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DESCRIPTION

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Yolanda Rickford
Operator's Signature

10/2/03
Date

2003 HOUSE FINANCE AND TAXATION

HB 1058

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Salista Rickford

Date

10/2/03

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1058

House Finance and Taxation Committee

☐ Conference Committee

Hearing Date January 13, 2003

Tape Number	Side A	Side B	Meter #
1		X	7.4
Committee Clerk Signature <i>Janice Stein</i>			

Minutes:

REP. DAVID DROVDAL, VICE-CHAIR Called the hearing to order.

REP. BRUCE ECKRE, WAHPETON. Introduced the bill but deferred any questions to other representatives.

SEN. JOEL HEITKAMP, DIST. 26. Testified in support of the bill. The bill will fix things the way they should have been fixed in the first place. If you pass this bill, the same people will suffer the consequences the same as they should have before the bill. It just buys time for the schools.

FRED STREGE, ATTORNEY FOR SCHOOL DISTRICTS, FAIRMOUNT.

WYNDMERE AND HANKINSON SCHOOLS. Testified in support of the bill. See written testimony.

REP. FROELICH If this lawsuit comes out, will they need to go back to the county?

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Page 2

House Finance and Taxation Committee

Bill/Resolution Number HB 1058

Hearing Date January 13, 2003

FRED STREGE This lawsuit will go away, if this bill passes. It is quite unfair for this lawsuit to result in a plaintive victory, because that would mean \$390,000 to be spread throughout the county. Every county resident, will need to pay for that judgment. This bill will allow these three school districts to levy mills only in their own districts. It would put the burden on the folks who would have had the burden to begin with.

REP. SCHMIDT In the last session we had the same problem in Montpelier,

FRED STREGE That is true, it was a one time fix, a beginning and ending date. The same thing in this particular bill.

REP. SCHMIDT Asked if this couldn't be fixed for everyone.

FRED STREGE Stated there is a companion piece of legislation that is currently being worked on through Rep. Eckre. We have submitted a broader fix, not to be confused with this bill. It will allow a grace period to fix these errors, if the errors are discovered within ten or twenty days after the budgetary deadline of October 10. Instead of coming back here for legislative change, the legislation would allow us to work with the auditors to unwind the mistake. Another problem you might want to consider fixing is, the reason for the hubbub around October 10, is that the State Board of Equalization submits their evaluation number for each county sometime in September, and the numbers come to the counties around September 20, which is only a couple of weeks to the October 10 deadline. It is difficult to sift through everything accurately and timely. Those are a couple of the fixes we propose.

REP. WINRICH Commented that the attorney for the county in this lawsuit, is from the city of Grand Forks. He stated that this is a problem that should not have happened, it was a situation where both sides agree that the litigation should not have happened, there was a problem with the

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House Finance and Taxation Committee

Bill/Resolution Number HB 1058

Hearing Date January 13, 2003

timing, the September release of information and the October deadline for the school district, and it is just something that needs to be dealt with by the legislature.

BRUCE SCHUMACHER, SUPERINTENDENT OF SCHOOLS, FAIRMOUNT, ND

Testified in support of the bill. He stated their district was hit the hardest. He gave a history of what happened. He stated they have an adversarial situation right now with the county, which should not be. He stated the auditor was brand new, he had many things to do, plus the deadline. He stated once a levy is set, it cannot be changed. If you were to do one thing with the legislation, you would allow a grace period after notification. He stated they were asking for this as a one time fix as they do not want to pursue the lawsuit. He stated \$200,000 for a period of five years, would continue to pay their teachers better, get the educational materials they need, it will allow them to do a better job in teaching the students.

REP. DROVDAL Summarized what was said to make sure he understood the issue.

BRUCE SCHUMACHER Stated they were at 185 mills and came in at 140 after this happened.

REP. IVERSON Asked if they will get the money in the future.

BRUCE SCHUMACHER The difference in the tax evaluation, was Alliance Pipeline's problem. If we would have been able to levy the full levy, taxes would still have dropped about 20 mills throughout the district, even though the district would have received over \$100,000. That property and that money is there. It was not a one year windfall, it is simply, we would have had more. I can only increase my budget request by 18%. It will take at least two years to get back up to where we were.

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House Finance and Taxation Committee

Bill/Resolution Number HB 1058

Hearing Date January 13, 2003

REP. SCHMIDT Commented, the higher the land value is, it hurts your school district, doesn't it?

Yes

TIM CAMPBELL, RICHLAND COUNTY Testified in support of the bill.

HARRIS BAILEY, AUDITOR, RICHLAND COUNTY Testified in support of the bill. He stated, most of this had to do with the timing and the turn-over in their office. It had to do with the value of the land went up three percent. Instead of being notified in September, they were notified sometime after September 20.

MARY WAHL, REPRESENTING THE NORTH DAKOTA COUNCIL OF

EDUCATIONAL LEADERS Testified in support of the bill. It is amazing, how something like this can result in a \$390,000 loss to a school district. Urged the committee to pass the bill so that little by little, the school district will get back the money they need.

REP. DROVDAL TO FRED STREGE Could this bill allow the districts who are affected by the lost money, to recover that money, but does it also allow them, to instead of dropping down to 140 mills, and using that as a base increase next year, will it allow them to use the mill levy they would have had, will the state accept that as a starting point next year?

