

2011 SENATE FINANCE AND TAXATION

SB 2356

# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Finance and Taxation Committee Lewis and Clark Room, State Capitol

SB 2356  
2/14/2011  
Job Number 14473

☐ Conference Committee

A. B. Miller

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

Relating to special assessments for business promotion

### Minutes:

Written Testimony Attached

**Chairman Cook** opened the hearing on SB 2356.

**Senator Flakoll** – This is an important bill for a variety of constituencies to help level the playing field and more thoroughly define what can be done in these improvement areas.

**Bill Wocken, City Administrator for the City of Bismarck** – (See attached testimony A in favor of SB 2356)

**Mike Hahn, Downtown Community Partnership of Fargo** – (See attached testimony B in favor of SB 2356)

**Senator Triplett** – Is it correct that a lot of the things described in this statute really benefit the entire population by allowing for music in public places and decoration of public places and that sort of thing? Why would we not just encourage cities to finance these things through their general taxes that are spread across the entire community?

**Mike Hahn, Downtown Community Partnership of Fargo** – They do benefit the entire community, but from a marketing aspect those are things that help maintain the vitality of the downtown so they do directly, as if for maintaining that level of excitement, they will basically benefit the property owners and the businesses within the downtown district.

**Senator Triplett** – You are suggesting that is to the exclusion of those businesses in the community.

**Mike Hahn, Downtown Community Partnership of Fargo** – Correct.

**Bob Stein, City Planner, Fargo** - (See attached testimony C in favor of SB 2356)

**Chairman Cook** – Chapter 4022 is our normal special assessment section. What is it that you can't do in chapter 4022? What is it that you can't do that you might be able to do in this business special assessment district? Can you put up Christmas decorations in special assess that under chapter 4022?

**Bob Stein, City Planner, Fargo** – Yes, you could do that under 4022. I'm not aware of what section of law it is that deals with other special assessments. I think there is another one that is not specific to promotion of business activity; you could also do it under that one.

**Chairman Cook** – So what is it that Fargo would be able to do if we took this 10,000 population cap off? What is it that you would be able to special assess tomorrow then that you can't today?

**Bob Stein, City Planner, Fargo** – If the 10,000 cap was taken off we could do most of the functions that we do. I think there is still some question regarding the maintenance. There is language in the main special assessment section of the law talks about ongoing assessment for maintenance. Right now you can do that in a designated pedestrian mall area, but not in another assessment district. Typically your special assessments are for something you receive, water line, or sewer line, or streets or whatever, where there is a sunset on it. There is a sunset here as well but it's for ongoing maintenance, not for capital improvement. The sunset is written into the language of the BID it's self.

**Chairman Cook** – So what kind of maintenance examples are so large to a city that you would want to have bonded debt to pay for it?

**Bob Stein, City Planner, Fargo** – I'm a little unclear whether we would bond for this debt or not. It would be assessed based on what the budget is put forward. I don't anticipate there would be a bond sale to do this.

**Chairman Cook** – You're just going to assess it to the property.

**Bob Stein, City Planner, Fargo** – Yes

**Vice Chairman Miller** – Is this going to just let the city off the hook for doing other things and using this fund to pay for it that they should be paying for with other tax monies?

**Bob Stein, City Planner, Fargo** – The city has some responsibility regardless. This will clearly define not only whose responsibility or where responsibility lies for the maintenance and upkeep functions of the downtown; it will also give the property owners the tools they would need to collect the revenue that would support their share of it.

**Senator Dotzenrod** – Normally when taxes are assessed on a piece of property, if it's a standard assessment it's going to be on mill evaluation. When you do a special assessment as I understand it, you don't really get in to that mills and evaluation. Basically you take the cost of the project and divide it by the number of the area and then you get a bill that's essentially in dollars and cents. If you have a special assessment district for sweeping, you basically are accumulating those costs for a year or on a contract basis and

it's just attached to the property tax statement when the property owners gets their bill they will get their normal property tax and then they will have this assessment, which would just be a dollars and cents fee. That's how it works now, there is no real limit, and you are not subject to any limits as I understand it, when you finance something this way.

**Bob Stein, City Planner, Fargo** – I think essentially that's true. It could be that way, but it would be similar to doing a water main project. If the cost comes in too high you probably would rebid it, by the same token here, if your plans and specifications come in and your cost estimates are too high, the property owners won't support it. The fact that this is driven from the property and business owners and the petition, it's different than with other public works type projects where there are special assessments used to finance that.

**Senator Burckhard** – If there is a storm sewer district, the people know who's in that district. How would the people be determined in these kinds of districts?

**Bob Stein, City Planner, Fargo** – One of the things you do in the first step is the initiator of a business improvement district puts together a boundary. It's not just done without putting careful consideration into the level of support that they can find. There has to be a benefitting district by law, there has to be benefit assigned before you can assess.

**Dawn Kopp, Downtowners Association** – Talked about how important it is to preserve our downtown areas.

**Steve Stoner, Fargo Business Owner** – Talked about how many cities large and small preserve downtown areas and how important it is for the city to put forth more money for daily maintenance in the downtown areas.

**Bill Wocken, City Administrator for the City of Bismarck** – I would like to answer some of the questions about the district and its composition. In 4022.1 section 03 states that business improvement district must include all properties which in judgment of the governing body after consultation with city auditors' designee planning the improvement will be benefitted by the creation of all or a portion of the business improvement project. In other words, the district starts out talking about the benefits to the downtown property owners. Section 04 says that the city auditor will be directed by the municipality to prepare a report as to the general nature, purpose, and feasibility of the proposed improvement and an estimate of the probable cost of the work. So there is a cost estimate and an extent of the improvement that are agreed to at that time. There are plans and specifications under section 05 of this section that are drawn after that point because the city is the one contracting for these improvements. This isn't something that someone else is bringing in, the city needs to contract for the improvements according to the way the law is written here. In section 06 there is a resolution of necessity and in 07 and 08 it talks about a protest against that resolution of necessity. Typically on a capital improvement project a 50% protest 50% plus 1 is adequate to kick out a district. In this area, 1/3 of the area is all it takes to protest out.

**Chairman Cook** – Is it allowable if a city wanted to bond this debt?

**Bill Wocken, City Administrator for the City of Bismarck** – I see nothing in this section that says that you can't bond it so I would make the assumption that one could.

