, Development Officer for Dakota Boys and Girls Ranch:** See attached testimony #3 and 4.

**Representative Zaiser:** In terms of special assessments, one of the ways you can do that is to special assess based on traffic, activity, or square footage of buildings or whatever. In some cases smaller nonprofits might be very minuscule and it might be the big hospitals that get lots of benefits and pay nothing is one of the big issues here. I don't support taxing on nonprofits but this is a different kind of thing. You can't do without fire protection. I was just curious if you knew the different ways you can assess it.

**Kelly Gunsch:** The position we have taken is in opposition to this. Our funding has been cut significantly from different programs. In an affect to that everything is rising but we are bringing in more children we are serving and we have less income to do that with. Last year for our last fiscal year alone we spent \$14,000 per child above and beyond what was reimbursed by any state or insurance or anything else. With the additional fees on that and the cost of inflation we just feel that would be too much to bear.

**Representative Drovdal:** Fire protection and ambulance and services like that it is an essential service that you hope you don't have to use. When one group doesn't pay its fair share then the other property owners end up paying more. To me it looks like it's forced charity to cover that other group.

**Kelly Gunsch:** Being a development officer I don't really have a response on that directly. I can tell you that without helping agencies such as Dakota Boys and Girls Ranch teens and families would not receive the coping skills, life skills, the problem solving skills they would need. If they didn't receive these skills it would cost the citizens in this community a lot more between the probation, incarceration, victim and offender counseling; it would be a reality for many of the children we serve. This is actually a cost saving measure by making sure we provide those services.

**Representative Hatlestad:** How do you think a nonprofit would respond to an incident fee every time the police or fire was called rather than an assessed fee?

**Kelly Gunsch:** We pay for our services just as everyone else does. I wouldn't see a problem with paying for a set fee on that if it's a fair and set fee.

**Chairman Belter:** Further testimony in opposition to 1380?

**Rod Backman, testifying as an individual:** I'm also a finance chairman at a church in Bismarck. We bought our property on the outskirts of Bismarck about 20 years ago for \$100,000 and in the last few years we've paid over \$400,000 in specials as improvements continued to be made. I would like you to think about what the advantages are and why are these entities tax exempt in the first place is because of the benefits they bring to society. My concern is if the state would allow something like this and there's further decline in the values of our culture the state is the one that's going to pick up the big cost. There are many benefits to attending church regularly and some of them include it reduces the risk of the use of alcohol, tobacco, and drugs; lowers the risk of suicide, reduce risk for committing crimes, improves attitudes and increased participation in school, significant decrease in binge drinking in college, provide them with a lifelong moral compass and encourages them to be productive citizens contributing to the tax base rather than using it. It costs roughly \$100 a day to incarcerate a person and that is \$36,000 a year. If each church can keep one kid out of prison it would be a huge benefit to society not only to the state taxpayers but also to the local taxpayers. If you cause some of these charities not to be in existence their services are going to end up falling back on the state and local government and the price tag is going to be a lot bigger that what we're talking about here. It seems that we're taking something that's always been paid for with taxes and we're getting around it by calling it something else; a special assessment instead of a tax. People from other states don't even have special assessments; these services were paid for by the tax.

**Chairman Belter:** Further testimony in opposition?

**Murray Sagsveen, North Dakota League of Cities:** See attached testimony #5.

**Chairman Belter:** Further testimony in opposition to 1380?

**Bill Bauman, Executive Director of YMCA in Bismarck:** We exist to serve our communities. We don't receive funding from the city or federal types of funding. We exist on the services that we provide and the dollars that are donated and raised. We are not major land owners. The YMCA site was donated and money was raised. To throw us in the same bucket as the city government, park district, or major medical or other large nonprofits is not us. We are working hard in trying to improve youth development, healthy living, and social responsibility. The framework that has been put together to allow charities like ourselves to exist and make our communities better has to be commended and has been successful. Putting an additional burden on those agencies is not going to help them do their job. We are a nonprofit and to level the playing field with for profits is not fair and neither does it make any sense. The YMCAs across North Dakota provide a positive impact to their communities. Locally we are going to serve over 3,000 individuals with scholarship or fee assistance type services. We have to raise money and ask donors to provide other programs as well. There will be a gap at the end because we'll be able to raise half of what we provide in services. That is the beauty of the community but it is also

the challenge that we experience. What you've done and put into place has worked and worked very well. It's allowed us to survive and grow. I urge you to continue on the path that we are on.

