

**2025 HOUSE FINANCE AND TAXATION**

**HB 1389**

# 2025 HOUSE STANDING COMMITTEE MINUTES

## Finance and Taxation Committee Room JW327E, State Capitol

HB 1389  
1/29/2025

Relating to the exemption of infrastructure fees from levy limitations.
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9:30 a.m. Chairman Headland opened the hearing.

Members Present: Chairman Headland, Vice Chair Hagert, Representatives Anderson, Dockter, Dressler, Foss, Grueneich, Ista, Motschenbacher, Nehring, Olson, Porter, Steiner, Toman

Members Absent: none

### Discussion Topics:

- Special assessment tools
- Utility tax
- Residential and Commercial fees

9:30 a.m. Representative Dockter introduced the bill.

9:40 a.m. Jason Tomanek, City Administrator for the City of Bismarck, testified in support #32537.

9:54 a.m. Kory Peterson, ND League of Cities, testified in support #32485.

9:56 a.m. Dustin Gawrylow, Managing Director of ND Watchdog Network, testified in support #32430.

10:05 a.m. Chairman Headland closed the hearing.

*Mary Brucker, Committee Clerk (for Janae Pinks)*

HB 1389 – Testimony by Dustin Gawrylow (Lobbyist #266) North Dakota Watchdog Network

Mr. Chairman and Members of the Committee, In my personal capacity I have been a member of the Bismarck Special Assessment Task Force for 5 years, until 2022 when we hit the roadblock this bill attempts to fix for the 2nd time.

I whole heartedly support passage of HB 1237 as it is removing the latest stumbling block in the way of our work toward the goal of reforming special assessments at the local level.

I urge the committee to also look at any other language that may be problematic, just in case.

Thank you!



January 29, 2025

House Finance and Taxation

HB 1389

Craig Headland, Chair

For the record, my name is Kory Peterson. I am appearing before you today on behalf of the North Dakota League of Cities, in support of HB 1389. Prior to working with the North Dakota League of Cities, I was the Mayor of Horace for 8 years, from June 2016 to July 2024.

HB 1389 would allow cities, counties, schools, and park districts to pay an infrastructure fee that replaces special assessments using the property tax special assessment fund levy. This is crucial for a city to be able to use the authority granted by the legislature to ask the voters to replace a type of special assessment with an infrastructure fee.

The League of Cities supports ingenuity and cities working with the residents to find alternative ways to pay for infrastructure.

The League recommends a Do Pass on this bill.

Thank you.

Kory Peterson



## House Finance and Taxation

HB 1389

January 29, 2025

Representative Craig Headland, Chair

### Summary:

- The City of Bismarck **supports** an infrastructure fee as an option for counties and cities and the flexibility this bill would provide political subdivisions to use the same authority they have to pay for special assessments to pay for an infrastructure fee.

### Testimony:

Chairman Headland and Members of the House Finance and Taxation Committee:

On behalf of the City of Bismarck, I am Jason Tomanek, City Administrator and today I offer testimony in support of HB 1389.

The City of Bismarck has analyzed the use of an infrastructure fee to replace the practice of using special assessments specifically for street maintenance activities. This analysis started in 2017 with the convening of a community Special Assessment Task Force that analyzed policies relating to infrastructure funding.

In 2021, during the 67<sup>th</sup> Legislative Assembly, HB 1419 was passed into law which created a framework for counties and cities to levy and collect an "infrastructure fee" to replace special assessments for the payment of infrastructure maintenance costs through a utility bill.

The City of Bismarck reconvened the Special Assessment Task Force from July 2021 through August 2022 to discuss the framework of an infrastructure fee to replace street maintenance special assessments. Through outreach activities, local political subdivisions brought forward concerns relating to their current ability to levy separate mills to pay for special assessment related costs that would not be allowed under current law for an infrastructure fee. Without the separate mil levy, the infrastructure fee may adversely affect state aid levels and general fund mil levy.

In 2023, during the 68<sup>th</sup> Legislative Assembly, HB 1237 would have allowed local political subdivisions to use the same levy authority used to pay special assessments to also pay for an infrastructure fee. The House Political Subdivision Committee had a do pass recommendation and the bill passed the House 76-17. The Senate Finance and Taxation Committee did not provide a recommendation and the bill failed in the Senate 11-35.