**Senator Dotzenrod** – The sections that you have been reading to us. They talk about the creation of a business improvement district. We currently under the provisions of our law, have provisions that say how to do it, how to create it, how to set one up, so this bill doesn't really facilitate the creation of a BID, we already have that. The only thing this bill does is that you can use it for maintenance.

**Bill Wocken, City Administrator for the City of Bismarck** – Yes, that is correct. This bill only does 2 things. It adds maintenance to the list of enumerated responsibilities that you can put in to a BID, and it takes away the population cap.

**Senator Dotzenrod** – Under current law the BID is limited to 10,000 and below.

**Bill Wocken, City Administrator for the City of Bismarck** – Correct.

**Connie Sprynczynatyk, North Dakota League of Cities** – I think the interest in everybody is really 2 things, adding maintenance as a clearly allowable activity, and taking that population cap off.

**Senator Triplett** – Do you have any concern at all that by setting up these special districts for particular areas of town that you actually might be harming the notion of downtowns as a special place that should be supported by the entire communities?

**Connie Sprynczynatyk, North Dakota League of Cities** – Before the renaissance zone legislation I think the people who were here from Fargo would agree that Fargo's downtown was in major crisis. I was shocked at the number of building looking almost abandoned. The investment that has come because of the renaissance zone, the tax increment financing legislation, and all of those tools wrapped together, what it was like and what it is today is just remarkable. In terms of the general public support, I don't think this is going to be that sort of a problem. I think the opposite is also possible, that the rest of the community and especially the businesses will say well... They get a lot of stuff, they are special, they are downtown, but they also are agreeing to assess themselves for what goes above and beyond.

**Chairman Cook** asked for testimony opposed to SB 2356. No one came forward.

**Chairman Cook** asked for neutral testimony for SB 2356. No one came forward.

**Chairman Cook** closed the hearing on SB 2356.

# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Finance and Taxation Committee Lewis and Clark Room, State Capitol

SB 2356  
2/15/2011  
Job Number 14545

☐ Conference Committee

*A. Bittner*

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

Relating to special assessments for business promotion

### Minutes:

Committee Work

**Chairman Cook** opened discussion on SB 2356.

**Chairman Cook** – The one thing that concerns me is the question I asked. The way this bill is introduced, they could create an assessment here and actually bond for it. I don't have a problem with this if it's assessment improvements assessed to the property and paid in full every year when they pay their property tax, but as far as having a project under this type of a special assessment that's to the magnitude where they might want to consider bonding it and creating debt and then they also add on their extra costs that cities do when they bond, so I would want to pursue some amendments that made it clear that this type of special assessment could not be bonded or financed.

**Senator Hogue** – I kept wondering why they wouldn't approach this with a sales tax rather than a special assessment which seems to be, first of all a lot more cumbersome than administering a sales tax, but the second thing that's happened in a lot of the cities is a lot of these older buildings where they've fallen into, not a state of disrepair, but they are just not being used, have been converted and rezoned to residential property so that you have a lot of downtown buildings is some retail on the first level and all living in the other stories. I see this as being unfair to those folks because what you are trying to do here is enhance the business activity downtown and you've told these residential developers, yes put your apartments up there because we want to maintain the taxable value, and now they are going to come along and assess all these properties to improve business activity, that's just going to help the folks on the ground floor and I don't see that as being too fair or precise. If what you want to do is enhance business activity then let them assess a local sales tax on that district or that area. I don't think this is fair to any of the property developers that took them up on their offers to develop and convert some of that property to residential.

**Senator Dotzenrod** – If there was an attempt to create one of these and there was a significant objection, 30% is all it would take to stop it as an initial proposition. So I think if there was anything that appeared to be unfair or unsettling to the residents in the area and the business owners they've got a pretty good ability to stop it.

**Chairman Cook** – The testimony we got is that it's never been used.

**Senator Oehlke** – Senator Dotzenrod, you are talking about 1/3 of the residents to get out, but that's not really accurate because it's based on the area. The people living above wouldn't have a choice in that matter.

**Chairman Cook** – Renters don't have a vote.

**Senator Triplett** – It seems like this bill has been on the books in North Dakota for a good long time and has not caused any problems in the cities of 10,000 or less so I see it as a harmless tool that probably won't be used very much so I'm comfortable voting for it as it is or voting with the amendment you proposed, I don't have strong feeling about it one way or the other.

**Senator Hogue** – I would prefer they do it through a different funding source than special assessments. We understand special assessments are for curb, gutter, and other improvements. The other question I had is can the cities start taking money out of their budgets and start putting them into a special assessment fund. That's a good way to get around their mill levy limitations as well. Our whole focus last time was property tax relief and to me, although it hasn't been abused, this is an opportunity to increase their mill levies by putting maintenance on special assessment. I oppose the bill.

**Chairman Cook** – I will have some amendments drafted for this.

**Chairman Cook** closed discussion on SB 2356.

# 2011 SENATE STANDING COMMITTEE MINUTES

Senate Finance and Taxation Committee  
Lewis and Clark Room, State Capitol

SB 2356  
2/16/2011  
Job Number 14596

☐ Conference Committee

*A. Rittmiller*

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

Relating to special assessments for business promotion

## Minutes:

Committee Work

**Chairman Cook** opened discussion on SB 2356.

**Chairman Cook** – Special assessments for business promotion adding maintenance to it. I've raised the question as to whether or not it was legal for this to be bonded and the answer is yes it is. Although I don't think anyone has, this amendment will just see to it that no one does.

**Senator Hogue** – I'll move amendment .02001 prepared for Senator Cook dated February 15, 2011 to SB 2356.

Seconded by **Senator Dotzenrod**.

**Chairman Cook** – All in favor say yea. Opposed? (7-0-0) We have before us SB 2356 as amended.

**Senator Oehlke** – I'll move a Do Pass as Amended.

Seconded by **Senator Dotzenrod**.

**Senator Hogue** – I would speak against the motion for a couple of reasons. One, I think it's, from an administrative cost stand point, that going through the special assessment process to raise revenue to provide for these business improvement is the most cumbersome way you could do it. I think the amendment improves it but I think it's just as easy to authorize them to create some sales tax district where they could impose this tax for those businesses that wanted it. I guess my primary opposition to the bill is I see it as a mechanism to get around the mill levy limitations.



