

2011 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1416

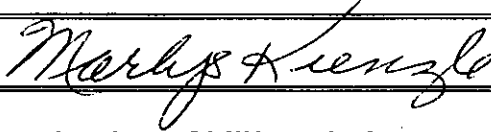
2011 HOUSE STANDING COMMITTEE MINUTES

House Industry, Business and Labor Committee
Peace Garden Room, State Capitol

HB1416
January 25, 2011
Job #13359

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Housing authorities and bonded indebtedness; declare an emergency

Minutes:

Chairman Keiser: Opened the hearing for HB 1416. He introduced Rep Glen Froseth.

Representative Froseth~District 6 in Bottneau: I am presenting this bill to make a few technical changes to the 2007 revision chapter 23.11, which is the Housing Authority Law (see attached testimony 1).

Representative Froseth Read Milton Hoyt~Mohall Housing Authority: (see attached testimony 2). He commented that people from some of the smaller communities that face some of the same challenges with qualifying the income level. The cities are having problems with taking on the bonding indebtedness which would cap out their other bonding needs, such as sewer, water and street repair.

Representative Ruby: Seems in this instance, it not much risk, it is not much of a risk for the city to have this done, but in other cases it is a liability that will be put on and is considered a debt liability. Don't you think this is a risk to allow this in all instances that don't have that kind of growth?

Rep Forseth: Yes, I do think it is a risk but we need to trust that community, the city commission and the housing authorities to work together. They know the circumstances in their communities and the housing need's, they know the basic income levels of the people in their community. The rents for these units are at about 110% of what they have to recover. They are set by guideline of income levels so they have a little cushion for maintenance. These units are fully rented.

Representative Ruby: If this is allowed and the Housing Authority gets real aggressive in providing housing, would that give them an extreme advantage over an investor who wants to do the same thing?

Rep Forseth: Possibly, but it is hard to find investors to put up housing for low and moderate income when the rental is according to their salary. The rule is that the most they

pay is 30% of their income for rent. With the oil companies in that area, the investors know that they can build a unit and get \$800.00 to \$1000.00 a month for rent. So private investors would be looking for more money for their return.

Chairman Keiser: There are two parts to this bill. This bill is giving the local inanity the ability to set the income levels taking away the lower income people. The Housing Authority could set the amount to \$3000 to \$5000 would be allowed. Then the authority would be providing housing competition for the higher end income earners. I understand that the rates are where they are at because they are based on lower incomes.

Rep Forseth: I am unsure of how to answer that. Most of these communities already have low income housing. These units are designed and going to be built more for the moderate income level or still charge rent according to what the market will bear. This division would be defined by the demand of the community.

Representative Kreun: Is this Housing Authority designed as a separate inanity? Not part of the city itself?

Rep Forseth: Separate. The Housing Authority is made up of a Board of Directors.

Representative Kreun: My understanding is that the Housing Authority is a standalone semi government agency of themselves. This seems that it is more of a clarification bill than an exact bill because it is already been done in what you are asking for. I think what you are looking at is the clarification and the voucher system that is already in place with most Housing Authorities where market rent will be in a competitive nature. It could be utilized in this facility as well as private facilities.

Representative N Johnson: Did they explore the bonds if they don't have the guarantee of the city?

Rep Forseth: I don't know if the Housing Authority has the authority to issue bonds other than backed by the city. Most go to the local bank which the bank will need some security. On the issue that Rep Kreun brought up. One of the things this bill does is to make sure the income level is qualified to the tax exemption. For example the city of Crosby will not grant the tax exemption for this property unless the income level is designed. Without the tax exemption the housing unit can't make cash flow. This is one correction to this bill.

Senator Andrist: I am from District 2, Crosby: I would like to speak to you on one piece of this bill that I'm familiar with and how this bill applies to small communities. The small towns are pretty much a do it yourself kit. Housing Authority is created by the councils to function as queasy public entity. When the law was drafted it was defined as low income but does not define moderate income. The reasoning is that moderate income is different from one community to another, so the intent was for the community to set its own level for what qualifies for moderate income. Low or moderate income you will get property tax exemption to make them more affordable. In Crosby it has created a fight between the Housing Authority and the Director of Tax Equalization. Both feel they are ordained to

define what moderate income is. This correction in the bill would clarify that the Housing Authority itself defines moderate income in that community. The chairman of our Housing Authority is under the impression that the law prohibits renting at market rent. If a unit is rented at market rent, those units are broken out and they pay real estate taxes on those units. He is under the impression that if this bill passes and we define moderate income you will not be able to rent these units at market rent if for some reason you could not rent with low or moderate income people. Sometimes because demand is relatively low, these units turn slowly because you don't have that many people moving around, you do go through periods where you have an empty house. He thought it would be a good idea to add an amendment to cover this issue.