The City of Bismarck supports HB 1389 as it would allow school districts, park districts, cities, counties, and townships to use the same authority they have in state law to pay for special assessments to be used for an infrastructure fee.

Respectfully,

Jason Tomanek, City Administrator  
City of Bismarck  
[jtomanek@bismarcknd.gov](mailto:jtomanek@bismarcknd.gov)  
701.355.1300

# 2025 HOUSE STANDING COMMITTEE MINUTES

## Finance and Taxation Committee Room JW327E, State Capitol

HB 1389  
1/29/2025

A bill relating to the exemption of infrastructure fees from levy limitations.
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2:45 p.m. Chairman Headland opened the hearing.

Members Present: Chairman Headland, Representatives Anderson, Dockter, Dressler, Foss, Grueneich, Ista, Motschenbacher, Nehring, Olson, Porter, Steiner, Toman  
Members Absent: Vice Chairman Hagert

### Discussion Topics:

- Assessment districts
- Public input process
- Guardrails for business communities

2:46 p.m. Representative Porter is working on amendments and will take to Legislative Council.

2:49 p.m. Chairman Headland closed the hearing.

*Mary Brucker, Committee Clerk (for Janae Pinks)*

# 2025 HOUSE STANDING COMMITTEE MINUTES

## Finance and Taxation Committee Room JW327E, State Capitol

HB 1389  
2/10/2025

Relating to the exemption of infrastructure fees from levy limitations.
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9:41 a.m. Chairman Headland opened the meeting.

Members Present: Chairman Headland, Vice Chairman Hagert, Representatives Anderson, Dockter, Dressler, Foss, Ista, Motschenbacher, Nehring, Olson, Porter, Steiner, Toman  
Members Absent: Representative Grueneich

### Discussion Topics:

- Committee action

9:44 a.m. Recess

9:57 a.m. Chairman Headland reconvened the meeting.

9:57 a.m. Representative Porter proposed an amendment LC#01001, testimony #36628.

10:02 a.m. Representative Porter moved to adopt proposed amendment LC #25.1051.01001.

10:02 a.m. Representative Dockter seconded the motion.

10:03 a.m. Voice vote - motion passed.

10:03 a.m. Representative Porter moved a Do Pass as Amended.

10:03 a.m. Representative J. Olson seconded the motion.

Representatives	Vote
Representative Craig Headland	Y
Representative Jared Hagert	Y
Representative Dick Anderson	Y
Representative Jason Dockter	Y
Representative Ty Dressler	Y
Representative Jim Grueneich	AB
Representative Mike Motschenbacher	Y
Representative Dennis Nehring	Y

Representative Jeremy Olson	Y
Representative Todd Porter	Y
Representative Vicky Steiner	N
Representative Nathan Toman	N
Representative Austin Foss	Y
Representative Zachary Ista	Y

10:05 a.m. Motion passed 11-2-1.

10:05 a.m. Representative Porter will carry the bill.

10:05 a.m. Chairman Headland closed the meeting.

*Janae Pinks, Committee Clerk*



Sixty-ninth  
Legislative Assembly  
of North Dakota

**PROPOSED AMENDMENTS TO**

**HOUSE BILL NO. 1389**

Introduced by

Representatives Dockter, Heinert, Meier

Senator Dever

2-10-25  
JB 1084

A BILL for an Act to amend and reenact ~~section~~sections 11-11-55.1, 40-22-01.3, and 57-15-41 of the North Dakota Century Code, relating to infrastructure fees levied by cities and counties, and the exemption of infrastructure fees from levy limitations.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 11-11-55.1 of the North Dakota Century Code is amended and reenacted as follows:

**11-11-55.1. Petition or resolution for improvements - Levy of special assessments - Levy of infrastructure fee.**

1. The board of county commissioners of any county, by resolution or upon receipt of a petition of sixty percent of the landowners in a defined area, outside of the limits of any incorporated city, may install the petitioned improvements as benefit the defined area, provide for the financing of the improvements, and levy special assessments for the payment of all or part of the improvements within the defined area.
2. The board of county commissioners, by resolution or upon petition of sixty percent of the qualified electors who voted in the last general election in a defined area, may levy and collect an infrastructure fee in lieu of general special assessments on all residential and commercial county utility bills for payment of infrastructure maintenance costs. ~~If a home rule county levies an infrastructure fee, the home rule county also may levy and collect green field special assessments.~~