**Representative Drovdal:** I buy insurance for myself and my business, hoping to never have to use it but if you're paying for the cost of emergency services isn't this special assessment just about the same as paying for insurance?

**Bill Bauman:** I can tell you that there are things that we do which don't apply to anyone else in the way of community need and fulfilling community need and our mission. We have to pay annually for liability insurance and we have a cost structure we have to work with.

**Chairman Belter:** Any other testimony in opposition? Any neutral testimony?

**Dan Rouse, Legal Counsel to the North Dakota Office of State Tax Commissioner and State Board of Equalization:** On page 4 line 14 there is a provision that there if there is going to be a special assessment for equitable shares of the cost of safety and emergency services upon property in an improvement district there is going to be an equivalent reduction of property taxes for taxable property. On line 14 it states "taxable property in an improvement district and we believe it has been drafted too narrowly to satisfy the state constitution. We would propose to offer an amendment to change the words "improvement district" to "municipality". Under Article 5 of the North Dakota Constitution all assessments must be uniform upon the same class of property in the taxing district of a political subdivision.

**Chairman Belter:** Are there any questions? I will close the hearing on HB 1380.

# 2013 HOUSE STANDING COMMITTEE MINUTES

## House Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1380  
February 11, 2013  
Job #18700

Conference Committee

Committee Clerk Signature

*Mary Buckler*

### Explanation or reason for introduction of bill/resolution:

A Bill relating to creation of safety and emergency services improvement districts and levy of special assessments against property exempt from property taxes for a share of the cost of providing law enforcement, fire, and ambulance service benefiting those properties.

### Minutes:

*Amendments #1, 2*

**Chairman Belter:** Distributed amendments #1 and 2. I'm not sure this is the road we want to go down but Vice Chairman Headland and myself intent with those amendments that we should probably look at some of these agencies that receive considerable amount of federal funding or other sources of non-contribution type. The idea was to keep this concept alive.

**Representative Zaiser:** It's the amendment that came from the tax department that I'm not comfortable with. They indicated they thought it was unconstitutional as is and broadening this out to a municipality makes it far too broad and is a real catch all.

**Chairman Belter:** We're going to have the tax department come down and explain this further.

**Representative Froseth:** On line 11 the improvement district is referenced again. I think that should be changed too so maybe we should also question them about that.

**Chairman Belter:** What page are you on?

**Representative Froseth:** Page 4 line 11.

**Chairman Belter:** I'll mark that down on my list to discuss further with the tax department.



# 2013 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee  
Fort Totten Room, State Capitol

HB 1380  
February 11, 2013  
Job #18707

Conference Committee

Committee Clerk Signature

*Mary Brubaker*

## Explanation or reason for introduction of bill/resolution:

A Bill relating to creation of safety and emergency services improvement districts and levy of special assessments against property exempt from property taxes for a share of the cost of providing law enforcement, fire, and ambulance service benefiting those properties.

Minutes:

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**Chairman Belter:** On page 4 line 13 we had some questions.

**Representative Drovdal:** We amended that improvement districts to be municipalities and should we had done that in line 11 should that also be amended?

**Marcy Dickerson, State Supervisor of Assessments:** I don't think that is necessary because in any special assessment district you have a district and that is fine because that's the way special assessments are always set out you have an improvement district. The recommended change on line 14 was to make it the municipality even though you have an assessment district the constitution requires that property be assessed similarly in the municipality and the whole area. You can't levy a tax or do something to a district that you have set up in your city. You can have a special assessment district in your city but then you would have to provide an equivalent reduction of property taxes levied for those purposes in the whole municipality. You couldn't just benefit the residents or property owners in the assessment district because you would be levying taxes at a different rate in that district than you would be in the rest of the city and that is not approved.