Representative Ruby: If we allow the authority to determine what the definition of low or moderate income, with no perimeters, wouldn't that be like rule with no guidelines saying what the definition would be?

Senator Andrist: Someone has to decide and probably the best people to decide are the people managing the operation because they understand the rental market in their community. Small towns would love it if private investors would come in and build, but they don't do it.

Representative Ruby: If you determine what your definition is and someone moves in town qualifies for a unit and goes to work for the oil field, do you kick them out?

Senator Andrist: There is a provision for that case and review from time to time. It will change the market rent but I don't think involves throwing them out.

Representative M Nelson: I have a long term concern with having the Housing Authority pick the number. Is there some other entity that would be expectable to do checks and balance and keep an up to date number once a year? Or should we have a law that they update that number once a year?

Senator Andrist: I do think they do this once a year. They have two primary concerns; fill the units and pay of the bills.

Chairman Keiser: Should we amend this to a certain size?

Senator Andrist: My frame of reference is rural and cannot speak for large communities or cities. I do know it is valuable to the smaller communities in the state.

Chairman Keiser: Any one in support of this bill?

Scott Wegner: Attorney for Arntson Stewart Wegner PC: (see attached testimony 3).

Representative Amerman: If the housing authority goes in with the city and builds this property. A private developer makes an offer to buy this property, is there any protection for the low or moderate income people on what the private developer can do?

Scott Wegner: I'm not sure what the practices are with the Housing Authorities. It is possible for the Housing Authorities to sell these properties. The bonds would have to be paid but as far as protecting the current tenants, I am unsure.

Representative M Nelson: Reviewing your testimony it refers to background information it states that it is housing limited to cities established under 5000 population. Is that correct?

Scott Wegner: That's correct. In 2005 the amendments were added. At that time the populations of under 5000 was added.

Diane Weick: SW Design Build in Minnesota: I was asked to testify on behalf the Mohall Housing Authority. I would like to provide some information relating to the Housing Authority versus or in relationship to the private development in these smaller towns, I would like to provide you with an example of Mohall. They did advertise and provided financial workouts and plans for private development and solicited it in public newspaper and didn't get anyone to come to the table. When the private sector isn't meeting the need we look to the public sector to meet that need. I would like to touch on the difference of low and moderate income. There is an absolute difference in low and moderate income. Your law in North Dakota, until 2005, only addresses low income housing. At that time it did provide for moderate housing for cities under the population of 5,000. There are no other subsidies for moderate housing, such as HUD or Federal Agencies. The only subsidies I suppose you could say, because they are public entity they are affordable issue bonds to finance the cost of these projects at a lower interest rate that is available to the private sector. Indeed because they are a political subdivision of the city, they do have the ability to issue the bonds directly themselves but they also have the ability to further bond issue to make them more attractive to ask the city for a general obligation pledge as additional security on the bonds. In Mohall it was a requirement to purchase bonds. Because of the discussions and theories the tax exemption should be tied to income limitations. We believe that the language is quite clear that the properties owned by Housing Authorities are tax exempt but because the question has come up in a few communities we are trying to clarify the language. With the regard to a private sector sale, that indeed has occurred in other states, when the projects have seasoned long enough for the private sector could cash flow at similar rent levels. Many of the Housing Authority would not be addressing the needs but because the private sector does not meet the needs the Housing Authority is getting in the housing business. They are willing to sell these at any time the private sector has an interest in the buildings. Are there any housing rules and laws now in place for the private sector to regulate rents or levels after the sale to the private sector, no? They would be subject to the same laws and rules that are in effect right now for every other private housing that exists. The Housing Authority does and must review cash flows and review of potential income limitations. There have been discussions for some type of guideline to follow, on the incomes qualifications on these units so they are not directly competing with the private sector. Who better to establish this than the local Housing Authority?

Representative Kreun: Your guidelines of low to moderate are they your guidelines or the Federal guidelines of low to moderate income.

Diane Weick: There is no tie to it. My experience is that they typically tie a percent to the state median income. The state median income is about \$50,000.

Representative Kreun: That is how it is determined. The low and moderate income is established with the regional or state guidelines.

Diane Weick: Add to that, typically that is established in conjunction with the bond attorney, the Housing Authorities and who is assisting them with the development of the project. They also take into consideration cash flow and rent revenues along with documentation that is approved by the city. There are several steps along the way, if the city pledges the bonds. There must be a public hearing held the city council level with certain requirements met. It does require full approval of city council to be provided.

Representative Kreun: Are you at the point of the requirement at 50%

Diane Weick: That is indeed with low income. That's a HUD requirement. There are no HUD funds with the moderate income that is not a requirement.

Chairman Keiser: With these bond is there a certain number that must be greater? Can it be adjusted over time?