**Senator Dotzenrod** – I do think this has been on the books long enough so that if there was some problem with it, we've had it out there for almost 30 years and all this bill does is take the population limitation off so cities above 10,000 can use it and it adds maintenance. I do think that any city that is going to use this is going to have to use it in a fairly specific narrow way and very careful way because the protest process only requires 30%. If they do something that is generally going to be perceived as being heavy handed I think it's going to be fairly easy to get that 30%. The way I look at it is a user's fee rather than a mill levy assessment across the whole city. This gets down to a narrow district, specific patrons in that district that have certain things they want. I think the bill has some merit, these are coming in around the country and it seems to be working pretty well from the testimony we had. I'm trusting that the people at the local level will be reasonable in the way they apply this.

**Chairman Cook** – Other discussion? We have a motion for a Do Pass as Amended. Ask the clerk to take the roll. (4-3-0)

Carried by **Senator Dotzenrod**.

11.0583.02001  
Title.03000

Prepared by the Legislative Council staff for  
Senator Cook

February 15, 2011

*73*  
*2-16-11*

PROPOSED AMENDMENTS TO SENATE BILL NO. 2356

Page 1, line 17, after the period insert "A municipality may not issue warrants, bonds, or any other form of indebtedness in anticipation of the levy and collection of assessments under this chapter."

Renumber accordingly

Date: 2-16-11  
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2356

Senate 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 Senator Hogue Seconded By Senator Dotzenrod

Senators	Yes	No	Senators	Yes	No
Dwight Cook – Chairman			Jim Dotzenrod		
Joe Miller – Vice Chairman			Connie Triplett		
Randy Burckhard					
David Hogue					
Dave Oehlke					

Total (Yes) 7 No 0

Absent 0

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

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

Verbal vote

Date: 2-16-11  
Roll Call Vote # 2

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2356

Senate 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 Senator Oehlke Seconded By Senator Dotzenrod

Senators	Yes	No	Senators	Yes	No
Dwight Cook – Chairman		X	Jim Dotzenrod	X	
Joe Miller – Vice Chairman	X		Connie Triplett	X	
Randy Burckhard		X			
David Hogue		X			
Dave Oehlke	X				

Total (Yes) 4 No 3

Absent 0

Floor Assignment Senator Dotzenrod

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

**REPORT OF STANDING COMMITTEE**

**SB 2356: Finance and Taxation Committee (Sen. Cook, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). SB 2356 was placed on the Sixth order on the calendar.

Page 1, line 17, after the period insert "A municipality may not issue warrants, bonds, or any other form of indebtedness in anticipation of the levy and collection of assessments under this chapter."

Renumber accordingly

2011 HOUSE FINANCE AND TAXATION

SB 2356

# 2011 HOUSE STANDING COMMITTEE MINUTES

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

SB 2356  
March 9, 2011  
#15168

☐ Conference Committee

Committee Clerk Signature

*May Brucke*

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

A bill relating to special assessments for business promotion.

### Minutes:

*See attached testimony #1, #2, #3, #4.*

**Senator Sorvaag:** Introduced bill. Support. This bill is dealing with special assessments for improvements in business districts or promotion. It's been in the law but it had a few parts that weren't workable for the larger cities. In line 10 they are adding maintenance and they are looking at whether it is snow removal, cleaning, or any items that would form in a special district to bring things up a level. It's also taking out the clause that is excluding any population over 10,000. At the very end there is an addition of that there can't be any indebtedness, they can't bond or anything for doing this. This would take a super majority of a vote to put this special assessment district in for the businesses.

**Representative Steven L. Zaiser:** In terms of general maintenance, how would that be special assessed?

**Senator Sorvaag:** I will give an example of where I live. The city does a certain level of care, snow removal as an example. A lot of those businesses like it at a little bit higher level and instead of that being paid for by the general taxpayer you would have assessed this district. It would be a way of doing things in a more uniform manner.

**Representative Steven L. Zaiser:** How would you assess that out based on the percentage of benefit? Do you generally assess the entire district the same?

**Senator Sorvaag:** I will leave that up to the representatives for the city.

**Representative Bette Grande:** Why do we have maintenance if this is new business?

**Senator Sorvaag:** I really can't answer what that terminology means but I could guess that even if you're an established business you are still out there and trying to improve and upgrade things to bring in new business.

**Bill Wocken, City Administrator for the City of Bismarck:** Support. Please refer to attached testimony #1.

**Bob Stein, Senior Planner with the City of Fargo:** Support. Please refer to attached testimony #2.

**Representative Glen Froseth:** This assessment could be spread over a given business improvement district that would be created that would pay this assessment?

**Bob Stein:** That is exactly right. That is part of the key to the success of these things is if someone would try and make the district too big the interest on the outside would think they wouldn't get any benefit from this so they would oppose it. If it's smaller and they can see benefits they will vote for it. The bar is set pretty high. You have to get 67% approval of the property owners in that proposed district before you can pass it. There is also a provision that allows if there is an area or block that was included and overwhelmingly votes against it they can just remove that part of it too.

**Representative Lonny B. Winrich:** The kind of special assessments we do for infrastructures there are usually some sorts of attempt to make the assessment on the basis of the benefit to the property. How do you propose to go about determining the benefit to each business in a district like this?

**Bob Stein:** Putting together your plan you can graduate the assessment. It is not necessarily blanket assessment over the entire proposed district. The benefit can be graduated and assessed accordingly. The other provision is during the whole development process. You have to put down what your intent is and what those benefits will be and what the assessment is. You may have a higher assessment up and down Broadway then you would two blocks off, depending on the size and shape of the district. That would be put on the proposal to be voted upon.

**Representative Steven L. Zaiser:** I know Fargo had a Business Improvement District, does it have one now?

**Bob Stein:** No. It never had one.

**Representative Dave Weiler:** On line 12 of the bill there was wording crossed out and that would be why you've never had a Business Improvement District because it says it's only for populations of 10,000 or less.

**Bob Stein:** There were business interests in downtown Fargo that took at stab at establishing a Business Improvement District 12 years ago or so and there was an Attorney General's opinion that said you could do that even with this language. When this came up again more recently through the Downtown Community Partnership we said we didn't really want to take that chance of having something that could really get messy in the future and that was why that phrase was crossed out.