**Representative Zaiser:** My concern is the municipality being too broad but I understand based on your explanation why it would need to be in there.

**Marcy Dickerson:** Municipality is defined differently in different parts of the code. In some places it refers only to a city and in other places it refers to a city or a county. If you are levying a county tax for x number of mills against people in a county then everybody in the county has to be taxed at the same rate and the same thing goes for a city. If you are levying for whatever purpose every property in that city must be charged the same rate.

**Chairman Belter:** Any other questions on 1380?

# 2013 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee  
Fort Totten Room, State Capitol

HB 1380  
February 11, 2013  
Job #18751

Conference Committee

Committee Clerk Signature

*Mary Brucher*

## Explanation or reason for introduction of bill/resolution:

A Bill relating to creation of safety and emergency services improvement districts and levy of special assessments against property exempt from property taxes for a share of the cost of providing law enforcement, fire, and ambulance service benefiting those properties.

## Minutes:

**Vice Chairman Headland:** I believe we received clarification that Representative Zaiser was asking for so with that I would **move the amendment by the tax commissioner.**

**Representative Kelsh: Seconded.**

**VOICE VOTE: MOTION CARRIED.**

**Vice Chairman Headland: Made a motion to further amend with 01001 amendments.**

**Representative Froseth: Seconded.**

**Representative Kelsh:** Do you know how many nonprofits this would include versus every nonprofit organization?

**Chairman Belter:** No I do not. I guess my thought was that this issue needs further discussion and we can't open another hearing on it. I'm not sure if this is a good bill or not but if we pass it and it goes to the Senate it will bring those parties forward and then we can see if this is a worthy cause or not. Any kind of move like this has certainly been controversial in the past.

**VOICE VOTE: MOTION CARRIED.**

**Vice Chairman Headland: Made a motion for Do Pass as Amended.**

**Representative Kelsh:** I will support the Do Pass motion but I will reserve my right to change my vote on the floor should new information become available between now and then.

**Representative Drovdal: Seconded.**

House Finance and Taxation Committee  
HB 1380  
February 11, 2013  
Page 2

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

**Representative Schmidt will carry this bill.**

VK  
2/11/13

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1380

Page 1, line 3, after "against" insert "certain"

Page 2, line 9, replace "that" with "for which the owner's primary revenue source is fees charged to users or clients or revenues from federal funding sources, or a combination of both of those revenue sources, which"

Page 4, line 14, replace "improvement district" with "municipality"

Renumber accordingly

Date: 2-11-13  
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1380

House Finance and Taxation Committee

Check here for Conference Committee

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

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
*by Tax Comm.*  
 Rerefer to Appropriations  Reconsider

Motion Made By Rep. Headland Seconded By Rep. Kelsh

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley Belter			Rep. Scot Kelsh		
Vice Chairman Craig Headland			Rep. Steve Zaiser		
Rep. Matthew Klein			Rep. Jessica Haak		
Rep. David Drovdal			Rep. Marie Strinden		
Rep. Glen Froseth					
Rep. Mark Owens					
Rep. Patrick Hatlestad					
Rep. Wayne Trottier					
Rep. Jason Dockter					
Rep. Jim Schmidt					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

*Verbal vote*  
*Motion Carried*

Date: 2-11-13  
Roll Call Vote #: 2

2013 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1380

House Finance and Taxation Committee

Check here for Conference Committee

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

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
.01001  
 Rerefer to Appropriations  Reconsider

Motion Made By Rep. Headland Seconded By Rep. Froseth

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley Belter			Rep. Scot Kelsh		
Vice Chairman Craig Headland			Rep. Steve Zaiser		
Rep. Matthew Klein			Rep. Jessica Haak		
Rep. David Drovdal			Rep. Marie Strinden		
Rep. Glen Froseth					
Rep. Mark Owens					
Rep. Patrick Hatlestad					
Rep. Wayne Trottier					
Rep. Jason Dockter					
Rep. Jim Schmidt					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