FRED STREGE Using Fairmount as an example, he stated the statutory maximum for next year, will allow them only to budget only 18% higher budget. This bill will allow them to exceed that 18% and eventually exceed the 185 mill levy maximum. It will allow them to exceed either one of those maximums until they can recover the entire \$190,000, they lost. We have that spread over a period of five years.

With no further testimony, the hearing was closed.

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House Finance and Taxation Committee
Bill/Resolution Number HB 1058
Hearing Date January 13, 2003

COMMITTEE ACTION 1-13-03, Tape #2, Side A, Meter #6.0

Committee members discussed the bill, stating it was the same situation as Montpelier had last session.

MARCY DICKERSON Was in the room during the committee discussion, so she answered questions the committee members had.

REP. BELTER Stated he would hold the bill for another day, if committee members want to get more information.

COMMITTEE ACTION 1-15-03 Tape #1, Side A Meter 6.

REP. WINRICH Gave a overview of what happened in Richland County, after visiting with Sen. Heitkamp. He stated it varied a little by school districts, because there were three school districts involved. When the county auditor got the assessment forms, he did not process them in a timely manner to get the information to the school district, so when the school district set their budget, they said they needed to have this much money, as is normally done. After that was done, they discovered that, there was this tremendous resource of additional assessments there, they would have had extra money for programs they cut out, if that information would have gotten to them in a timely fashion. This bill corrects that situation. It was a matter in at least one school district, to raise the levies to fund the programs, and they wouldn't have had to. During discussion, committee members were questioning whether things would go back to the way it was after passing this bill, or what would happen.

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House Finance and Taxation Committee

Bill/Resolution Number HB 1058

Hearing Date January 13, 2003

Committee members felt they needed to get more information to find out what happens when the bill is passed.

Rep. Belter decided to hold the bill for more information.

COMMITTEE ACTION

REP. GROSZ Gave a recap of the committee hearing and extra information he received from Rep. Eckre.

REP. IVERSON Made a motion for a **DO NOT PASS**

REP. DROVDAL Second the motion. Motion failed.

REP. WINRICH Stated that the problem is the date in state law, when a county auditor did not respond to the processing of information and communicate the information to the school district in a timely fashion. If we defeat the bill, there will probably be an expensive lawsuit in Richland County, which will end up costing the taxpayers, about the same amount of money anyway, except it will be spread out through the entire instead of the school district, where it should have been. If it would have been done in a timely manner, the way it should have been, we probably would not have heard about it.

REP. KLEIN Made a motion for a **do pass**

REP. WINRICH Second the motion. **MOTION CARRIED**

10 YES

4 NO

0 ABSENT

REP. WINRICH Was given the floor assignment.

Date: 1-21-02
Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1058

House FINANCE & TAXATION

Committee

☐ Check here for Conference Committee

Failed

Legislative Council Amendment Number

Action Taken

Do Not Pass

Motion Made By

Rep. Iverson

Seconded By

Rep. Drovdal

Representatives	Yes	No	Representatives	Yes	No
BELTER, CHAIRMAN		✓			
DROVDAL, VICE-CHAIR	✓				
CLARK	✓				
FROELICH		✓			
GROSZ		✓			
HEADLAND		✓			
IVERSON	✓				
KELSH		✓			
KLEIN		✓			
NICHOLAS		✓			
SCHMIDT		✓			
WEILER	✓				
WIKENHEISER		✓			
WINRICH		✓			

Total (Yes)

40

No

10

Absent

0

Floor Assignment

Rep

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

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Operator's Signature

Salosta Rickford

Date

10/2/03

Date: 1-21-03
Roll Call Vote #: 2

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1058

House FINANCE & TAXATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken

Do Pass

Motion Made By

Rep Klein

Seconded By

Rep Winrich

Representatives	Yes	No	Representatives	Yes	No
BELTER, CHAIRMAN	✓				
DROVDAL, VICE-CHAIR		✓			
CLARK		✓			
FROELICH	✓				
GROSZ	✓				
HEADLAND	✓				
IVERSON		✓			
KELSH	✓				
KLEIN	✓				
NICHOLAS	✓				
SCHMIDT	✓				
WEILER		✓			
WIKENHEISER	✓				
WINRICH	✓				

Total (Yes)

10

No

4

Absent

0

Floor Assignment

Rep Winrich

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

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Yolanda Rickford

Date

10/2/03

REPORT OF STANDING COMMITTEE (410)
January 21, 2003 3:33 p.m.

Module No: HR-11-0869
Carrier: Winrich
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
HB 1058: Finance and Taxation Committee (Rep. Beiter, Chairman) recommends DO
PASS (10 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). HB 1058 was placed on
the Eleventh order on the calendar.

(2) DESK, (3) COMM

Page No. 1

HR-11-0869

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Date

2003 SENATE POLITICAL SUBDIVISIONS

HB 1058

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10/2/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1058

Senate Political Subdivisions Committee

☐ Conference Committee

Hearing Date March 13, 2003

Tape Number	Side A	Side B	Meter #
1		X	2337 - 3380
Committee Clerk Signature <i>Shirley Borg</i>			

Minutes:

CHAIRMAN COOK called the committee to order. All members (6) in attendance.

CHAIRMAN COOK opened the hearing on HB 1058 relating to relevy by a taxing district of property taxes omitted by mistake.