Diane Weick: Yes. It is a policy that is established by the Housing Authority.

Chairman Keiser: Gave a scenario of one project owned by the Authority and one by the private investor. The community is booming and everyone is happy. Now the employer that employees 50% of the community closes, every one moves and the community is lower in numbers. If the community is going to be liable for this increase the number of people that go into this so we don't lose money. Now you have just increased your numbers to meet your needs to keep the place as occupied as you can and the private investor will lose. You can see why we have a concern, but if it goes South. Do you think this can happen?

Diane Weick: I would like to mention two points. First of all the private part has to adjust to the prevailing rental market conditions as much as the Housing Authority.

Chairman Keiser: They pay taxes which the Housing Authority does not.

Diane Weick: Is it fair? No. Is the private sector meeting the housing needs in North Dakota? No. This part of the moderate income housing was established in 2005, because the Housing Authorities is the type of a town home with attached garage opposed to what you see with low level income. Typically there has been very little housing to date so they are not competing with that pilot sector because you have two different types of cliental.

Chairman Keiser: Support, opposition, neutral:

Close the hearing of HB 1416

Representative Kreun: Made a motion of do pass.

Vice Chairman Kasper: Second the motion.

Representative Ruby: I would like to some kind of level percentage of median of income or something like that. I am going to oppose this motion.

Vice Chairman Kasper: In Western North Dakota moderate today may be higher tomorrow because the private sector is not willing to risk the capitol to build these projects and the people need a place to live.

Representative Kreun: If they utilize the federal guidelines and regional income levels, they will establish income level that these people will be accepted at. I don't think it would be a willy nilly. There is usually a percentage that goes up and down that they pay on the rent. I don't believe this is not an entity that takes local tax dollars. It is not a requirement for the cities to pay these off as was indicated by the attorney who spoke previously. We are having the low or moderate help clarify; this may help with the identification in low income housing on whether the assessor should tax it or not tax them.

Representative N Johnson: I will support this bill, talking with communities with population 5,000 and under, there is becoming a greater need for low and moderate income housing because rent has increased considerably.

Representative Ruby: If they are going to use the guidelines Rep Kreun is referencing they should note that in this bill. I think there are some builders and investors coming in and investing the money. It just takes time to build and I know it is not at the pace we want. We can throw 20 times the money and we are only going to get so many build in a year. I would like to have seen some of this cleared up a little more that.


Representative Kreun: Normally what happens is it's written into the bonds the concerns Rep Ruby has. Those criteria will stay that way for the period of the repayment of the bonds.

Representative Ruby: That brings the other point. Once the income of these people is brought up to the higher, they basically said they almost never charge market rate. So the high income person is not paying the market rate rent in that area.

Representative Kreun: I chair the Housing Authority for Grand Forks and in my experience that is not correct. All the units are at market rent. What we do is utilized the voucher system, whether it is in one of our units or the private sector. We manage private sector or give vouchers for other private sector units. We have to be at Market Value Rent.

Diane Weick: In these smaller communities, there are no units comparable to these units that are being built under this program. The rents are almost always higher than what everything is in the community. It is larger unit it has more amenities and they are already higher than the communities has. It usually raises the private unit's rents.

Do Pass Yeas 12 Nays 2 Absent 0 Rep Sukut is the carrier.

 You and Ellen may want to meet and discuss getting coffe

Chairman Keiser: Closed the adjourned

Date: Jan 25, 2011

Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1416

House House Industry, Business and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment

Motion Made By Representative Kreun Seconded By Kasper

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	✓		Representative Amerman	✓	
Vice Chairman Kasper	✓		Representative Boe		✓
Representative Clark	✓		Representative Gruchalla	✓	
Representative Frantsvog	✓		Representative M Nelson	✓	
Representative N Johnson	✓				
Representative Kreun	✓				
Representative Nathe	✓				
Representative Ruby		✓			
Representative Sukut	✓				
Representative Vigesaa	✓				

Total Yes 12 No 2

Absent 0

Floor Assignment Sukut

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

REPORT OF STANDING COMMITTEE

HB 1416: Industry, Business and Labor Committee (Rep. Keiser, Chairman)
recommends **DO PASS** (12 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING).
HB 1416 was placed on the Eleventh order on the calendar.

2011 SENATE GOVERNMENT AND VETERANS AFFAIRS

HB 1416

2011 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veteran's Affairs Committee
Missouri River Room, State Capitol

HB 1416
March 25, 2011
16009

☐ Conference Committee

Committee Clerk Signature

Explanation or reason for introduction of bill/resolution:

Minutes:

Representative Glenn Froseth: District 6. See attached testimony #1. Representative Froseth then passed out testimony from Milton Hoyt, see attached testimony #2.