3. In providing for the improvements, the county shall have the authority granted to municipalities in chapters 40-22, 40-23, 40-23.1, 40-24, 40-25, 40-26, 40-27, and 40-28, and the county shall comply with the provisions of those chapters in making the improvements. Whenever action is required of city officials in those chapters, the comparable county officials shall take the action.
4. A county proposing a project to be funded by an infrastructure fee under this section shall create an infrastructure zone within the county for each proposed project.
5. The county shall mail to each utility account holder within the proposed infrastructure zone a notice of the proposed zone. The notice must include:
  - a. The total cost of the proposed project;
  - b. A description of the proposed project;
  - c. The date and time of a public hearing on the proposed project; and
  - d. A form on which the utility account holder may protest the fee, stating the deadline for a protest, which may not be fewer than thirty days from the date of the notice.
6. A county proposing a project to be funded by an infrastructure fee under this section shall hold a public hearing on the project. The public hearing must take place no earlier than fourteen days after the date of the notice, and before the deadline for the submission of protest forms.
7. If a county receives protest forms from a majority of utility account holders in a proposed zone the city may not proceed with the project in the proposed zone.
8. The county may begin a project after the time to protest has passed.
9. The rate of the fee assessed to commercial property under this section may not be more than two times the rate assessed to residential property.
10. If a home rule county levies an infrastructure fee, the home rule county also may levy and collect green field special assessments.
11. As used in this section:
  - a. "General special assessments" means special assessments levied for the purpose of maintaining existing roads and infrastructure and special assessments levied for the construction or repair of arterial roads and infrastructure that provide a benefit to the entire community.



JB 3084

- 1           b. "Green field special assessments" means special assessments levied for  
2           infrastructure costs associated with the development of agricultural or  
3           undeveloped property.

4           **SECTION 2. AMENDMENT.** Section 40-22-01.3 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6           **40-22-01.3. Power of municipality to defray expense of improvements - Infrastructure**  
7 **fee.**

- 8           1. Notwithstanding section 40-22-01, a municipality may levy and collect an infrastructure  
9           fee. The fee must replace a general special assessment on all property for payment of  
10           infrastructure maintenance costs through a utility bill issued by a municipality. The  
11           money collected under this subsection may not be used for any purpose other than  
12           infrastructure maintenance costs. ~~If a municipality levies an infrastructure fee, the~~  
13           ~~municipality also may levy and collect green field special assessments.~~
- 14           2. A city proposing a project to be funded by an infrastructure fee under this section shall  
15           create an infrastructure zone within the city for each proposed project.
- 16           3. The city shall mail to each utility account holder within the proposed infrastructure  
17           zone a notice of the proposed zone. The notice must include:
- 18           a. The total cost of the proposed project;  
19           b. A description of the proposed project;  
20           c. The date and time of a public hearing on the proposed project; and  
21           d. A form on which the utility account holder may protest the fee, stating the  
22           deadline for a protest, which may not be fewer than thirty days from the date of  
23           the notice.
- 24           4. A city proposing a project to be funded by an infrastructure fee under this section shall  
25           hold a public hearing on the project. The public hearing must take place no earlier than  
26           fourteen days after the date of the notice, and before the deadline for the submission  
27           of protest forms.
- 28           5. If a city receives protest forms from a majority of utility account holders in a proposed  
29           zone the city may not proceed with the project in the proposed zone.
- 30           6. The city may begin a project after the time to protest has passed.



JB 1/08/14

1     7. The rate of the fee assessed to commercial property under this section may not be  
2     more than two times the rate assessed to residential property.

3     8. If a municipality levies an infrastructure fee, the municipality also may levy and collect  
4     green field special assessments.

5     9. As used in this section:

6         a. "General special assessments" means special assessments levied for the  
7             purpose of maintaining existing roads and infrastructure and special  
8             assessments levied for the construction or repair of arterial roads and  
9             infrastructure that provide a benefit to the entire community.