REPRESENTATIVE ECKRE, District 25, Wahpeton, ND appeared in support of HB 1058.

SENATOR HEITKAMP, District 26, appeared in support of HB 1058. This bill comes to you as a remedy to rectify a situation that happened down in his area when the Alliance Pipeline went through and an opportunity was lost that might have gained a little help for those schools down there and take some burden off of education committee. He thinks this is a good bill to rectify it.

Fred Strege, Attorney for the Fairmount Wymere and Hankinson's School Districts (See attached testimony) He offered amendments to the bill (amendments attached)

SENATOR GARY LEE asked if another way around this would be to go to the voters and say that they need to increase the mill levy

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10/2/03
Date

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Senate Political Subdivisions Committee

Bill/Resolution Number HB 1058

Hearing Date March 13, 2003

Fred Strege, answered he thought in Fairmount and Hankinson you could do that but not in Wynmere. We would like the option to just do this administratively so that these folks that know their budget and know what their expenses are can have it.

SENATOR COOK said when you say that school districts were shorted money, the first thought one might have is that someone else got the money but what happened was because of the error, school districts were not given the opportunity to legally raise their mill levy to the level that they could have without the vote of the people and that is where the money that was lost was lost.

Ultimately the lost money stayed in the pockets of the tax payers but if it wasn't for the error the school districts would have raised their levy legally.

Fred Stege answered that that was right.

No further testimony in support of HB 1058.

No testimony in opposition.

CHAIRMAN COOK closed the hearing on HB 1058.

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1058

Senate Political Subdivisions Committee

☐ Conference Committee

Hearing Date March 20, 2003

Tape Number	Side A	Side B	Meter #
2		X	554 - 1017
Committee Clerk Signature <i>Sue Borg</i>			

Minutes:

CHAIRMAN COOK called the committee to order. All members (6) present.

CHAIRMAN COOK asked Senator G Lee to explain the amendments on HB 1058.

SENATOR GARY LEE reminded the committee that we had two bills HB 1058 and HB 1312 which both dealt with a similar subject where there was a mistake in the levy of the taxing district and it affected the school districts negatively in those districts. He suggests that we amend HB 1058 (See attached 30237.0102) that would include the text of HB 1312 so that we could essentially eliminate HB1312 and just work with HB 1058. The amendments on line 10 of Section 1 they reduce the ten percent figure to seven percent and that is needed to include all the schools that would be affected in Richland County. On page 2 we insert a new section 5 and those lines are the exact words that come out of HB1312 so that we connect and catch the Montpelier School District. Section 2 just adds the appropriate dates so that all the school

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Senate Political Subdivisions Committee

Bill/Resolution Number HB 1058

Hearing Date March 20, 2003

districts would be enacted correctly and it sunsets then after the 2008 year. The sponsor of both bills concur with those amendments.

SENATOR GARY LEE moved that the Amendments 3023/.0102 be approved.

SENATOR CHRISTENSON seconded the motion.

Roll call vote: 6 Yes 0 No 0 Absent

SENATOR GARY LEE moved a DO PASS AS AMENDED.

SENATOR CHRISTENSON seconded the motion.

Roll call vote: 6 Yes 0 No 0 Absent

Carrier: SENATOR GARY LEE

30237.0102
Title.0200

Prepared by the Legislative Council staff for
Senator G. Lee
March 14, 2003

93
3-25-03

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1058

Page 1, line 10, overstrike "ten" and Insert immediately thereafter "seven"

Page 1, line 24, after "law" Insert "or the taxing district may elect to apply subsection 5 to determine its general fund levy limitation"

Page 2, after line 4, Insert:

"5. A taxing district that used this section to determine its general fund levy for 2001 or 2002 may use the amount it intended to levy in the 2000 tax year as its "base year" under section 57-15-01.1 or as its "prior school year" under section 57-15-14.

SECTION 2. EFFECTIVE DATE - EXPIRATION DATE. This Act is effective for taxable years beginning after December 31, 2002, and before December 31, 2008, and is thereafter ineffective."

Renumber accordingly

Date: 3-20-03
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1058

Senate Political Subdivisions Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 30237. 0102

Action Taken Adopt Amendments to HB 1058 .0102

Motion Made By Senator Gary Lee Seconded By Senator Christenson

Senators	Yes	No	Senators	Yes	No
Senator Dwight Cook, Chairman	X				
Senator John O. Syverson, V C	X				
Senator Gary A. Lee	X				
Senator Judy Lee	X				
Senator Linda Christenson	X				
Senator Michael Polovitz	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

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

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10/2/03
Date

Date: 3-20-03
Roll Call Vote #: 2

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1058

Senate Political Subdivisions Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 30237.0102

Action Taken Do Pass 2s Amended

Motion Made By Senator Gary Lee Seconded By Senator Christenson

Senators	Yes	No	Senators	Yes	No
Senator Dwight Cook, Chairman	X				
Senator John O. Syverson, V C	X				
Senator Gary A. Lee	X				
Senator Judy Lee	X				
Senator Linda Christenson	X				
Senator Michael Polovitz	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Gary Lee

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

REPORT OF STANDING COMMITTEE (310)
March 26, 2003 8:20 a.m.

Module No: SR-54-5758
Carrier: G. Lee
Insert LC: 30237.0102 Title: .0200

REPORT OF STANDING COMMITTEE

HB 1058: Political Subdivisions Committee (Sen. Cook, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1058 was placed on the Sixth order on the calendar.