Senator Cook: Do you know of any bonded indebtedness or any other instrument of financing that is given when it is proven to be not self sustaining?

Representative Glenn Froseth: I don't think so. Maybe some city the taxpayers will relinquish the ownership of the property, and then it goes back to the county and eventually back to the city.

Senator Cook: Why should they be able to build the housing and not contribute to property taxes?

Representative Glenn Froseth: They fall under the category of low income.

Senator Cook: What is the moderate income in the Mohall project?

Representative Glenn Froseth: Provisions of this bill would allow the city to set the levels for low income. It is felt that the local housing authority knows the area better than the Federal government.

Senator Cook: Your intent is that a city could raise low to moderate income standards?

Representative Glenn Froseth: Yes.

Chairman Dever: The housing authority can pay for the bonds

Representative Glenn Froseth: Yes but they are secured by the city, this also allows a bank to loan the money.

Senator Nelson: We have heard stories about things happening in oil country about people being booted out by people who can afford to pay higher rent rates.

Representative Glenn Froseth: I think that it is part of it, what happens in these areas is the low income units are being owned by senior citizens. They rent these units and pay for it by the sale of their houses. If I were to sell my house and move into one of these units I would have income to pay my rent.

Vice Chairman Sorvaag: Usually on these bonds the people that invest in these do it for the federal tax benefits. They usually have to follow the guidelines in order to get the credit; if we deviate then won't that mess up the break?

Representative Glenn Froseth: HUD is a different type of housing financing. The tax exception is basically local property tax exemption.

Chairman Dever: Is one of the concerns that the cities need to make infrastructure investments?

Representative Glenn Froseth: Mohall just added new water and sewer lines. The city was financing it and built another one and ended up questioning if they could do it.

Senator Cook: Let me just make sure that I understand this completely, I can go to Mohall and I could rent to whoever is that correct?

Representative Glenn Froseth: No, the Housing Authority is the one who owns the property.

Senator Cook: But the person who went to the Housing Authority

Senator Nelson: Are Housing Authorities responsible for the special assessment.

Senator John Andrist: District 2. The Bakken explosion has made the need greater and people are being forced out because someone else is willing to pay more rent. These authorities are non profit but they have to pay the bills. The reason they need the bonds is so that they get a lower interest rate. The reason for the tax exemption is that it also lowers the rate. In Crosby's instance that got into a big fight with the ...when I went to the tax dept for clarification they said that the intent behind the bill was to allow cities to define what is considered moderate income. They have always has a definition of low income. IN the early stages of this plan, the investors were really not allowed to take profit out of the project beyond the investment portion. When we built our 8 units in Crosby they were slow, with a few empty units and you lose 25% of your income. In the event that they have empty units and there are no applicants they could rent it to someone who does not meet the qualifications of low or moderate. They would then carve out that amount of money that is generated from the rent of that unit and they would pay taxes on that. See attached testimony #3.

we are on the fringe, in most of the small communities on

Diane Weick: SW Design Builders. See attached testimony #4.

Senator Cook: Describe moderate income

Diane Weick: It has been described in other states anywhere from 120-150% of state median income. That is the standard that I have seen other states used. No one in ND has described it specifically in North Dakota; this law just came into effect in 2005. Low income by HUD is anywhere 50-80% of below state median income.

Senator Cook: I understand the importance of the private sector to gather income to use that to help low income find affordable housing. What is the argument for funding authority of moderate income?

Diane Weick: If these smaller communities could meet the needs of the people in that area. Is it fair with the private sector development? There are no tax dollars that fund these projects. In the larger cities the private sector is able to build and charge and make money but in the smaller communities it doesn't allow for payment of the rates that are being charged. Can these projects be sold by the Housing Authority if the private sector is will go invest, yes? We have seen the projects sold, paid off and back in the private sector.

Senator Cook: Is it safe to say that people who lived in Mohall

Diane Weick: They also sold homes which made them available to other families. There is a healthy movement in the community to do this.

Scott Wegner: Arnston, Stewart, Wegner, PC. See attached testimony #4.

Senator Cook: Can you verify that housing authorities that provide housing for low income are not subject to special assessments?

Scott Wegner: On HB 1416 section 4, page 3 line 4 indicates that property use for low income housing exempt from taxes and special assessments of the state or any political subdivision.

Vice Chairman Sorvaag: Couldn't that affect their bond rating?

Diane Weick: I don't believe so; the city would have to have discretionary funds.

Senator Berry: What you are saying is that you are asking the city make a promise you don't have to keep'

Scott Wegner: There are certain findings that need to be made before the project can start. The city cannot say that they will give 5 mill without

Senator Berry: It allows the city to choose if they want to put their name behind it, it is binding and then they are mandated to do it.