*Voice Vote*

*Motion Carried*

Date: 2-11-13  
 Roll Call Vote #: 3

**2013 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 1380**

House Finance and Taxation Committee

Check here for Conference Committee

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

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Rep. Headland Seconded By Rep. Drovdal

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley Belter	✓		Rep. Scot Kelsh	✓	
Vice Chairman Craig Headland	✓		Rep. Steve Zaiser	✓	
Rep. Matthew Klein	✓		Rep. Jessica Haak		✓
Rep. David Drovdal	✓		Rep. Marie Strinden		✓
Rep. Glen Froseth	✓				
Rep. Mark Owens		✓			
Rep. Patrick Hatlestad	✓				
Rep. Wayne Trottier		✓			
Rep. Jason Dockter	✓				
Rep. Jim Schmidt	✓				

Total (Yes) 10 No 4

Absent 0

Floor Assignment Rep. Schmidt

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

**REPORT OF STANDING COMMITTEE**

**HB 1380: Finance and Taxation Committee (Rep. Belter, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). HB 1380 was placed on the Sixth order on the calendar.

Page 1, line 3, after "against" insert "certain"

Page 2, line 9, replace "that" with "for which the owner's primary revenue source is fees charged to users or clients or revenues from federal funding sources, or a combination of both of those revenue sources, which"

Page 4, line 14, replace "improvement district" with "municipality"

Renumber accordingly



**2013 TESTIMONY**

**HB 1380**

**Wocken, William C.**

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**To:** Representative George Keiser  
**Subject:** HB 1380

George,

The new map is prepared. I will get it to you.

The 2013 budget numbers you requested are:

Police Department budget	-	\$9,318,651
Fire Department budget	-	\$6,120,469
Combined Communications	-	\$1,958,650
Total		\$17,397,770

2013 budget property tax \$16,904,095

All these expenses are paid from the General Fund but the tax revenues generated go to that fund and several others. The General Fund has both other income sources and other expenditures that accrue to it.

W. C. Wocken  
City Administrator  
City of Bismarck, ND  
PO Box 5503  
Bismarck, ND 58506-5503  
(701) 355-1300

**Testimony by Dana Schaar, NDANO Executive Director  
House Finance & Taxation Committee  
In Opposition to HB 1380  
Tuesday, January 29, 2013**

#9

Chairman Belter and Members of the Committee, my name is Dana Schaar, and I am the executive director of the North Dakota Association of Nonprofit Organizations (NDANO). We are here today to express our opposition to House Bill 1380.

NDANO is a membership organization of more than 180 nonprofit members from all across North Dakota working in many different mission areas – from human services and the environment to education and the arts. Charitable nonprofits are vital to North Dakota and provide public benefits that strengthen our urban and rural communities.

North Dakotans have supported property tax exemptions for charitable nonprofit organizations since the adoption of the first State Constitution in 1889. HB 1380 appears to be an attempt to circumvent the constitution by levying fees against exempt properties, including charities, in lieu of property taxes. NDANO opposes attempts to eliminate or circumvent this exemption because it diverts money from mission and limits nonprofit service for the common good.

The public supports tax exemptions for nonprofits because of their significant work to improve quality of life in our communities. Further, donors intend all of the funds given to nonprofits to be used to provide services and accomplish missions, not to pay property taxes or fees. It is inefficient to tax with one hand what would otherwise have to be supported by public expenditures.

Because charitable organizations contribute to the public good and lessen the burden of government, the historic policy of exempting these organizations from property taxes, or fees or assessments in lieu of taxes, should be continued. Nonprofits relieve government of many of its burdens or traditional functions in exchange for tax exemption. Further, charities give up the right to profits (all net income goes toward mission, not private benefit or shareholders), the right to privacy (we are required to make significant public disclosures regarding our governance and finances and are the most transparent segment of the economy), and the right

#p.2

to engage in political activity (we cannot endorse or oppose candidates for the legislature or other political offices).