**Representative Dave Weiler:** Who was the attorney general 12 years ago?

**Representative Patrick Hatlestad:** You have the DCP representing the 120 local businesses. How many downtown businesses are there in total?



**Bob Stein:** I don't really have a good count of that.

**Mike Hahn, President/CEO for the Downtown Community Partnership of Fargo:** Support. Please refer to attached testimony #3.

**Representative Dave Weiler:** Does the term "maintenance" mean regular maintenance?

**Mike Hahn:** In my working with BIDs in the past and especially in the state of Iowa and what I've seen is that when it goes through a process of a petition there is also a contract which is signed between the entity which is going to manage the bid and also the city. It is disclosed by the city what they are going to do or continue to do at that maintain level and this would go above and beyond that. We have a pretty attractive streetscape project along Broadway in downtown Fargo and additional cleaning would be in the winter time when we need to use brushes instead of shovels because we have some mosaics that are in the pavers that are on the sidewalks. I can see in special events where we host about 20 a year and we have thousands of people coming to Fargo so that deserves a little more maintenance. We may have to have more law enforcement or security present at those special events and that is also what this paid for.

**Representative Patrick Hatlestad:** How many downtown businesses do you represent?

**Mike Hahn:** I represent about 40-50% of the total downtown businesses.

**Dawn Kopp, Executive Director of Downtown Business Association of Bismarck:** Support. Please refer to attached testimony #4.

**Representative Steven L. Zaiser:** Is this an improvement over and above of what the city would supply? Those property owners still pay for the normal property tax but they additionally would pay for their fee for this business improvement district, correct?

**Dawn Kopp:** Yes. What we have seen in downtown Bismarck is a number of trees and plantings downtown that were funded through the TIF fund and those funds have been currently put on hold. A BID could possibly take care of those plantings and trim the trees, and many other types of things.

**Representative Dave Weiler:** Who is currently doing these things, is the city? When a garbage can needs to be emptied a third time during the week instead of twice a week, who will do that?

**Dawn Kopp:** If there is a trash cans that needs emptying it will sit and wait for Public Works is available until its scheduled pick up. Our forestry department does what they can but from the feedback we receive from the downtown they would like to see more things to attract the downtown area. There is only a certain budget available through our forestry and public works department so we would be able to go above and beyond with a BID.

**Representative Scot Kelsh:** What is the definition of a municipality? Is the word municipality and city interchangeable in this sense?

**Marcy Dickerson, State Supervisor of Assessments:** In different parts of the code a municipality is different. In some areas it refers just to a city and a park district and in other areas it is referred to everything in a county. A lot of those definitions say for the purposes of this chapter or purposes of this section.

**Chairman Wesley R. Belter:** No further testimony. Closed the hearing on SB 2356.

# 2011 HOUSE STANDING COMMITTEE MINUTES

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

SB 2356  
March 14, 2011  
#15409

☐ Conference Committee

Committee Clerk Signature

*Mary Brucker*

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

A bill relating to special assessments for business promotion.

### Minutes:

*No attachments.*

**Representative Roscoe Streyle:** I have an amendment for this.

**Chairman Wesley R. Belter:** I'm ready to act on this. Are your amendments prepared?

**Representative Roscoe Streyle:** No but my amendments would repeal that whole section and not allow them at all. But if you don't want to go there I would move a **Do Not Pass**.

**Representative Mark S. Owens:** Seconded.

**Representative Steven L. Zaiser:** I would hope that we could resist the Do Not Pass because I think offers an opportunity for downtown. I think the BID provides services over and above what the city services provide. They pay for all those additional services so if they want to tax themselves let them and that is essentially what they are doing. They are taxed just like a special assessment, it is prorated out and it's been proved that it's been effective in several cities across the country.

**Chairman Wesley R. Belter:** Do you know how they allocate the assessment, what the basis of it is.

**Representative Steven L. Zaiser:** Not exactly but it's prorated a base from ground zero but I don't know the exact formula. It's different in different cities. A city has that latitude to adopt whatever formula they see fit.

**Vice Chairman Craig Headland:** It is possible that you could have almost half of the businesses located to not favor this promotion?

**Representative Bette Grande:** It takes 2/3 of the businesses that would be part of this taxing area. If you don't want to be a part of that promotion you opt out and you don't have to stay in as part of that taxing district. In Fargo we have these cobblestone areas where

gum is an issue but the city can't afford it nor do we want to ask the city to clean the gum off the cobblestones so we are going to get together and hire somebody that comes through and steams this off once a month. The businesses get together to vote and 2/3 agree to it then they can hire or get the city to hire somebody to steam the cobblestones once a month. My merchandise price might go up but then I don't shop downtown and if you don't shop specialty shops it shouldn't bother you. This is pretty tax friendly in the fact that you have 2/3 votes to get it.

**Representative Dave Weiler:** Say you have six businesses who get together to get this gum removed and three of the businesses didn't want it. Could these three businesses opt out and not pay for it? I don't believe that is the case. I think if they decide to put together this business improvement district then they have to pay for it. Those three businesses would have to pay their equal share.

**Representative Bette Grande:** I believe so. On the testimony from Mr. Wolkin he states a project can be protested by a signature of 1/3 of the owners so those three can protest it.

**Chairman Wesley R. Belter:** If they get a 67% vote the protestors pay.

**Representative Steven L. Zaiser:** Representative Weiler is correct. They can all vote on it and they have to pay for it but the yardstick is higher than a regular special assessment district which is 51%, here it's 67%. It's the choice of the people downtown. They could opt out of the entire district and not be a voting person.

**A roll call vote was taken: YES 10 NO 4 ABSENT 0  
MOTION CARRIED FOR DO NOT PASS.**

**Representative Patrick Hatlestad will carry SB 2356.**

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee  
Fort Totten Room, State Capitol

SB 2356  
March 22, 2011  
#15804

☐ Conference Committee

Committee Clerk Signature

*Mary Brucker*

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

A bill relating to special assessments for business promotion.

## Minutes:

*See attached amendments.*

**Vice Chairman Craig Headland:** The Chairman had brought this back from the floor for further amendment. We will have to reconsider our actions on this particular bill.

**Representative Bette Grande:** I would like to reconsider our actions as we passed a Do Not Pass on 2356.

**Representative Patrick Hatlestad:** Seconded.

A voice vote was taken to RECONSIDER OUR ACTIONS: MOTION CARRIED.