10        b. "Green field special assessments" means special assessments levied for  
11            infrastructure costs associated with the development of agricultural or  
12            undeveloped property.

13     **SECTION 3. AMENDMENT.** Section 57-15-41 of the North Dakota Century Code is  
14     amended and reenacted as follows:

15     **57-15-41. Political subdivision tax levies for payment of special assessments exempt**  
16     **from levy limitations.**

17     ~~No tax~~Tax levy limitations provided by any statute of this state may not apply to tax levies by  
18     any county, city, school district, park district, or township for the purpose of paying any special  
19     assessments and any infrastructure fee provided in sections 11-09.1-05, 11-11-55.1,  
20     40-05.1-06, and 40-22-01.3 or paying debt service on bonds issued to prepay special  
21     assessments made in accordance with the provisions of title 40, against property owned by  
22     such county, city, school district, park district, or township. Any surplus in the special  
23     assessment fund after all of the special assessments for which the fund was created have been  
24     paid shall be placed in the general fund of the political subdivision.

**REPORT OF STANDING COMMITTEE  
HB 1389**

**Finance and Taxation Committee (Rep. Headland, Chairman)** recommends **AMENDMENTS** ([25.1051.01001](#)) and when so amended, recommends **DO PASS** (11 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). HB 1389 was placed on the Sixth order on the calendar.

25.1051.01001  
Title.

Prepared by the Legislative Council  
staff for Representative Porter  
February 6, 2025

Sixty-ninth  
Legislative Assembly  
of North Dakota

## PROPOSED AMENDMENTS TO

### HOUSE BILL NO. 1389

Introduced by

Representatives Dockter, Heinert, Meier

Senator Dever

1 A BILL for an Act to amend and reenact ~~section~~sections 11-11-55.1, 40-22-01.3, and 57-15-41  
2 of the North Dakota Century Code, relating to infrastructure fees levied by cities and counties,  
3 and the exemption of infrastructure fees from levy limitations.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 11-11-55.1 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **11-11-55.1. Petition or resolution for improvements - Levy of special assessments -**  
8 **Levy of infrastructure fee.**

- 9 1. The board of county commissioners of any county, by resolution or upon receipt of a  
10 petition of sixty percent of the landowners in a defined area, outside of the limits of any  
11 incorporated city, may install the petitioned improvements as benefit the defined area,  
12 provide for the financing of the improvements, and levy special assessments for the  
13 payment of all or part of the improvements within the defined area.
- 14 2. The board of county commissioners, by resolution or upon petition of sixty percent of  
15 the qualified electors who voted in the last general election in a defined area, may levy  
16 and collect an infrastructure fee in lieu of general special assessments on all  
17 residential and commercial county utility bills for payment of infrastructure  
18 maintenance costs. ~~If a home-rule county levies an infrastructure fee, the home-rule~~  
19 ~~county also may levy and collect green-field special assessments.~~

1       3. In providing for the improvements, the county shall have the authority granted to  
2       municipalities in chapters 40-22, 40-23, 40-23.1, 40-24, 40-25, 40-26, 40-27, and  
3       40-28, and the county shall comply with the provisions of those chapters in making the  
4       improvements. Whenever action is required of city officials in those chapters, the  
5       comparable county officials shall take the action.

6       4. A county proposing a project to be funded by an infrastructure fee under this section  
7       shall create an infrastructure zone within the county for each proposed project.

8       5. The county shall mail to each utility accountholder within the proposed infrastructure  
9       zone a notice of the proposed zone. The notice must include:

10      a. The total cost of the proposed project;

11      b. A description of the proposed project;

12      c. The date and time of a public hearing on the proposed project; and

13      d. A form on which the utility accountholder may protest the fee, stating the deadline  
14      for a protest, which may not be fewer than thirty days from the date of the notice.

15      6. A county proposing a project to be funded by an infrastructure fee under this section  
16      shall hold a public hearing on the project. The public hearing must take place no  
17      earlier than fourteen days after the date of the notice, and before the deadline for the  
18      submission of protest forms.

19      7. If a county receives protest forms from a majority of utility accountholders in a  
20      proposed zone the city may not proceed with the project in the proposed zone.

21      8. The county may begin a project after the time to protest has passed.