Page 1, line 10, overstrike "ten" and insert immediately thereafter "seven"

Page 1, line 24, after "law" insert "or the taxing district may elect to apply subsection 5 to determine its general fund levy limitation"

Page 2, after line 4, insert:

"5. A taxing district that used this section to determine its general fund levy for 2001 or 2002 may use the amount it intended to levy in the 2000 tax year as its "base year" under section 57-15-01.1 or as its "prior school year" under section 57-15-14.

SECTION 2. EFFECTIVE DATE - EXPIRATION DATE. This Act is effective for taxable years beginning after December 31, 2002, and before December 31, 2008, and is thereafter ineffective."

Renumber accordingly

2003 TESTIMONY

HB 1059

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Operator's Signature

10/2/03
Date

HOUSE OF REPRESENTATIVES

FINANCE COMMITTEE

TESTIMONY IN FAVOR OF H.B. 1058

SUBMISSION BY FAIRMOUNT, WYNMERE AND HANKINSON PUBLIC SCHOOLS

Presented by Fred Strega, Attorney for the School Districts

JANUARY 13, 2003

H.B. 1058 is virtually a carbon copy of a bill that was passed during the 2001 session and was codified in the North Dakota Century Code as 57-15-63. In the 2001 session, the Legislature was presented with a budget and taxing error made in the Montpelier School District and Stutsman County which resulted in a levy of mills at the County level at a mistakenly lower level than was intended. Thus, the Montpelier school district was shorted school operating funds. The 2001 bill allowed the Montpelier School District to levy mills in future years in amounts above their statutory maximum until they had recouped their loss. A similar solution is needed in Richland County.

Schools budget dollars. They submit their budgets to the county and the county transforms dollars into mills and then sends out tax statements. Mills applied against taxable valuation yield dollars. The county auditor knows taxable valuation amounts and he knows the dollars requested by the school districts. By working backwards, the auditor is able to determine the proper amount of mills to levy in each school district in order to fulfill the school's submitted budget.

In the year 2000, the Hankinson, Wyndmere and Fairmount schools each submitted their budgets to the county. The schools also work backward. They historically never have enough funds to operate their schools at the level they would like. Therefore, they determine their annual budgets by figuring out the maximum the law allows them to receive, i.e. maximum mill levy times the expected taxable valuation in their district.

These schools had historically budgeted the maximum they were allowed to budget by law (as far as general funds -- 185 mills for Fairmount and Hankinson and 200 mills for Wyndmere). Since the 1999 tax year, Alliance Pipeline valuations came on the books. The Alliance Pipeline valuations added significant dollars to the valuations in these three school districts.

The school budgets were submitted based essentially on 1999 numbers, without factoring in the Alliance Pipeline valuations. Had the schools known about the Alliance Pipeline valuation increases, they would have budgeted higher numbers and received more tax revenue to operate their schools. The schools believe they have

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Date

10/2/03

collectively lost roughly \$375,000 (\$190,000 in Fairmount, \$94,000 in Hankinson and \$92,000 in Wyndmere).

The schools have sued Richland County. The schools claim that the County provided the schools with incorrect tax valuation numbers, without factoring in Alliance Pipeline valuations, which the County knew or should have known about. The schools claim that had they been provided the correct numbers, they could have planned accordingly and submitted higher budget numbers to the county. Richland County has denied liability. A jury trial is scheduled for this coming summer.

H.B. 1058 would allow the schools, through the county, to levy mills in excess of their statutory maximum for a period of five years. By doing so, the schools would be placed in the same position they would have been had they levied higher amounts in the year 2000. They will be able to recoup the entire \$375,000. If the bill passes, the legal dispute between the schools and the county can be dismissed.

The Montpelier bill only provided a two year recoupment period. H.B. 1058 provides a five year period to allow the schools to spread the tax bill over a number of years so that their taxpayer property tax bills aren't so artificially large in any given year.

This bill is a good fix for a complex problem. It will allow the school districts to obtain needed funds to operate their schools and eliminate the need for further litigation.

**SENATE
POLITICAL SUBDIVISIONS COMMITTEE
TESTIMONY IN FAVOR OF H.B. 1058
SUBMISSION BY FAIRMOUNT, WYNMERE AND HANKINSON PUBLIC SCHOOLS
Presented by Fred Stree, Attorney for the School Districts
MARCH 13, 2003**

H.B. 1058 is virtually a carbon copy of a bill that was passed during the 2001 session and was codified in the North Dakota Century Code as 57-15-63. In the 2001 session, the Legislature was presented with a budget and taxing error made in the Montpelier School District and Stutsman County which resulted in a levy of mills at the County level at a mistakenly lower level than was intended. Thus, the Montpelier school district was shorted school operating funds. The 2001 bill allowed the Montpelier School District to levy mills in future years in amounts above their statutory maximum until they had recouped their loss. A similar solution is needed in Richland County.

Schools budget dollars. They submit their budgets to the county, county officials transform dollars into mills and send out tax statements. Mills applied against taxable valuation yield dollars. The county auditor knows taxable valuation amounts and the auditor knows the dollars requested by the school districts. By working backwards, the auditor is able to determine the proper amount of mills to levy in each school district in order to fulfill the school's submitted budget.