**Representative Mark S. Owens:** I have amendments. Distributed amendments and reviewed. Please refer to attached amendments. This amends to add a study for the 2011-12 interim and adjust the bill according. I'd like to move the amendment.

**Representative Bette Grande:** Seconded.

**Representative Dave Weiler:** I'm curious as to why we are attempting to add a study onto a bill that's coming out with a Do Not Pass and we hope to have it killed on the floor unless it is the wishes and the intentions of Representative Owens to turn this around and support the bill because there is a study on here for special assessments. With or without these amendments this bill should not pass and I will not support the motion.

**Representative Mark S. Owens:** I am adding this amendment just in case it does pass.

A voice vote was taken to ADOPT THE AMENDMENT 03002: MOTION CARRIED.

**Representative Bette Grande:** I move a Do Pass as Amended.

**Representative Mark S. Owens: Seconded.**

**Representative Dwight Wrangham:** There was some question on when these zones or special assessment areas were formed if 2/3 of the individual businesses are within the assessing area vote to do it then it is done. There was some discussion as to whether the 1/3 that did not support it would still be assessed. Could I get clarification on that?

**Representative Dave Weiler:** This is a very fine example of the phrase "No matter how much lipstick you put on it it's still a pig."

**Representative Dwight Wrangham:** As I understand this bill when these assessment areas or district areas are formed it takes a 2/3 vote of the entities within that area to pass the assessment district. If it passes and 1/3 voted no does that 1/3 still get assessed as the 2/3 do?

**Marcy Dickerson, State Supervisor of Assessments:** I heard that on previous testimony on this bill. I'm recalling the 2/3 was in there but I don't feel I can answer that with sufficient knowledge.

**Representative Dwight Wrangham:** If we assume that it's a 2/3 and 1/3 or we can assume that it's half and half, does the minority group still have to pay the assessment?

**Marcy Dickerson:** I would believe so because ordinarily in any vote if the prevailing vote is yes then anyone in that district and a different type of assessment district is subject to it, they have to go ahead with the assessment. Everybody who opposed it was on the losing end of it I believe.

**Representative Bette Grande:** We are looking at 40-22.1-08 and it says "A project can be protested by signature from 1/3 of the owners within the proposed district." If I protest it does it go on hold as the 1/3, if I'm part of the 1/3?

**Marcy Dickerson:** I'd have to see what it says subsequent to that. Protesting it doesn't say the outcome. I'm sure the language is in there but I say I don't have that in front of me and I'm not that familiar with it. From what was said maybe it would take 1/3 to protest it but does that protest hold or is there another procedure that takes place after the protest, that's what I'm not sure of.

**Representative Steven L. Zaiser:** I believe I heard testimony that they can take themselves out of the project area but once they are in a project area and are part of the bid if they are not on the prevailing side they still do have to pay.

**Representative Roscoe Streyle:** So if I have a property in the middle of this maintenance district or promotion how would I take myself out of that? Would they clean the north side of me and then the south side and then just leave me? I don't see how they could ever get out of this. No special assessment works that way I don't think. If you're in the district you're taxed no matter what. Is that correct?

**Marcy Dickerson:** I would believe that but without reading the language I wouldn't want to make a firm statement on it because every once in a while we find a law that is different from similar laws and the results surprise you. I'd really want to read the statute and look it over before I make a comment on that.

**Representative Dwight Wrangham:** I think this is an important issue so I would ask that you give us some time and possibly request Marcy to do some checking on that.

**Marcy Dickerson:** I would be glad to do that. I don't want to misspeak because I haven't read everything.

**Vice Chairman Craig Headland:** I think that's a good point.

**Representative Patrick Hatlestad:** Where does it say in here 2/3?

**Representative Lonny B. Winrich:** It's in the section of code here where it's already in law.

**Vice Chairman Craig Headland:** I understand that we have a Do Pass on the table. Maybe we should withdraw the motions.

**Representative Bette Grande:** I will withdraw my motion.

**Representative Mark S. Owens:** I will withdraw my second.

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee  
Fort Totten Room, State Capitol

SB 2356  
March 23, 2011  
#15877

☐ Conference Committee

Committee Clerk Signature

*Mary Bricker*

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

A bill relating to special assessments for business promotion.

## Minutes:

No attachments.

**Vice Chairman Craig Headland:** We had a motion for a Do Pass on this and then there was a question that arose from Representative Wrangham. I believe he got his answer so if he would respond and let the committee know what he found out.

**Representative Dwight Wrangham:** I was provided a written statement. I corresponded with the tax department asking if there were special assessment districts set up and if someone didn't want to be in the district could they be excluded or if they were in it and voted no would they still have to pay. The way it came back was that if 1/3 of the people in the district protest then it becomes a question of either your protest stands or it doesn't. If the protest stands then they are out and if the protest doesn't stand then the entire district would be assessed including those who are protesting.

**Representative Bette Grande:** I move a Do Pass as Amended.

**Vice Chairman Craig Headland:** We're not accepting motions we are discussing the issue.

**Representative Dave Weiler:** I move a Do Not Pass. I'm just kidding. If 1/4 of the people protest that's not good enough, it has to be 1/3?

**Representative Dwight Wrangham:** That's what I understood.

**Representative Dave Weiler:** If 1/3 of them protest this if they are one person short of 1/3 they can't protest it but if they have 1/3 and they protest it then who makes the decision as to whether they have to pay or not?

**Representative Steven L. Zaiser:** It either goes through or it doesn't go through.



**Representative Bette Grande:** If 1/3 of a people less than a minority votes and says they don't want to do the project then it's off and no one pays. Here it takes going to 51 but we're going to say in this little group of people all it takes is 1/3 of them to call off an entire project.

**Representative Lonny B. Winrich:** If the other 2/3 still want to go ahead then the special district needs to be defined to where less than a 1/3 are willing to protest.

**Representative Dwight Wrangham:** I misunderstood then. I thought that someone had to make a decision. It said that if the protest stands or something like that. Either way if there are 10 businesses in the district and three of them don't want to be involved and they go ahead with the district those three will be assessed their fair share, correct?