Scott Wegner: That is correct. The only bond that will be paid without question is the ones that have tax power, they have done everything for their pledge but you can't make the city put on the mill levy

Senator Berry: That is what going to count against the bond rating. This isn't something that they have to

Senator Cook: Who does the Housing authority write a check to?

Scott Wegner: In the case of the bond issue it is sold to a local bank.

Senator Cook: So there is a bond.

Scott Wegner: Yes.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veteran's Affairs Committee
Missouri River Room, State Capitol

HB 1416
March 31, 2011
16230

☐ Conference Committee

Committee Clerk Signature

Explanation or reason for introduction of bill/resolution:

Minutes:

No testimony attached

Senator Cook: The intent if retired farmers can instead of moving to Bismarck they can move into a nice apartment in a small town. Now what we are doing with this bill is allowing the housing authority to offer this program, they don't do anything else. We are creating a definition to a moderate income, and don't confuse it with low income. We need to make sure that everyone that should be paying property taxes is paying property taxes and I would agree that these should. The right thing to do is to make sure that these type of housing authorities are not exempt from property taxes.

A motion for a do not pass was made by Senator Cook with a second by Senator Berry, there was no further discussion, roll was taken and the motion passed 7-0 with Senator Cook carrying the bill to the floor.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veteran's Affairs Committee
Missouri River Room, State Capitol

HB 1416
April 7, 2011
16414

☐ Conference Committee

Committee Clerk Signature

Explanation or reason for introduction of bill/resolution:

Relating to the housing authorities and bonded indebtedness; and to declare an emergency

Minutes:

No testimony attached.

Chairman Dever: This bill was referred back to committee based on the concerns that Senator Cook had.

Senator Cook: I agree with the recommendation and my concern is section 2, it deals with issuing bonds and to what degree they go against the statutory debt limitations of the city. I would assume that they are issuing revenue bonds and revenue bonds do not count as constitutional debt. The Chairman of the Morton County Housing Authority we have issued a \$3,000,000 bond for a housing project but it's a revenue bond so I question that. I knew that we had this in the city of Mohall and the city of Crosby from testimony so I asked Gordy Smith from the Auditor's Office to get me the audits of the two political subdivisions. It was my understanding that all political subdivisions are audited and was my understanding that those audits go to the auditor's office. What I found out that the section of law that the auditor follows for who they audit does not include authorities, so housing authorities are not required to be audited by the state auditor's office but it is a political subdivisions and there are some audit requirements. What Gordy did was ask for the audit for the city and he got the one for Crosby. It is the city of Mohall and the city of Crosby that are the same it's a finding that the audit isn't complete. The bottom line is that the city has secured this debt and I have found that the city has issued general obligation bonds to cover the debt of these apartments; the reason they did it is because the bank, who's buying the bonds, wanted the city's general obligation to stand behind them for the interest rate that they had secured. So this is two of them, my next question was how many of these do we have: there is no depository for them. The only

reason a housing authority would go to a city and not issue the bonds themselves is to get a general obligation. My question is that I think that we should consider studying, if we are going to have something like this in place they need to be doing it right. If there is debt being incurred somewhere that is a general obligation of taxpayers we need to follow the law. Prior to this law being enacted there was only one housing authority. I would suggest that we have a study to find out how many we have, how many have a debt, find out who is a nonprofit. I suggest if there is a way to get the housing authority at the same time the city is for the same bill that it would be wise for them.

Chairman Dever: In a previous session we passed a bill that said that cities that have budgets of less than \$200,000 don't have to be audited but that they have to follow certain accounting guidelines, I don't remember the exact language.

Senator Cook: They have to have a CPA letter telling of their finances.

Chairman Dever: Not a full audit but they needed on an annual basis some kind of audit.

Senator Cook: These housing authorities if they get one unit they are over \$200,000.

Senator Marcellais: Maybe we should also solicit a different auditor every few years.

Senator Cook: We have it in our policy for our requirements.

Vice Chairman Sorvaag: At the Fargo Park Dist we use Brady Martz. There are very few accounting firms and we have always been comfortable with Eide but they wouldn't put their integrity on the line. They are going to do the job that they are required to do.

Senator Cook: If the city is in a position where they would like to sell some bonds, a bond attorney would have something to say about that. I can't believe a city would allow this to go on.

There was no further discussion.