In the year 2001, the Hankinson, Wyndmere and Fairmount schools each submitted their budgets to Richland County officials. In formulating their budgets, the schools work backwards. They historically never have enough funds to operate their schools at the level they would like. Therefore, they determine their annual budgets by figuring out the maximum the law allows them to receive, i.e. maximum mill levy times

Yolanda Rickford
Operator's Signature

10/2/03
Date

the expected taxable valuation in their district. They then determine their expenses and match them to their expected and limited revenues.

The Fairmount, Wyndmere and Hankinson school districts had historically budgeted the maximum they were allowed to budget by law (as far as general funds -- 185 mills for Fairmount and Hankinson and 200 mills for Wyndmere). Since the 2000 tax year, Alliance Pipeline valuations came on the books. The Alliance Pipeline valuations added significant dollars to the valuations in these three school districts.

The school budgets were submitted based essentially on 2000 numbers, without factoring in the Alliance Pipeline valuations. Had the schools known about the Alliance Pipeline valuation increases, they would have budgeted higher numbers and received more tax revenue to operate their schools. The schools believe they have collectively lost roughly \$375,000 (\$190,000 in Fairmount, \$94,000 in Hankinson and \$92,000 in Wyndmere).

The schools have sued Richland County. The schools claim that the County provided the schools with incorrect tax valuation numbers, without factoring in Alliance Pipeline valuations, which the County knew or should have known about. The schools claim that had they been provided the correct numbers, they could have planned accordingly and submitted higher budget numbers to the county. Richland County has denied liability. A jury trial is scheduled for this coming summer. However, the trial judge has indefinitely postponed the trial pending the outcome of this legislation. If H.B. 1058 passes, the trial will be unnecessary.

H.B. 1058 would allow the schools, through the county, to levy mills in excess of their statutory maximum for a period of five years. By doing so, the schools would be

- 2 -

placed in the same position they would have been in had they levied higher amounts in the year 2001. They will be able to recoup the entire \$375,000. As stated above, if the bill passes, the legal dispute between the schools and the county can be dismissed.

The Montpelier bill only provided a two year recoupment period. H.B. 1058 provides a five year period to allow the schools to spread the tax bill over a number of years so that their taxpayer property tax bills aren't so artificially large in any given year.

This bill is a good fix for a complex problem. It will allow the school districts to obtain needed funds to operate their schools and eliminate the need for further litigation.

Most of the above was submitted to the House of Representatives Finance Committee. Since the Finance Committee meeting and House passage of the bill, we have discovered three areas in which the bill needs amendment.

First, H.B. 1058 was essentially a carbon copy of the 2001 session Montpelier bill. Since the 2001 Montpelier bill passage, Montpelier has had some experience with their bill, and they have presented a supplemental bill to the 2003 Legislature to correct a problem that surfaced with their bill. Their new supplemental bill is H.B. 1312.

The main evil that H.B. 1312 seeks to correct has to do with reversion to an appropriate base year amount after all lost money has been recouped. The 2001 bill reverted Montpelier to a base year amount that was too low, and the problem Montpelier was trying to rectify happened all over again. H.B. 1312 seeks to give schools an election so they can pick one of two base year amounts after they have recouped all their lost revenues, i.e. the base year amount normally called for in North

Dakota law or the base year amount that the schools had intended to use in the year of the mistake.

I have analyzed this problem in much more detail in a memo that I prepared for Rep. Bruce Eckre, and which memo is attached to this document (the original memo contained some years that were in error and the correct years have been included in my handwriting). Hopefully, the problem is apparent. Our main point here is that we want to piggyback on the Montpelier experience and avoid the pitfalls that Montpelier experienced. We want H.B. 1058 and H.B. 1312 to work together and achieve similar goals.

Secondly, along similar lines, H.B. 1058 and H.B. 1312 seek to amend the same statute. That, of course, shouldn't happen. The two bills need to stand alone and be passed without any inconsistency. The attached memo to Rep. Eckre also addresses this point. I suggest that both bills be passed, but that your Legislative bill drafters be consulted before final passage of any bills or amendments so that the bills can both be drafted in compatible formats.

Lastly, as stated above, H.B. 1058 piggybacks on the 2001 Montpelier bill and uses similar language. Since House passage of H.B. 1058, thanks to an observation by our county auditor, Harris Bailey, we have discovered that if we use a 10% error qualification standard (which is in the first section of H.B. 1058) that two of our school districts may not qualify for the benefits intended by H.B. 1058.

Attached is a spreadsheet prepared by Mr. Bailey labeled "2001 School Levies Available for Adjustment Under HB 1058". Note the circled columns and particularly the last column. One could interpret H.B. 1058 in a couple of different ways, but the last

- 4 -

column shows the most conservative interpretation. This column illustrates that only Fairmount's general fund mistake exceeds the 10% qualifying standard.

Because of this possible conservative interpretation and to avoid absolutely any chance that these three schools may not qualify for H.B. 1058 benefits, we suggest that the 10% standard of H.B. 1058 be changed to 5% (we could even live with 7%, but 5% gives us some breathing room).

To make the above proposed changes a little bit easier to understand, I have prepared and attached a draft of my proposed amended H.B. 1058 for your consideration.

During House discussions, someone mentioned that if H.B. 1058 was passed, the three affected school districts may receive a windfall. Nothing could be further from the truth. I prepared a memo for Rep. Eckre which addresses this argument and I attach this memo to this testimony.