**Representative Mark S. Owens:** Correct and I understand where Representative Wrangham got confused is because it talks about verification of the governing body and that verifying the names of the protestors are owners within the special assessment district. Once that's verified there is no additional approval and if it's 1/3 or more then the project stops.

**Representative Steven L. Zaiser:** The business improvement district is already a district. They vote on creating that district. Then there is a project that is proposed and that's where the vote makes a difference. If it's more than 1/3 protesting it's killed. There are two different processes; one is to create the district.

**Representative Patrick Hatlestad:** If 1/3 of the people protest and they are in one section of the improvement district they can be opted out and the other 2/3 assessed. If they're scattered throughout the district then they have to pay, is that correct?

**Representative Steven L. Zaiser:** That's where creating the district come into play. If there was one section apart they could say they don't want to be part of the district but then when there's a project proposed that involves spending money then you can't pull yourself out.

**Representative Glen Froseth:** The bill itself only adds the word "maintenance" to the description of the services they can provide and it lifts the cap on the population of 10,000 or less so it opens it up to any city in the state. On lines 17 and 18 it says they can't go out and issue warrants or bonds in advance of an anticipating project. That's what the bill does. The conversation of the 1/3 and 2/3 aren't even in the bill at all.

**Vice Chairman Craig Headland:** I believe we also added a special assessment study yesterday to the bill so that is part of the bill we are discussing as well.

**Representative Patrick Hatlestad:** Where did we get the idea that we needed a 2/3 vote then? In current law you have to have a 2/3 vote to create the district.

**Representative Steven L. Zaiser:** It's a different thing.

**Representative Bette Grande:** I make a motion for a DO PASS AS AMENDED.

**Representative Scot Kelsh: Seconded.**

**Representative Patrick Hatlestad:** Did we reconsider this bill?

**Vice Chairman Craig Headland:** We have and we amended it.

**Representative Wayne Trottier:** If you have 10 businesses all in a row and I own 80% of the frontage and I do a good job at cleaning my street the other 20% of the frontage is left but I have the majority of the rule. Can they still force me to pay it?

**Representative Dave Weiler:** If you own 80% of the frontage then you are the majority.

**Representative Wayne Trottier:** Is it not one vote or one person?

**Representative Steven L. Zaiser:** No, I think Representative Weiler was right that it was the front footage by which they approach the assessment.

**A roll call vote was taken: Yes 10 NO 3 ABSENT 1  
MOTION CARRIED FOR DO PASS AS AMENDED.**

**Representative Patrick Hatlestad will carry SB 2356.**

Date: 3-22-11  
Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2356

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 Grande Seconded By Rep. Hatlestad

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter			Scot Kelsh		
Vice Chair. Craig Headland			Shirley Meyer		
Glen Froseth			Lonny B. Winrich		
Bette Grande			Steven L. Zaiser		
Patrick Hatlestad					
Mark S. Owens					
Roscoe Streyle					
Wayne Trottier					
Dave Weiler					
Dwight Wrangham					

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

Absent \_\_\_\_\_

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

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

VOICE VOTE  
MOTION CARRIED

VK  
3/23/11

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2356

Page 1, line 2, after "promotion" insert "; and to provide for a legislative management study"

Page 1, after line 19, insert:

**"SECTION 2. LEGISLATIVE MANAGEMENT STUDY - SPECIAL ASSESSMENTS.** During the 2011-12 interim, the legislative management shall study use of special assessments for public improvements, use and administration of special assessments across the state, and alternative funding mechanisms available and possible processes and procedures that would facilitate a transition to any recommended alternative funding mechanisms. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-third legislative assembly."

Renumber accordingly

Date: 3-22-11  
Roll Call Vote # 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2356

House Finance and Taxation Committee

☐ Check here for Conference Committee

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

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment  
03002

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Owens Seconded By Rep. Grande

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter			Scot Kelsh		
Vice Chair. Craig Headland			Shirley Meyer		
Glen Froseth			Lonny B. Winrich		
Bette Grande			Steven L. Zaiser		
Patrick Hatlestad					
Mark S. Owens					
Roscoe Streyle					
Wayne Trottier					
Dave Weiler					
Dwight Wrangham					

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

Absent \_\_\_\_\_

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

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

VOICE VOTE  
MOTION CARRIED.

Date: 3-22-11  
Roll Call Vote # 3

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2356

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. Grande Seconded By Rep. Owens

★ WITHDRAWN ★ ★ WITHDRAWN ★

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter	AB		Scot Kelsh		
Vice Chair. Craig Headland			Shirley Meyer		
Glen Froseth			Lonny B. Winrich		
Bette Grande			Steven L. Zaiser		
Patrick Hatlestad					
Mark S. Owens					
Roscoe Streyle					
Wayne Trottier					
Dave Weiler					
Dwight Wrangham					

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

Absent 1

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

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

Date: 3-23-11  
Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2356

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. Grande Seconded By Rep. Kelsh

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter	<u>AB</u>		Scot Kelsh	<u>✓</u>	
Vice Chair. Craig Headland	<u>✓</u>		Shirley Meyer	<u>✓</u>	
Glen Froseth	<u>✓</u>		Lonny B. Winrich	<u>✓</u>	
Bette Grande	<u>✓</u>		Steven L. Zaiser	<u>✓</u>	
Patrick Hatlestad	<u>✓</u>				
Mark S. Owens	<u>✓</u>				
Roscoe Streyle		<u>✓</u>			
Wayne Trotter		<u>✓</u>			
Dave Weiler		<u>✓</u>			
Dwight Wrangham	<u>✓</u>				

Total (Yes) 10 No 3

Absent 1

Floor Assignment Rep. Hatlestad

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

**REPORT OF STANDING COMMITTEE**

**SB 2356, as engrossed: Finance and Taxation Committee (Rep. Belter, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2356 was placed on the Sixth order on the calendar.

Page 1, line 2, after "promotion" insert "; and to provide for a legislative management study"

Page 1, after line 19, insert:

**"SECTION 2. LEGISLATIVE MANAGEMENT STUDY - SPECIAL ASSESSMENTS.** During the 2011-12 interim, the legislative management shall study use of special assessments for public improvements, use and administration of special assessments across the state, and alternative funding mechanisms available and possible processes and procedures that would facilitate a transition to any recommended alternative funding mechanisms. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-third legislative assembly."