We are sympathetic to infrastructure challenges facing cities and counties and hear the concerns that property taxes are too high. However, the challenges that cities and counties are facing are less than they would be but for the work of charitable nonprofits in our communities. Governments regularly contract with nonprofits to provide efficient and cost-effective services on behalf of residents, services that typically are less costly than other forms of service delivery. Although sometimes difficult to quantify, property tax exemption is a return on the investment in charitable nonprofits and their dedication to improving lives in all of our communities.

We feel that taxing one public service to fund another is counterproductive and will not result in a net reduction in governmental costs. Instead, assessing additional fees against nonprofits would increase already stressed budgets and could have a marked impact on our ability to maintain and direct resources to fund much-needed services, particularly in this time of increasing demand. This bill is a tax shift that would decrease the amount of funds available to help the most vulnerable among us, including at-risk youth, the homeless, veterans, and victims of domestic violence, to name just a few.

Charitable nonprofits are a community resource and work hand-in-hand with government to meet needs across our state. NDANO strongly urges a do not pass on HB 1380. The exemption from property taxation, or payments or fees in lieu of taxation, accorded to public-serving nonprofits remains good economic and social policy. Thank you.

### Nonprofits Opposed to HB 1380

Abused Adult Resource Center	Lutheran Social Services of North Dakota
Best Friends Mentoring Program	North Valley Arts Council
Bethel Lutheran Foundation	Northern Plains Dance
Bismarck-Mandan Symphony Orchestra	RSI (Rehab Services, Inc.)
Central Dakota Children's Choir	Southeast North Dakota Community Action Agency
Centre, Inc.	The Village Family Service Center
Charles Hall Youth Services	United Way of Dickinson
Dakota Boys and Girls Ranch	Upper Missouri Ministries
Easter Seals Goodwill ND, Inc.	Westend Terzetto's
Fargo Moorhead Coalition for Homeless Persons	

**Testimony by Kelly Gunsch, representing Dakota Boys and Girls Ranch  
 House Finance & Taxation Committee  
 In Opposition to HB 1380  
 Tuesday, January 29, 2013**

Chairman Belter and Members of the Committee, my name is Kelly Gunsch, and I am a development officer representing the Dakota Boys and Girls Ranch. Dakota Boys and Girls Ranch specializes in residential and outpatient services serving children and families from all across the state of North Dakota. I am here today in opposition to House Bill 1380.

Our agency is entering its 61<sup>st</sup> year of service to the great state of North Dakota, and like many other non-profits, has adapted well to the financial models necessary to do business here. We are focused on quality of care, and have a vested interest in being good stewards of the resources given us by our customers and donor base. In light of that, this bill would have a negative impact on the amount of resources that we have available to provide quality programming. For example;

- Every dollar we would spend on this payment is money not spent to achieve our mission and vision to help children and families.
- This would increase our overhead and administrative costs. That increase may cause donors to think we are not as effective and efficient in how we spend our funds and therefore they may choose to donate elsewhere. This again decreases our ability to provide the necessary programs and services we offer.
- Assisting non-profits is important. The programs and services we offer are a direct benefit to the State and the cost to the state in providing these same services would be significant.

- North Dakota is presently operating with a budget surplus. To ask non- profits to make payments at this time places an undue burden on organizations already being asked to expand services to meet the needs of a rapidly growing and changing State.
- To adapt to new costs, non- profits may need to cut programs, services, or staff; therefore, those who need the services provided may be impacted the most. In general, citizens may have slightly lower taxes, but at what cost?

Dakota Boys and Girls Ranch has invested heavily in its mission of providing services to children and families in the State of North Dakota. We feel we play a vital role in partnership with the State and other service providers in helping to ensure our State's great future. House Bill 1380 presents a barrier to our agencies ability to continue to devote the resources necessary to meet our mission, and I would humbly ask that you recommend a "Do Not Pass" for HB1380.