Date: 3/31/11
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1412

Senate Gov & Vet Affairs 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 Cook Seconded By Berry

Senators	Yes	No	Senators	Yes	No
Chairman Dever	X		Senator Marcellais	X	
Vice Chairman Sorvaag	X		Senator Nelson	X	
Senator Barry	X				
Senator Cook	X				
Senator Schaible	X				

Total (Yes) 7 No 0

Absent _____

Floor Assignment Cook

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

2011 TESTIMONY

HB 1416



NORTH DAKOTA HOUSE OF REPRESENTATIVES dl

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360



Representative Glen Froseth
District 6
P.O. Box 894
Kenmare, ND 58746-0894
Residence: 701-385-4811
Business: 701-385-4275
Cell: 701-217-0000
gfroseth@nd.gov

COMMITTEES:
Finance and Taxation
Government and Veterans Affairs

Testimony HB 1416

Chairman Keiser and members of the House IBL Committee, for the record, I am Rep. Glen Froseth of District 6. I would like to present HB 1461 and I urge your favorable consideration.

HB1416 makes a few technical changes to a 2007 revision of Chapter 23-11, the Housing Authorities Law. I will go through the changes and I also have testimony from a member of the Housing Authority in Mohall who couldn't make it to the hearing this morning.

The first change is in **Subsection 13 of Section 23-11-01** and clarifies "moderate income" definition by adding language the same as the definition for "low income" and leaving it up to the Housing Authority's to define any income limitations or restrictions to rent units. It is felt this should be established by the local Housing Authorities who are the most familiar with their local rental markets.

The second change is in **Section 23-11-21 and Section 23-11-24** and clarifies that a general obligation city or county pledge as additional security on a Housing Authority bond issue, financing housing projects, does not affect the city or county's statutory debt limitation. The projects are designed to be self-sustaining, and although the general obligation pledge by the governing city or county sometimes requested to promote the bank purchase of bonds, the projects pay for themselves, due to the high demand for the housing.

The next change is in **Chapter 23-11-29** and clarifies that correlation isn't made with income or rental policies and the tax exemption status of its property.

Finally, the Emergency Clause has been added so that cities and counties may take advantage of these changes for new building projects which are now in the planning stages and will begin as soon as weather permits.

I would also like to hand out Testimony from Mr. Hoyt. He intended to come today, but his wife is handicapped and he could not find a Care Provider, so he was unable to come. His testimony gives first hand information from the Housing Authority in Mohall and their concerns for making the changes.

Thank you for your consideration and again, I urge your support for HB1461.

Testimony to the House "Industry, Business and Labor" Committee

Tuesday, January 25, 2011 -- 8:00 a.m.

Mr. Chairman and Members of the Committee:

My name is Milton Hoyt. I currently serve as the Chairman of the Mohall Housing Authority. I am providing this written Testimony in favor of HB 1416.

The Mohall Housing Authority was appointed by the Mohall City Council in July, 2006, under the provisions of Chapter 23-11 of the NDCC- Housing Authorities Law, and is a political subdivision of the City.

In 2007, the Legislature amended the Housing Authorities Law to grant the Governing Body of a Housing Authority the option to pledge its (City or County) general obligation authority to provide additional security for the repayment of the revenue bonds that are issued by a Housing Authority to finance a housing project. As a result of that revision, the Mohall Housing Authority, in 2008, was able to secure the bank purchase of the bond financing needed to build a 4-unit townhome moderate income rental complex. The City general obligation pledge as additional security on the Housing Authority bond issue to finance the project made the bank purchase of the bond more attractive to the bank, and afforded the Housing Authority a very competitive rate on the bond purchase. The rental complex built in 2008 by the Mohall Housing Authority was rented prior to its completion, and continues to be self-sustaining from its own rental revenues, with a healthy wait list for additional units.

Since 2008, it has come under question whether or not the guarantee applies to the city's indebtedness limit as defined in the North Dakota Century Code, Chapter 21-03-04, and perhaps other Chapters. Consequently, the Mohall City Council has delayed any action on guaranteeing additional project bond issues by the Housing Authority until such issue is resolved. HB1416 will provide clarity in the law by stating specifically that a pledge by the Governing Body of a Housing Authority (City of Mohall) does not constitute an indebtedness obligation as applicable to current provisions in the NDCC. It has been our experience that the revenue from the rental units is the source for repayment of the revenue bond debt financing the project. Considering the demand for housing, and the demonstrated success of this moderate income housing program, we feel there should be no long-term obligation by the governing body, although the guarantee does constitute a legal obligation in case of total default by the Housing Authority. With the fiscal responsibility of the local Housing Authority, it is very unlikely that the governing body of Housing Authorities would be liable for the bond debt issued to finance projects, especially in its entirety.

My understanding is that the City of Mohall's statutory debt limitation is 5% of the "Assessed Valuation" of all properties within its jurisdiction. Based on the 2010 property valuations and that rate, the City of Mohall would be limited to \$452,756 for all forms of indebtedness. A general obligation pledge for a four-unit Housing project

alone would exceed that amount, since the bonds are sold to finance the entire cost of the project.