Renumber accordingly



2011 TESTIMONY

SB 2356

Testimony on Senate Bill 2356  
Senate Finance and Tax Committee  
February 14, 2011  
Bill Wocken, City of Bismarck

Good Morning Mr. Chairman and members of the Senate Finance and Tax Committee. My name is Bill Wocken, City Administrator for the city of Bismarck. My City Commission has endorsed SB 2356 and it requests your consideration of a "Do Pass" recommendation on this bill.

Senate Bill 2356 seeks to modify Chapter 40-22.1-01 of the North Dakota Century Code by adding "maintenance" activities to the list of purposes for which a business promotion special assessment may be levied. The bill also removes the present limitation on the use of this tool to only cities of ten thousand or less.

The present law was enacted by the legislature in 1987 as House Bill 1615. It was introduced by Representative Roy Hausauer and Senator Russell Thane at the request of the city of Wahpeton and several Wahpeton business interests. The limitation on the size of cities who could use this instrument appears to have been the result of a concern voiced by the then City Assessor for the city of Grand Forks that this type of district could lead to an increased use of special assessments for special needs. This fear appears now to have been unfounded.

NDCC Chapter 40-22.1-01 allows special assessments for business promotion as opposed to normal special assessments that typically are related to a capital improvement. This chapter allows business interests to petition the city governing body to create a promotion project and to specially assess the costs against the benefitting properties. The city contracts for the program just as it would for a construction project. A project can be protested by signatures from one third of the owners within the proposed district. (NDCC 40-22.1-08)

While I am not aware of any operating business improvement districts in our state at this time, I can think of numerous opportunities for such a district provided the benefitting property owners are agreeable to paying the costs involved. Similarly, I can see no reason why this concept should not be available to cities of all sizes. Larger cities may even have more application for it than smaller cities.

Others in attendance this morning will testify to the value of this concept to downtown businesses with far better detail than I can provide. I would ask for your consideration of a "Do Pass" recommendation for Senate Bill 2356 and I would be happy to stand for any questions.

*Bill Wooten*

Testimony on Senate Bill 2356  
Senate Finance and Tax Committee  
February 14, 2011  
Mike Hahn, Downtown Community Partnership of Fargo/Moorhead

Good Morning Mr. Chairman and members of the Senate Finance and Tax Committee. My name is Mike Hahn, President/CEO for the Downtown Community Partnership of Fargo. The DCP is the downtown development agency for Fargo, ND and Moorhead, MN. Our downtown districts are connected, but yet divided by the Red River. On behave of the DCP, I would like to speak in support of SB 2356 and also request your consideration of a "Do Pass" recommendation on this bill.

Downtowns across the nation have witnessed a renaissance. This rebirth has taking the form of large investments by both the private and public sectors in such things as building rehabilitations, infill construction and new or updated infrastructure. To insure the long-term value of these investments and to maintain downtown as a viable place for business, many downtowns employ a Business Improvement District. Commonly referred to as a BID, this mechanism allows downtown property owners to assess a fee on themselves collected by a municipality. These fees pay for such things as advertising, public information, marketing, seasonal decorations, promotions, music events, professional management, planning along with the "maintenance" of a downtown district.

I too encourage the modification of Chapter 40-22.1-01 of the North Dakota Century Code by adding "maintenance" activities to the list of purposes and in removing the "ten thousand or less" population restriction from this law.

I have worked for a BID in the state of Iowa and would be happy to stand for any questions you may have on this subject.

Thank you for your consideration on this important legislation and for listening to my testimony.

Once again, this legislation is supported by the Downtown Community Partnership of Fargo.

C

**Testimony on Senate Bill 2536**  
**Senate Finance and Taxation Committee**  
**January 5, 2011**

Mr. Chairman and Members of the Committee: My name is Bob Stein and I am a Senior Planner with the City of Fargo and my primary area of responsibility is downtown Fargo. Thank you for the opportunity to express my opinion on Senate Bill 2536. I speak in support of the bill.

The proposed legislation makes small but important changes to Section 40-22.1-01 regarding the establishment of special assessment districts for business promotions. These types of districts, commonly referred to as Business Improvement Districts (BID), are very common throughout the United States and provide an excellent mechanism for cities and business/property owners to cooperatively care for the special needs and features that are present in within a defined area such as a downtown.

Fargo contains many features in and around the downtown that require specialized care and maintenance. A BID would clearly define the responsibilities of the City and the responsibilities of the property/business owners regarding these features. The nature of the activities of a BID, the specific plans and specifications, the budget, and the size and shape of the district are all driven by the business and property owners who would petition for a BID.

The first of the proposed changes simply adds "maintenance" to the list of eligible activities that could be included in a BID. The second proposed change eliminates the restriction on the establishment of a BID based on population size. These changes would allow all cities to deal with the unique issues relating to the care and success of their downtowns.

Thank you again for your consideration of this important legislation and for listening to my testimony.

The City of Fargo supports this proposed legislation and asks for a "Do Pass" recommendation from this Committee.

Testimony #1 p. 1

Testimony on Senate Bill 2356  
House Finance and Tax Committee  
March 9, 2011  
Bill Wocken, City of Bismarck

Good Morning Mr. Chairman and members of the House Finance and Tax Committee. My name is Bill Wocken, City Administrator for the city of Bismarck. My City Commission has endorsed SB 2356 and it requests your consideration of a "Do Pass" recommendation on this bill.

Senate Bill 2356 seeks to modify Chapter 40-22.1-01 of the North Dakota Century Code by adding "maintenance" activities to the list of purposes for which a business promotion special assessment may be levied. The bill also removes the present limitation on the use of this tool to only cities of ten thousand or less. The Senate amended the bill to prohibit the issuance of any form of indebtedness as a result of a business promotion special assessment.

The present law was enacted by the legislature in 1987 as House Bill 1615. It was introduced by Representative Roy Hausauer and Senator Russell Thane at the request of the city of Wahpeton and several Wahpeton business interests. The limitation on the size of cities who could use this instrument appears to have been the result of a concern voiced by the then City Assessor for the city of Grand Forks that this type of district could lead to an increased use of special assessments for special needs. This fear appears now to have been largely unfounded.

NDCC Chapter 40-22.1-01 allows special assessments for business promotion as opposed to normal special assessments that typically are related to a capital improvement. This chapter allows business interests to petition the city governing body to create a promotion project and to specially assess the costs against the benefitting properties. The city contracts for the program just as it would for a construction project.