22      9. The rate of the fee assessed to commercial property under this section may not be  
23      more that two times the rate assessed to residential property.

24      10. If a home rule county levies an infrastructure fee, the home rule county also may levy  
25      and collect green field special assessments.

26      11. As used in this section:

27      a. "General special assessments" means special assessments levied for the  
28      purpose of maintaining existing roads and infrastructure and special  
29      assessments levied for the construction or repair of arterial roads and  
30      infrastructure that provide a benefit to the entire community.

- b. "Green field special assessments" means special assessments levied for infrastructure costs associated with the development of agricultural or undeveloped property.

**SECTION 2. AMENDMENT.** Section 40-22-01.3 of the North Dakota Century Code is amended and reenacted as follows:

**40-22-01.3. Power of municipality to defray expense of improvements - Infrastructure fee.**

1. Notwithstanding section 40-22-01, a municipality may levy and collect an infrastructure fee. The fee must replace a general special assessment on all property for payment of infrastructure maintenance costs through a utility bill issued by a municipality. The money collected under this subsection may not be used for any purpose other than infrastructure maintenance costs. ~~If a municipality levies an infrastructure fee, the municipality also may levy and collect green field special assessments.~~
2. A city proposing a project to be funded by an infrastructure fee under this section shall create an infrastructure zone within the city for each proposed project.
3. The city shall mail to each utility accountholder within the proposed infrastructure zone a notice of the proposed zone. The notice must include:
  - a. The total cost of the proposed project;
  - b. A description of the proposed project;
  - c. The date and time of a public hearing on the proposed project; and
  - d. A form on which the utility accountholder may protest the fee, stating the deadline for a protest, which may not be fewer than thirty days from the date of the notice.
4. A city proposing a project to be funded by an infrastructure fee under this section shall hold a public hearing on the project. The public hearing must take place no earlier than fourteen days after the date of the notice, and before the deadline for the submission of protest forms.
5. If a city receives protest forms from a majority of utility accountholders in a proposed zone the city may not proceed with the project in the proposed zone.
6. The city may begin a project after the time to protest has passed.
7. The rate of the fee assessed to commercial property under this section may not be more that two times the rate assessed to residential property.



1     8. If a municipality levies an infrastructure fee, the municipality also may levy and collect  
2     green field special assessments.

3     9. As used in this section:

4         a. "General special assessments" means special assessments levied for the  
5             purpose of maintaining existing roads and infrastructure and special  
6             assessments levied for the construction or repair of arterial roads and  
7             infrastructure that provide a benefit to the entire community.

8         b. "Green field special assessments" means special assessments levied for  
9             infrastructure costs associated with the development of agricultural or  
10            undeveloped property.

11     **SECTION 3. AMENDMENT.** Section 57-15-41 of the North Dakota Century Code is  
12     amended and reenacted as follows:

13     **57-15-41. Political subdivision tax levies for payment of special assessments exempt**  
14     **from levy limitations.**

15     ~~No tax~~Tax levy limitations provided by any statute of this state may not apply to tax levies by  
16     any county, city, school district, park district, or township for the purpose of paying any special  
17     assessments and any infrastructure fee provided in sections 11-09.1-05, 11-11-55.1,  
18     40-05.1-06, and 40-22-01.3 or paying debt service on bonds issued to prepay special  
19     assessments made in accordance with the provisions of title 40, against property owned by  
20     such county, city, school district, park district, or township. Any surplus in the special  
21     assessment fund after all of the special assessments for which the fund was created have been  
22     paid shall be placed in the general fund of the political subdivision.

**2025 SENATE FINANCE AND TAXATION**

**HB 1389**

# 2025 SENATE STANDING COMMITTEE MINUTES

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

HB 1389  
3/12/2025

Relating to infrastructure fees levied by cities and counties, and the exemption of infrastructure fees from levy limitations.

9:00 a.m. Chairman Weber called the meeting to order.

Members present: Chairman Weber, Vice Chairman Rummel, Senator Marcellais, Senator Patten, Senator Powers, Senator Walen

### Discussion Topics:

- Presentation of utility fees on bill
- Voting process and threshold for levying fees
- Greenfield special assessments and new development

9:00 a.m. Representative Dockter, District 7, introduced HB 1389 and testified in favor.