Our experience indicates that our proposed Phase II project to provide additional quality, affordable, moderate income rental units will not be realized without passage of this amendment to NDCC 23-11, based on the Governing Body's reluctance to pledge its general obligation authority on additional Housing Authority bond issues. The City has concerns that additional pledges on Housing Authority projects may preclude the City from assuming indebtedness for other worthy City projects.

I urge you to recommend a "Do Pass" on HB 1416 in order to clearly define that a general obligation pledge by the City on Housing Authority bond issues will not affect the governing body's debt limit as provided in North Dakota Century Code. Thank you for accepting my written testimony.

Milton Hoyt, Chairman
Mohall Housing Authority

TESTIMONY IN SUPPORT OF HOUSE BILL 1416

Presented to the Industry, Business and Labor Committee
January 25, 2011

Mr. Chairman and members of the Industry, Business and Labor Committee, my name is Scott Wegner. I am an attorney with the law firm of Arntson Stewart Wegner PC. Our firm has served as bond counsel to many North Dakota Housing Authorities in connection with multifamily housing bonds.

House Bill 1416 will amend Chapter 23-11 of the North Dakota Century Code, the Housing Authorities Law, to clarify three items: (i) that local housing authorities make the determination of eligible tenants, (ii) that the pledge by a city or county of its general obligation does not constitute "debt", and (iii) that all housing authority projects are exempt from property taxes.

BACKGROUND INFORMATION

In 2005, the Housing Authorities Law was amended to, among other things, (i) permit cities under 5000 population to establish housing authorities; (ii) permit housing authorities to construct, own and operate housing facilities for *moderate income* individuals and families in addition to *low income*; and (iii) permit cities or counties to support the projects by providing operating loans or by backing bonds with a general obligation pledge. In 2007, the Housing Authorities Law was further amended to clarify the mechanism for cities and counties to pledge their general obligation to secure the payment of housing authority revenue bonds. Under subsection 23 of section 23-11-24, a city or county can pledge its general obligation as additional security for bonds provided that, (i) the pledged revenues equal or exceed 110% of the debt service on the bonds, (ii) the maturity of the bonds does not exceed 35 years, and (iii) the bonds are approved by the city or county following a public hearing.

PROPOSED AMENDMENTS

The first amendment adds the phrase, "as determined by the local housing authority undertaking the housing project" to clarify that the determination of "persons of moderate income" is made by the local housing authority. The same language is currently in the definition of "persons of low income."

Sections 2 and 3 of the Bill are intended to make it clear that the pledge by a city or county of its general obligation does not constitute "debt" of the city or county. The bonds are payable primarily from project revenues and are not expected to be paid by the city or county. The obligation of the city or county is contingent upon the insufficiency of project revenues and is limited to the shortfall. Contingent obligations are generally not treated as debt and do not count toward the constitutional debt limit of the city or county.

Section 4 of the Bill is intended to clarify that housing authority projects are exempt from property taxes.

We support House Bill No. 1416 and ask that you give a Do Pass recommendation.

MOHALL **Housing Authority**

Political subdivision of the City of Mohall

Mayor:
Bonnie Locken
Auditor:
Barb Armstrong

PO Box 476 – Mohall, North Dakota USA 58761
City Hall: 701-756-6464 Chair: 701-756-6059
www.mohallndak.com

“Striving for Quality Housing and a Thriving Community”

Commissioners:

Milton Hoyt, Chair
LaVonne Erickson, Vice-Chair
Kathleen Kopa, Temp Sec.
Wanda Emerson
Daniel Dew

mhoyt@srt.com

January 21, 2011

Ms. Diane Weick
SW Design Builders, Inc.
607 Graceview Loop
St. Joseph, MN 56374

Re: Request to Testify at ND State Legislature

As Chairman of the Mohall Housing Authority, an affiliate of the Mohall City Council, I am submitting this request for you to testify on behalf of the Authority before the Legislative Committee that will hear testimony on HB 1416 on Tuesday, January 25, 2011.

The Mohall Housing Authority supports passage of HB 1416 that will clarify the wording of the current Housing Authority Law, especially as it relates to the Governing Body’s guarantee of payment of the Housing Authority’s loan for current and subsequent housing projects. This revision will clarify that the City Guarantee does not affect the Governing Body’s debt limitation as contained in other provisions of the North Dakota Century Code.

In addition, the revision will clarify to some degree the definition regarding the income requirements for eligibility of potential tenants of Housing Authority rental property. Local Housing Authorities will be granted discretionary authority regarding eligibility requirements.

Your expert testimony on our behalf will be appreciated. Thank you.

Sincerely yours,

MOHALL HOUSING AUTHORITY

Milton J. Hoyt, Chairman

Testimony HB 1416

Chairman Dever and members of the Senate GVA Committee, for the record, I am Rep. Glen Froseth of District 6. I would like to introduce HB 1416 and ask for your favorable recommendation.