Thank you for considering these thoughts. I apologize for the length of these comments (but I am a lawyer and I can't help myself).

- 5 -

Yolanda Rickford
Operator's Signature

10/2/03
Date

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The following is H.B. 1058 with the amendments we propose (amendments are highlighted in bold and underlined, with larger print – in sections 1, 3 and 5 only).

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-15-63 of the North Dakota Century Code is amended and reenacted as follows:

57-15-63. (Effective through December 31, 2008) Mistake in levy - Levy increase in later year - Levy reverts.

1. Notwithstanding sections 57-15-01.1 and 57-15-14, if a mistake occurred in the 2001 tax year which would result in **five** percent or more of the amount a taxing district intended to be levied, as of the October tenth deadline under section 57-15-31.1, not being levied and the mistake is brought to the attention of the county auditor or county treasurer of any county with land in the taxing district by February 1, 2002 the taxing district may include the amount which was mistakenly not levied in the taxing district's budget and general fund levy for a single tax year, or spread among one or more tax years, in tax years 2004 through 2008.

2. If the resulting general fund levy for the tax year is above one hundred eighty-five mills, the taxing district need not comply with chapter 57-16.

3. After a tax year in which a taxing district's levy increase authority under this section is exhausted, the taxing district's general fund levy must revert to the general fund levy as it would have been determined without application of this section, plus any increase authorized by law **or the taxing district may elect to apply subsection 5 to determine its general fund levy limitation.**

4. Before any taxable year may be used as a "base year" under section 57-15-01.1 or a "prior school year" under section 57-15-14, any amount included in that taxable year's levy under this section must be deducted.

5. A taxing district that used this section to determine its general fund levy for 2004 through 2008 may use the amount it intended to levy in the 2001 tax year as its "base year" under section 57-15-01.1 or as its "prior school year" under section 57-15-14.

30501.0100

Fifty-eighth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1312

Introduced by

Representatives Headland, Grosz, D. Johnson, Metcalf

Senators Erbele, Klein

- 1 A BILL for an Act to amend and reenact section 57-15-63 of the North Dakota Century Code,
2 relating to the effect of a mistake in levy by a taxing district; and to provide an effective date.

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

- 4 SECTION 1. AMENDMENT. Section 57-15-63 of the North Dakota Century Code is
5 amended and reenacted as follows:

- 6 57-15-63. (Effective through December 31, 2005) Mistake in levy - Levy increase
7 the following year - Levy reverts.

- 8 1. Notwithstanding sections 57-15-01.1 and 57-15-14, if a mistake occurred in the
9 2000 tax year which would result in ten percent or more of the amount a taxing
10 district intended to be levied, as of the October tenth deadline under section
11 57-15-31.1, not being levied and the mistake is brought to the attention of the
12 county auditor or county treasurer of any county with land in the taxing district by
13 February 1, 2001, the taxing district may include half of the amount which was
14 mistakenly not levied in the taxing district's budget and general fund levy for the
15 2001 tax year, and the other half that was mistakenly not levied in the taxing
16 district's budget and general fund for the 2002 tax year.
- 17 2. If the resulting general fund levy for the 2001 or 2002 tax year is above one
18 hundred eighty-five mills, the taxing district need not comply with chapter 57-16.
- 19 3. After the 2002 a tax year in which a taxing district's levy increase authority under
20 this section is exhausted, the taxing district's general fund levy must revert to the
21 general fund levy for the 1999 tax year as it would have been determined without
22 application of this section, plus any increase authorized by law for the taxing district
23 may elect to apply subsection 5 to determine its general fund levy limitation.

Fifty-eighth
Legislative Assembly

1 4. The 2001 and 2002 taxable years may not be used as a "base year" under section
2 57-15-01.1 and may not be considered a "prior school year" under section

3 57-15-14.

4 5. A taxing district that used this section to determine its general fund levy for 2001 or
5 2002 may use the amount it intended to levy in the 2000 tax year as its "base year"
6 under section 57-15-01.1 or as its "prior school year" under section 57-15-14.

7 SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after
8 December 31, 2002.

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2004 through 2008

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TAX LEVIES AND LIMITATIONS

57-15-01.1

CHAPTER 57-15

TAX LEVIES AND LIMITATIONS

Section

- 57-15-01.1. Protection of taxpayers and taxing districts.
57-15-06.7. Additional levies — Exceptions to tax levy limitations in counties.
57-15-12. General fund levy limitations in park districts.
57-15-12.1. City or park district tax levy or service charge for forestry purposes.
57-15-12.2. Exceptions to tax levy limitations for park districts.
57-15-12.3. Tax levy for parks and recreational facilities.
57-15-14. Tax levy limitations in school districts.
57-15-14.2. Mill levies requiring board action — Proceeds to general fund account.
57-15-17.1. School board levies — Multiyear asbestos abatement — Lead paint removal — Required remodeling — Alternative education programs.
57-15-19.6. Township levy for mowing or snow removal.
57-15-20.2. Exceptions to tax levy limitations in townships.