Thank you.

#3  
p.c.#



Dakota  
Boys  
and  
Girls  
Ranch

#PH

Celebrating 60 years of service to children and families in the name of Christ.

## FAST FACTS JULY 1, 2011 - JUNE 30, 2012\*

... is a nonprofit, Christian agency started by Lutherans in 1952. The agency is honored to serve, and to be supported by, people of all cultures and religions.

... served a total of 867 youth and families.  
*Of those, 488 individuals and families were served through Dakota Family Services, a mental-health outreach mission of the Ranch based in Minot and Fargo, N.D.*



... served 379 boys (216) and girls (163) who are at-risk with emotional and behavioral issues, and some with developmental challenges, in its programs offered in Minot, Bismarck and Fargo.

- \* Approximately 40 percent of children come to us without family as a resource.
- \* In the 2011-12 fiscal year, 95 percent of our children came from homes or situations where they were abused physically, sexually, and/or emotionally.
- \* Referrals come from private/parents, counties, Tribal Social Services, schools, courts/legal/Dept. of Juvenile Services.

*Dakota Boys and Girls Ranch is funded through private donations, federal grants, fees for service (medicaid/insurance/private) and special events.*

*\* DBGR served fewer children and families in 2011-12 as a direct result of the impact of flooding in Minot and northwestern North Dakota.*

*Children were evacuated to Bismarck and Fargo campuses in late June and returned to the Minot campus Aug. 27.*





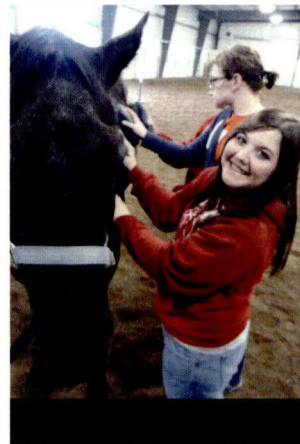
#H.P.C.

... served 181 students through Dakota Memorial School, Minot and Bismarck; 67 were in our Day Programs;  
 \* Seven students graduated from Dakota Memorial School in May 2011

... held 48 Chapel services for children, staff and families; and participated in other spiritual life activities including:  
 \* Ranch Life Club twice a month, Minot Campus; and individual meetings  
 \* Two Baptisms, and one resident being instructed in Baptism  
 \* 35 children accompanied by staff attended Red Willow Bible Camp in July 2012  
 \* One resident was confirmed; five attended confirmation classes  
 \* Residents also attended Christian concerts and presentations, Christmas and Easter Celebrations, and a Talent Showcase

... hosted four servant teams in 2012:  
 Minot (3), Bismarck (1).

... is a Recognized Service Organization of the LCMS and an Affiliated Social Ministry Organization of the ELCA. DBGR is a founding member of Luther an Services in America. Ranch services are available to all children, regardless of ethnicity or religion.



... offers voluntary participation in a spiritual life program, which is funded by private donations from individuals, families and churches.



[www.dakotaranch.org](http://www.dakotaranch.org)

1.800.344.0957

[www.dbrgift.org](http://www.dbrgift.org)



**Testimony on House Bill 1380**  
to the  
**House Finance and Taxation Committee**  
January 29, 2013

I am Murray Sagsveen, representing the North Dakota League of Cities, testifying in opposition to House Bill 1380.

Nonprofit organizations provide a safety net to the homeless, medically underserved, poor, abused, and others. Churches, most hospitals, and private schools are nonprofit corporations. Many nonprofit corporations are, in effect, quasi-governmental organizations, and many are providing public services through contracts with governmental agencies.

Certain nonprofit organizations receive preferential treatment under federal tax laws. Notably, under Section 501(c)(3) of the Internal Revenue Code, charities are provided a tax-exempt status, and donors to charities may deduct their donations if they itemize their deductions. North Dakota tax law also allows donors who itemize to deduct their donations.