HB1416 makes a few technical changes to a 2007 revision of Chapter 23-11, the Housing Authorities Law. I will go through the changes and I also have testimony from a member of the Housing Authority in Mohall who couldn't be here this morning.

The first change is in **Subsection 13 of Section 23-11-01** and clarifies "moderate income" definition by adding language the same as the definition for "low income" and leaving it up to the Housing Authority's to define any income limitations or restrictions to rent units. It is felt this should be established by the local Housing Authority, who are the most familiar with their local rental markets.

The second change is in **Section 23-11-21 and Section 23-11-24** and clarifies that a general obligation city or county pledge as additional security on a Housing Authority bond issue, financing housing projects, does not affect the city or county's debt limitation. The projects are designed to be self-sustaining, and although the general obligation pledge by the governing city or county sometimes requested to promote the bank purchase of bonds, the projects pay for themselves, due to the high demand for the housing.

The next change is in **Section 23-11-29** and clarifies that correlation isn't made with income or rental policies and the tax exemption status of its property.

Finally, the emergency clause has been added so that cities and counties may take advantage of these changes for new building projects which are now in the planning stages and will begin as soon as weather permits.

I would like to hand out testimony from Mr. Hoyt. His testimony gives first hand information from the Housing Authority in Mohall and their concerns for making the changes.

Thank-you for your consideration and I urge your support for HB1416.

Testimony to the Senate "Government & Veterans Affairs" Committee

Friday, March 25, 2011 -- 9:45 a.m.

Mr. Chairman and Members of the Committee:

My name is Milton Hoyt. I currently serve as the Chairman of the Mohall Housing Authority. I am providing this written Testimony in favor of HB 1416.

The Mohall Housing Authority was appointed by the Mohall City Council in July, 2006, under the provisions of Chapter 23-11 of the NDCC- Housing Authorities Law, and is a political subdivision of the City.

In 2007, the Legislature amended the Housing Authorities Law to grant the Governing Body of a Housing Authority the option to pledge its (City or County) general obligation authority to provide additional security for the repayment of the revenue bonds that are issued by a Housing Authority to finance a housing project. As a result of that revision, the Mohall Housing Authority, in 2008, was able to secure the bank purchase of the bond financing needed to build a 4-unit townhome moderate income rental complex. The City general obligation pledge as additional security on the Housing Authority bond issue to finance the project made the bank purchase of the bond more attractive to the bank, and afforded the Housing Authority a very competitive rate on the bond purchase. The rental complex built in 2008 by the Mohall Housing Authority was rented prior to its completion, and continues to be self-sustaining from its own rental revenues, with a healthy wait list for additional units.

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The logo for the Mohall Housing Authority, featuring the word "MOHALL" in a stylized, outlined font.

Housing Authority

Political sub-division of the Mohall City Council

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MOHALL HOUSING AUTHORITY

Milton J. Hoyt, Chairman

HB 1416
Senate Government and Veterans Affairs Committee
March 25, 2011

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Section 4 of the Bill is intended to clarify that housing authority projects are exempt from property taxes.

We support House Bill No. 1416 and ask that you give a Do Pass recommendation.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1416

Page 1, line 1, replace the second "section" with "sections 23-11-14 and"

Page 1, after line 11, insert:

"SECTION 2. AMENDMENT. Section 23-11-14 of the North Dakota Century Code is amended and reenacted as follows:

23-11-14. Rentals and tenant selection.

In the operation or management of housing projects, an authority at all times shall observe the following duties with respect to rentals and tenant selection:

1. The authority may rent or lease the dwelling accommodations in the project solely to persons of low or moderate income. However, notwithstanding any restrictions in this chapter, if a dwelling unit is unoccupied and there are no applicants qualified under this chapter, the housing authority may lease that dwelling unit to any applicant at not more than market rent in the community.
2. ~~The authority may rent or lease the dwelling accommodations in the project solely at rentals within the financial reach of persons of low or moderate income.~~
3. ~~The authority may rent or lease to a tenant dwelling accommodations consisting solely of the number of rooms which the authority determines necessary to provide safe and sanitary accommodations to the proposed occupants, without overcrowding.~~
4. ~~The authority may not accept persons of low income as a tenant in any housing project if the individual or family who would occupy the dwelling accommodations has an aggregate annual income in excess of five times the annual rental of the quarters to be furnished the individual or family. In computing the rental for this purpose, there must be included in the rental the average annual cost to the occupant, as determined by the authority, of heat, water, electricity, gas, cooking, and other necessary services or facilities, whether the charge for the services and facilities is in fact included in the rental.~~

~~5-3.~~ The authority shall prohibit subletting by tenants."

Page 3, line 10, remove "low and"

Renumber accordingly