Section

- 57-15-26.5. General tax levy of rural ambulance service districts.
57-15-27. Interim fund.
57-15-28.1. Exceptions to tax levy limitations in political subdivisions.
57-15-36. Tax levy for airport purposes.
57-15-37. Tax levy for airport purposes in park districts — Repealed.
57-15-50. Levy authorized for county emergency medical service.
57-15-51. Levy authorized for city emergency medical service.
57-15-51.1. Levy authorized for township emergency medical service.
57-15-55.1. City tax levy for transportation of public school students.
57-15-60. Authorization of tax levy for programs and activities for handicapped persons — Elections to authorize or remove the levy — Handicapped person programs and activities.
57-15-63. Mistake in levy — Levy increase the following year — Levy reverts.

57-15-01.1. Protection of taxpayers and taxing districts. Each taxing district may levy the lesser of the amount in dollars as certified in the budget of the governing body, or the amount in dollars as allowed in this section.

1. No taxing district may levy more taxes expressed in dollars than the amounts allowed by this section.
2. **Base year** of this section:

"Base year" means the taxing district's taxable year with the greatest amount levied in dollars in property taxes of the three taxable years immediately preceding the budget year. For a park district general fund the "amount levied in dollars in property taxes" is the sum of amounts levied in dollars in property taxes for the general fund under section 57-15-12 including any additional levy approved by the electors, the insurance reserve fund under section 32-12.1-08, the employee health care program under section 40-49-12, the public recreation system under section 40-55-09 including any additional levy approved by the electors, forestry purposes under section 57-15-12.1 except any additional levy approved by the electors, pest control under section 4-33-11, and handicapped person programs and activities under section 57-15-60;

Valista Rickford
Operator's Signature

10/2/03
Date

- b. "Budget year" means the taxing district's year for which the levy is being determined under this section;
 - c. "Calculated mill rate" means the mill rate that results from dividing the base year taxes levied by the sum of the taxable value of the taxable property in the base year plus the taxable value of the property exempt by local discretion or charitable status, calculated in the same manner as the taxable property; and
 - d. "Property exempt by local discretion or charitable status" means property exempted from taxation as new or expanding businesses under chapter 40-57.1; improvements to property under chapter 57-02.2; or buildings belonging to institutions of public charity, new single-family residential or townhouse or condominium property, property used for early childhood services, or pollution abatement improvements under section 57-02-06.
3. A taxing district may elect to levy the amount levied in dollars in the base year ~~by this section~~ specifically approved resolution approved by the governing body of the taxing district. Before determining the levy limitation under this section, the dollar amount levied in the base year must be:
- a. Reduced by an amount equal to the sum determined by application of the base year's calculated mill rate for that taxing district to the final base year taxable valuation of any taxable property and property exempt by local discretion or charitable status which is not included in the taxing district for the budget year but was included in the taxing district for the base year.
 - b. Increased by an amount equal to the sum determined by the application of the base year's calculated mill rate for that taxing district to the final budget year taxable valuation of any taxable property or property exempt by local discretion or charitable status which was not included in the taxing district for the base year but which is included in the taxing district for the budget year.
 - c. Reduced to reflect expired temporary mill levy increases authorized by the electors of the taxing district.
4. In addition to any other levy limitation factor under this section, a taxing district may increase its levy in dollars to reflect new or increased mill levies authorized by the legislative assembly or authorized by the electors of the taxing district.
5. Under this section a taxing district may supersede any applicable mill levy limitations otherwise provided by law, or a taxing district may levy up to the mill levy limitations otherwise provided by law without reference to this section, but the provisions of this section do not apply to the following:
- a. Any irrevocable tax to pay bonded indebtedness levied pursuant to section 16 of article X of the Constitution of North Dakota.
 - b. The one-mill levy for the state medical center authorized by section 10 of article X of the Constitution of North Dakota.
6. A school district choosing to determine its levy authority under this section may apply subsection 3 only to the amount in dollars levied for general fund purposes under section 57-15-14 or, if the levy in the base year included separate general fund and special fund levies under sections 57-15-14 and 57-15-14.2, the school district may apply subsection 3 to the total amount levied in dollars in the base year for both the general fund and special fund accounts. School district levies under any section other than section 57-15-14 may be

TAX LEVIES AND LIMITATIONS

57-15-06.7

made within applicable limitations but those levies are not subject to subsection 3.

7. Optional levies under this section may be used by any city or county that has adopted a home rule charter unless the provisions of the charter supersede state laws related to property tax levy limitations.

Source: S.L. 1995, ch. 552, §§ 1, 2; 1997, ch. 18, § 3; 1997, ch. 486, § 1; 1999, ch. 498, § 2; 2001, ch. 510, § 5. Section 5 of chapter 510, S.L. 2001 is effective for taxable years beginning after December 31, 2000, pursuant to section 14 of chapter 510, S.L. 2001.

Effective Date.