9:09 a.m. Dustin Gawrylow, North Dakota Watchdog Network, testified in favor and submitted testimony #40900.

9:38 a.m. Kory Peterson, Advocate, North Dakota League of Cities, testified in opposition and submitted testimony #40841.

9:44 a.m. Jason Tomanek, City Administrator, City of Bismarck, testified in opposition.

9:55 a.m. Donnell Preskey, Government Relations Specialist, NDACo, testified in opposition.

9:56 a.m. Chairman Weber closed the hearing.

*Chance Anderson, Committee Clerk*



March 12, 2025

Senate Finance and Taxation

HB 1389

Senator Mark Weber, Chair

For the record, my name is Kory Peterson. I am appearing before you today on behalf of the North Dakota League of Cities, in opposition of HB 1389 as it is currently written. Prior to working with the North Dakota League of Cities, I was the Mayor of Horace for 8 years, from June 2016 to July 2024.

In its original form, HB 1389 was a wording correction to a prior bill that would allow cities, counties, schools, and park districts to pay an infrastructure fee that replaces special assessments using the property tax special assessment fund levy. The idea was to give political subdivisions to be able to use the authority granted by the legislature to ask the voters to replace a type of special assessment with an infrastructure fee.

The bill has been amended away from the original intent of the technical correction and is currently in an unworkable condition.

The League of Cities supports ingenuity and cities working with the residents to find alternative ways to pay for infrastructure. However, this bill no longer represents the original intent of a minor correction to the prior bill.

The League recommends amending the bill back to its original form which we supported, or we recommend a Do Not Pass on this current version of the bill.

Thank you.

Kory Peterson

**HB 1389 – Testimony by Dustin Gawrylow (Lobbyist #266) North Dakota Watchdog Network**

Mr. Chairman and Members of the Committee, In my personal capacity I have been a member of the Bismarck Special Assessment Task Force for 5 years, until 2022 when we hit the roadblock this bill attempts to fix for the 2nd time.

I whole heartedly support passage of HB 1389 as it is removing the latest stumbling block in the way of our work toward the goal of reforming special assessments at the local level.

Thank you!

Attached is a report I made to the Bismarck City Commission in 2022 regarding the various concerns we've had internally. I submit this to preempt concerns this committee may have when city representatives are vague about where things might go, to prove that yes we are aware of the challenges involved with this reform process.

## Bismarck Special Assessment Task Force Report from Dustin Gawrylow

### **Introduction**

1. At the March 7<sup>th</sup>, 2022 task force meeting I was drafted to present our findings at this meeting.
2. I did not volunteer for this role today, but I accepted it when it was clear no one else really wanted to do it. I promised Commissioner Guy that I would avoid putting my personal opinion into this right off the bat. But I've gotten feedback from task force members that makes it nearly impossible for me to properly represent their views on this presentation as it sits now.
4. I asked staff to create a presentation for this meeting. The 1<sup>st</sup> draft of that presentation was not provided to me until 2pm Friday afternoon. And it is my understanding that the current draft was not provided to the full commission and the public until today.
4. While our Task Force meetings have been Open Meetings, they have not been Public Meetings – in that, we have not taken public input on a public notice basis – in fact, for the entire 5 year stretch, this has not happened.
5. Citizens observing the meetings have had to butt in and interrupt the order of the meeting to raise their concerns that they felt were not being raised at the table.
6. Task Force members themselves have stated they have not been granted the time to take what we agreed to back to their constituencies – a primary reason no one else wanted to be standing here right now.

### **Section 1: Task Force Dynamics**

1. Everyone has operated in an honest, good faith approach.
2. It has been difficult to work in a linear step-by-step way
  - because we are trying to create something new.
3. City staff has been great to work with, and I know they are as frustrated as anyone with all this.
4. Commissioner Guy has done her best to keep the group on track.
  - despite the fact there have been times that we've lapsed into being a chaotic meeting at times.
  - she has also tried to accelerate the timeline to create efficiency, but that really has not worked.
5. A certain dynamic manifested during this last round of the task force:
  - members would tacitly agree, or simply not disagree in the meeting
  - then have strong reservations after meetings in private.
6. I ended up becoming the hub of a couple of these situations and had to handle it without violating open meetings/records.
7. At different times, I have floated the idea of pulling the plug because there was so much private dissent that simply was not getting exposed in the open meetings.