A project can be protested by signatures from one third of the owners within the proposed district. (NDCC 40-22.1-08)

While I am not aware of any operating business improvement districts in our state at this time, I can think of numerous opportunities for such a district provided the benefitting property owners are agreeable to paying the costs involved. Similarly, I can see no reason why this concept should not be available to cities of all sizes. Larger cities may even have more application for it than smaller cities.

Others in attendance this morning will testify to the value of this concept to downtown businesses with far better detail than I can provide. I would ask for your consideration of a "Do Pass" recommendation for Senate Bill 2356 and I would be happy to stand for any questions.

Testimony #2  
p. 1

**Testimony on Senate Bill 2356  
House Finance and Taxation Committee  
March 9, 2011**

Mr. Chairman and Members of the Committee: My name is Bob Stein and I am a Senior Planner with the City of Fargo and my primary area of responsibility is downtown Fargo economic development and parking. Thank you for the opportunity to express my opinion in support of Senate Bill 2356. The proposed legislation makes small but important changes to Section 40-22.1-01 regarding the establishment of special assessment districts for business promotions. These types of districts, commonly referred to as Business Improvement Districts (BID), are very common throughout the United States and provide an excellent mechanism for cities, in cooperation with business/property owners, to care for the special needs and features that are present within a defined area such as a downtown.

These changes were requested by the Fargo Downtown Community Partnership (DCP) who represent a membership of over 120 local businesses. The City of Fargo strongly supports their efforts. The City realizes its responsibilities and will of course continue to provide services; however the needs of the business and property owners in and around Downtown Fargo require a level of care and attention that the City simply cannot provide. A Business Improvement District (BID) is the nationally accepted strategy throughout the United States to maintain and promote businesses in a downtown environment and to protect the investments made by both the public and private sectors.

Fargo contains many features in and around the downtown that require specialized care and maintenance. A BID would clearly define the separate responsibilities of the City and the property/business owners regarding these features. The nature of the activities of a BID, the specific plans and specifications, the budget, and the size and shape of the district are all driven by the business and property owners who would initiate a petition for a BID.



The first of the proposed changes adds "maintenance" to the list of eligible activities that could be included in a BID. The second proposed change eliminates the restriction on the establishment of a BID based on population size. These changes would allow all cities to deal with the unique issues relating to the care and success of their downtowns.

Again, this process is driven by the business and property owners, and if their support is not there, the BID fails and is not created. A BID is typically created for a specified length of time that is usually 3-5 years. This provision provides a predetermined opportunity to re-evaluate the BID to determine if it is achieving its intended goals, if changes need to be made, and if it should be renewed.

Thank you again for your consideration of this important legislation and for listening to my testimony. The City of Fargo supports this proposed legislation and asks for a "Do Pass" recommendation from this Committee.

### Testimony #3

Testimony on Senate Bill 2356  
House Finance and Tax Committee  
March 9, 2011  
Mike Hahn, Downtown Community Partnership of Fargo/Moorhead

Good Morning Mr. Chairman and members of the House Finance and Taxation Committee. My name is Mike Hahn, President/CEO for the Downtown Community Partnership of Fargo. The DCP is the downtown development agency for Fargo, ND. On behalf of the DCP, I would like to speak in support of SB 2356.

Downtowns across the nation have witnessed a renaissance. This rebirth has taken the form of large investments by both the private and public sectors in such things as building rehabilitations, infill construction and new or updated infrastructure. To insure the long-term value of these investments and to maintain downtown as a viable place for business, many downtowns employ a Business Improvement District. Commonly referred to as a BID, this mechanism allows downtown property owners to assess a fee on themselves collected by a municipality. The current number of downtown BIDs in the United States have grown to 1,002 as of September 2010. BID fees pay for such things as advertising, public information, marketing, seasonal decorations, promotions, music events, professional management, planning along with "maintenance" of a downtown district.

I too encourage the modification of Chapter 40-22.1-01 of the North Dakota Century Code by adding "maintenance" activities to the list of purposes and in removing the "ten thousand or less" population restriction from this law.

I have worked for a BID in the state of Iowa and would be happy to stand for any questions you may have on this subject.

Thank you for your consideration on this important legislation and for listening to my testimony.

Once again, this legislation is supported by the Downtown Community Partnership of Fargo.

# Testimony # 4

North Dakota House Finance and Taxation Committee  
SB 2356  
March 9, 2011  
10:15am Hearing

## Testimony

I have been the Downtowners executive director for nearly 4 years. A marked increase in energy, excitement and population is evident over the course of my time spent in downtown. Fortunately, many continue to rebuild Downtown Bismarck, encourage 24/7 energy, and repopulation of the heart of Bismarck, from seasoned developers to young professionals seeking a sense of place and a community in which they build the foundations of their careers, families, and goals in general.

Even with the all the interest in and surrounding Downtown Bismarck, this area of the city is like any other area and requires attention and improvements. Potentially establishing a Business Improvement District, or BID, is a valuable tool in implementing improvements in infrastructure and aesthetics alike, as well as creation of a walking district and unification of the Downtown in entirety.

More specially, a BID could establish systems including, but not limited to, snow removal, plantings, landscaping, installation of seasonal décor, and upkeep of public seating areas. Currently, a unique happenstance occurs in Downtown Bismarck, the area is separated by an imaginary boundary, which is 3rd Street. This boundary divides Downtown, and causes the west end to receive less foot traffic and proliferates more interest east of 3rd Street. A BID could unite downtown with plantings, seasonal décor, and all the offerings above and create contiguity.

Such plans to revitalize city centers are not unique to Bismarck, Fargo, ND or this region. This resurgence and interest in downtowns is a nationwide trend. Downtowns hold a city's history and a community's memories. Allowance of BIDs in all communities, regardless of size is imperative for progress to continue and livelihood any downtown to thrive. With this, on behalf of the Downtown Business Association of Bismarck, I request a do pass on SB 2356.

Dawn S. Kopp, Executive Director  
Downtown Business Association of Bismarck  
204 North 4th Street/PO Box 521  
Bismarck ND 58502-0521  
(701) 223-1958 Office  
(701) 223-7385 fax  
[www.DowntownBismarck.com](http://www.DowntownBismarck.com)