Article X, Section 5, of the North Dakota Constitution even provides greater protection to charity property than it does to government-owned property (i.e., the legislature can waive immunity from taxation for government-owned property, but is not authorized to waive immunity from taxation for charity-owned property). It states, in part:

The....property of the state, county, and municipal corporations, to the extent immunity from taxation has not been waived by an act of the legislative assembly, and property used exclusively for schools, religious, cemetery, charitable or other public purposes shall be exempt from taxation.

What has evolved, over the years, is a complex arrangement that society has encouraged:

- Organizations providing essential services within communities are supported by private donations, which reduce the tax liability of the donors (and the revenue to federal and state governments).
- Charities provide certain essential services, which relieve that burden from state and local governments.
- Citizens have imbedded in the state constitution a provision that “property used exclusively for schools, religious, cemetery, charitable or other public purposes shall be exempt from taxation.”
- Communities provide essential safety and emergency services to charities at no cost to the charity.
- Nonprofit organizations are managed by uncompensated volunteers who

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p. 2

serve on the governing boards (and who are generally immune from liability for such service under federal and state laws)

- Nonprofits receiving public funds are usually subject to open meeting and open records laws.
- Recent IRS requirements compel nonprofits to be very transparent concerning its revenue, expenses, and policies (i.e., IRS Form 990, which much be available to the public).

Most nonprofit organizations operate on a shoestring budget, providing essential services on very narrow margins. Even a small increase in the margins would allow additional services to those in need.

House Bill 1380 is extraordinarily disappointing because it specifically targets nonprofit organizations. Under the guise of special assessments (i.e., PILOTs – payment in lieu of taxes), it appears to directly violate the constitutional provision quoted above.

House Bill 1380 would allow a city to establish “safety and emergency services improvement districts” so that the city could special assess “certain property not subject to property taxes” in order to “provide an equivalent reduction in the property taxes levied for the cost of safety and emergency services upon taxable property in the improvement district” (quotes from proposed 40-22.2-01 and 40-22.2-10). In effect, the bill would transfer dollars from charities to private interests, and **the net revenue to the city would be zero.**

How might this actually work? Imagine a district that includes charity property valued at \$10 million and private property also valued at \$10 million. Assume that the real estate tax on the private property is fair and equitable when compared with similar other property in the city. Also assume that the special assessment against the charity property is \$50,000. Under House Bill 1380, it appears the city could collect the \$50,000 from the charity and reduce the property taxes of the private interests by \$50,000. If so, the real estate tax on the private property would no longer be fair and equitable when compared with similar other property in the city (i.e., it would be less because the charity’s special assessment is paying the safety and emergency services component of the private property).

It is curious that House Bill 1380 focuses on charities, but excludes publicly-owned property. The proposed 40-22.2-03 states: “property of a governmental entity for which at least eighty percent of revenue comes from state or local tax sources may not be included in a safety and emergency services improvement district.” State and county government offices require at least the same safety and emergency services as charities, but such property would remain exempt under this bill.

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House Bill 1380 **does not provide any new revenue to the cities.** Instead, a constitutionally-suspect bill would authorize cities to take money from charities (through special assessments) and give it to private interests (through property tax relief). The net effect: donor dollars would be taken from charities to reduce the real estate taxes on privately-owned property.

Accordingly, the North Dakota League of Cities urges this committee to vote “do not pass” on House Bill 1380.

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Prepared by the  
Office of State Tax Commissioner  
January 30, 2013

PROPOSED AMENDMENT TO HOUSE BILL 1380

Page 4, line 14, replace "improvement district" with "municipality"

Renumber accordingly

13.0651.01001  
Title.

Prepared by the Legislative Council staff for  
House Finance and Taxation Committee  
February 7, 2013

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PROPOSED AMENDMENTS TO HOUSE BILL NO. 1380

Page 1, line 3, after "against" insert "certain"

Page 2, line 9, replace "that" with "for which the owner's primary revenue source is fees charged to users or clients or revenues from federal funding sources, or a combination of both of those revenue sources, which"

Renumber accordingly