## **Section 2: Camps and Factions**

Because there has been this public vs. private dynamic in what people have talked about there are essentially two camps on the task force.

- A. Those who oppose the concept but have been willing to go along to make it work.
- B. Those who support the concept but want more specificity even if they cannot articulate what they want to be more specific.
- C. I have been in my own camp (which should not shock anyone), wanting this project to work and offering detailed specifics that have not been embraced – with the task force wanting to defer these details to the full commission – which I will get to later.

## **Section 3: Specific Concerns Task Force Members Have Relayed To Me**

1. Subsequent to receiving the draft presentation on Friday, I sent it to a few of the members that I have kept close tabs on and they provided the following feedback:

Quote:

- “1. I am not sure that I agree that this statement is correct and is stated on pages 9, 18 and 31 “Street Utility Fee policy similar to current Special Assessment Policy” Unless I am not fully understanding the current Special Assessment Policy, I think there is a major difference. Isn’t the current policy using curb footage and the suggested proposal is using total lot square footage?
- 2. On page 26 there is going to be a question about the last non-residential parcel which currently is not assessed specials and will have a fee (if my memory is correct this is the Kirkwood Mall parcel.
- 3. I think the recommendation number 2 should be stronger “Multi-tier framework options will be developed by City staff prior to putting the Home Rule Charter question on the ballot”. In my opinion this information is going to be needed so that the citizens know what it will look like in order to secure the approval of the ballot question.”

Another member responded to this by saying quote:

“They have always denied that it’s linear feet because it gets “normalized” by the factors – most pay the same, significantly larger/smaller than the median get a factor. In that way the proposed is the same, but it is now based on square footage. The issue, as it has been, is that it’s unclear.”

2. I have asked both these members to attend this meeting and speak their minds, and speak for themselves.
3. But I bring this up whether they do or not as an example of how we at the table of the task force have disagreements and concerns about how this is already being presented.

#### **Section 4: My Personal Concerns and Specific Proposals for “Guardrails”**

At our last meeting, I finally was given the opportunity to present a document (See attachment A) that I created at the request of City Administrator I think in January. I distilled it down to a few questions to make it easier:

1. Do we need a declared requirement for a maintenance schedule to give the public an idea of the 3-5 years plans for maintenance?
  - If yes, should that be in the home rule charter or assigned to the city commission to develop?
2. Do we need to declare a “baseline rate” or range in the home rule charter or ordinance?
  - If home rule charter, how much leeway should we grant the commission if that range does not work in order to maintain honest communication with the public?
  - If ordinance, what process should we hold the commission to for changes (i.e. 4/5<sup>th</sup> majority or unanimous?)
3. How do we tackle inflation?
  - Should we have a floating cap (i.e. CPI+1%, CPI+2%, etc)?
  - At what point should we require the commission to come back to the voters for increases?
4. If there is an ending fund balance, should it be limited? Home rule or ordinance?
5. Do we need to prepare for a transition period financing challenge? How?
6. What itemized purposes should we strictly limit spending to? Put in Home rule charter or ordinance?

#### **Section 5: Solution to Moving Forward**

Because the presentation files were made available only today, and because there are many concerns among task force members still as to whether this is where we as task force member want it to be, I would recommend and request that you as commission create and appoint a “Working Group” sub-committee of 5 members of the committee that have voiced the most concern.

- Commissioner Splonkowski, Kevin Strege, Mike Schmitz, Kate Herzog, and myself – without an official chairman.
- Give us another month to hash out our internal concerns and work out our differences, then present that to the full city commission at the 1<sup>st</sup> meeting in May.



**A. Bismarck Street Utility Fee Home Rule Charter Amendment Fill-In-The-Blank Template**

Beginning in fiscal year 2023, the practice of special assessments for the purposes of local street maintenance shall cease.

**Itemized Purposes:** The Street Maintenance Utility Fee shall be operated as an Enterprise Fund, and utilized for the specific enumerated purposes listed here:

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**Maintenance Schedule Commitment:** Each year, the Street Department and City Engineer shall issue a comprehensive Street Health Report to the city commission. This report shall itemize the projects that will be undertaken in each of the next 3 budget years, projects expected to be done no later than the next 5 budget years, and projects that will likely be done in the next 5-10 years. This report shall grade all street quality on an easy to understand scale. This report shall also document any engineering justifications taken to either move up or delay a project. The city commission shall create a process for rate payers to petition to have their street re-examined for accelerated maintenance, and any street given the equivalent of a failing grade may be moved up in the schedule prior to any street that does not have local rate payers asking for repairs to occur sooner, budget allowing.

**Baseline Rate:** For single family homes, a formula is created where as parcels between \_\_\_\_ (75)% and \_\_\_\_ (125)% of the median lot size of 9,000 square feet shall be assessed a monthly fee of between \$\_\_\_\_ (35) and \$\_\_\_\_ (40), to be determined by city administration based on market conditions. *(Other lot sizes and parcel types to be stratified here.)*

**Natural Inflation Escalator:** These rates shall escalate annually by the \_\_\_\_\_ (The greater of CPI+1% or PPI+1%).

**Method for Exceeding Natural Inflation Escalator:** This annual rate increase may only be exceeded with a unanimous vote of the city commission, and for no more than 18 months or until a regular city election can occur; at which time, the city commission may ask voters to re-set the baseline rate range. All rates must increase by the same percentage rate. The city commission may devise a reduced rate increase policy for property owners who already qualify for the state's Homestead Tax Credit program, contingent on approval by the state legislature to extend such benefit.

**Ending Fund Balance:** Subsequent to the repayment of existing street maintenance bonds, the fund shall seek to maintain an ending fund balance of at least \_\_\_\_ (20)% the actual costs accrued in the previous year, but shall not exceed \_\_\_\_ (40)% of the actual costs from the previous year. The city commission may use this fund to offset the natural inflation escalator in years that require rate increases exceeding 5% over the previous years. Excess revenue beyond a 40% ending fund balance must be applied to each rate payer's account proportional to their property's assigned rate.

**Transition Period Financing Authority:** The city commission shall be granted bonding or borrowing authority to allow for an initial transitional financing mechanism – to be secured by a surcharge added to the base rate not to exceed \$5/month extra for single family residential (add limits for other parcel classes). This surcharge may not be used for more than 5 years.

**Rate Payer Protection:** This financing formula shall be re-examined 5 and 10 years after implementation. If in any 10 year period, rates increase by more than \_\_\_\_ (100)% on a compounded basis, the city commission shall re-evaluate this system and determine whether it is working as intended.

# 2025 SENATE STANDING COMMITTEE MINUTES

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

HB 1389  
3/25/2025

Relating to infrastructure fees levied by cities and counties, and the exemption of infrastructure fees from levy limitations.

9:00 a.m. Chairman Weber called the meeting to order.

Members present: Chairman Weber, Vice Chairman Rummel, Senator Marcellais, Senator Patten, Senator Powers, Senator Walen

### Discussion Topics:

- Special assessments
- Levying authority for infrastructure fees

9:01 a.m. Chairman Weber recessed the meeting.

9:07 a.m. Chairman Weber reconvened the meeting.

9:13 a.m. Vice Chairman Rummel moved a Do Not Pass.

9:13 a.m. Senator Patten seconded the motion.

Senators	Vote
Senator Mark F. Weber	Y
Senator Dean Rummel	Y
Senator Richard Marcellais	Y
Senator Dale Patten	Y
Senator Michelle Powers	Y
Senator Chuck Walen	N

Motion passed 5-1-0.

Vice Chairman Rummel will carry the bill.

9:14 a.m. Chairman Weber closed the hearing.

*Chance Anderson, Committee Clerk*

**REPORT OF STANDING COMMITTEE  
ENGROSSED HB 1389 ([25.1051.02000](#))**

**Finance and Taxation Committee (Sen. Weber, Chairman)** recommends **DO NOT PASS** (5 YEAS, 1 NAY, 0 ABSENT OR EXCUSED AND NOT VOTING). HB 1389 was placed on the Fourteenth order on the calendar. This bill does not affect workforce development.