The 2001 amendment of this section by

57-15-06.7. Additional levies -- Exceptions to tax levy limitations in counties. The tax levy limitations specified in section 57-15-06 do not apply to the following mill levies, which are expressed in mills per dollar of taxable valuation of property in the county:

1. Counties supporting airports or airport authorities may levy a tax not exceeding four mills in accordance with section 2-06-15.
2. Counties levying an additional tax as provided in section 4-02-27.2 may levy a tax not exceeding two mills for a period of not to exceed ten years.
3. Repealed by S.L. 1995, ch. 61, § 14.
4. Counties levying a tax for extension work as provided in section 4-08-15 may levy a tax not exceeding two mills.
5. Counties levying a tax for extension work as provided for in section 4-08-15.1 may levy a tax not exceeding two mills.
6. Counties levying a tax for gopher, rabbit, and crow destruction as provided in section 4-16-02 may levy a tax not exceeding one-half of one mill.
7. Counties levying a tax for payment of a judgment obtained by the state or a state agency against the county in accordance with section 11-11-46 may levy a tax not exceeding one mill.
8. Counties levying a tax for historical works in accordance with section 11-11-53 may levy a tax not exceeding one quarter of one mill, except that if sixty percent of the qualified electors voting on the question of an increase levy as provided in section 11-11-53 shall approve, a tax may be levied not exceeding three quarters of one mill.
9. A county levying a tax for a booster station in accordance with section 11-11-60 may levy a tax not exceeding two mills.
10. A county levying a tax to pay expenses of the board of county park commissioners in accordance with section 11-28-06 may levy a tax not exceeding one mill.
11. Repealed by S.L. 1999, ch. 154, § 2.
12. A county levying a tax for a county or community hospital association as provided in section 23-18-01 may levy a tax for not more than five years not exceeding eight mills in any one year or, in the alternative, for not more than fifteen years at a mill rate not exceeding five mills.
13. A county levying a tax for a nursing home authority in accordance with section 23-18.2-12 may levy a tax not exceeding five mills.
14. A county levying a tax for county roads as provided in section 24-05-01 may levy a tax not exceeding two mills if approved as provided in that section.
15. A county levying a tax to establish and maintain a public library service as provided in section 40-38-02 may levy a tax not exceeding four mills.

TAX LEVIES AND LIMITATIONS

57-15-14

exceeding the amount necessary for the district's annual contribution to the employees' pension fund.

2. Levying an additional tax approved by the electors providing for forestry activities in accordance with section 57-15-12.1 in an amount not exceeding three mills.
3. Levying a tax for parks and recreational facilities in accordance with section 57-15-12.3 in an amount not exceeding five mills.

Source: S.L. 1983, ch. 606, § 57; 1987, ch. 678, § 2; 1989, ch. 494, § 2; 1997, ch. 356, § 3; 2001, ch. 510, § 8.

section 8 of chapter 510, S.L. 2001 is effective for taxable years beginning after December 31, 2000, pursuant to section 14 of chapter 510, S.L. 2001.

Effective Date.

The 2001 amendment of this section by

57-15-12.3. Tax levy for parks and recreational facilities. A board of park commissioners established pursuant to chapter 40-49 may levy taxes annually not exceeding the limitation in subsection 3 of section 57-15-12.2 for a fund for the purpose of acquiring real estate as a site for public parks, construction of recreational facilities, renovation and repair of recreational facilities, and the furnishing of recreational facilities. The tax is to be levied, spread, and collected in the same manner as are other taxes in the park district. The question of whether the levy is to be discontinued must be submitted to the qualified electors at the next regular election upon petition of twenty-five percent or more of the qualified electors voting in the last regular park district election, if the petition is filed not less than sixty days before the election. If the majority of the qualified electors voting on the question vote to discontinue the levy, it may not again be levied without a majority vote of the qualified electors voting on the question at a later regular election on the question of relevying the tax, which question may be submitted upon petition as above provided or by decision of the governing board.

Source: S.L. 1987, ch. 678, § 1; 1997, ch. 108, § 37; 2001, ch. 510, § 9.

section 9 of chapter 510, S.L. 2001 is effective for taxable years beginning after December 31, 2000, pursuant to section 14 of chapter 510, S.L. 2001.

Effective Date.

The 2001 amendment of this section by

57-15-14. Tax levy limitations in school districts. The aggregate amount levied each year for the purposes listed in section 57-15-14.2 by any school district, except the Fargo school district, may not exceed the amount in dollars which the school district levied for the prior school year plus eighteen percent up to a general fund levy of one hundred eighty-five mills

in any school district having a total population in excess of four thousand according to the last federal decennial census:

- a. There may be levied any specific number of mills that upon resolution of the school board has been submitted to and approved by a majority of the qualified electors voting upon the question at any regular or special school district election.
- b. There is no limitation upon the taxes which may be levied if upon resolution of the school board of any such district the removal of the mill levy limitation has been submitted to and approved by a majority of the qualified electors voting at any regular or special election upon such question.

2. In any school district having a total population of less than four thousand, there may be levied any specific number of mills that upon resolution of the school board has been approved by fifty-five percent of the qualified electors voting upon the question at any regular or special school election.
3. In any school district in which the total assessed valuation of property has increased twenty percent or more over the prior year and in which as a result of that increase the school district is entitled to less in state aid payments provided in chapter 15.1-27 because of the deduction required in section 15.1-27-05, there may be levied any specific number of mills more in dollars than was levied in the prior year up to a general fund levy of one hundred eighty-five mills on the dollar of the taxable valuation of the school district. The additional levy authorized by this subsection may be levied for not more than two years because of any twenty percent or greater annual increase in assessed valuation. The total amount of revenue generated in excess of the eighteen percent increase which is otherwise permitted by this section may not exceed the amount of state aid payments lost as a result of applying the deduction provided in section 15.1-27-05 to the increased assessed valuation of the school district in a one-year period.

The question of authorizing or discontinuing such specific number of mills authority or unlimited taxing authority in any school district must be submitted to the qualified electors at the next regular election upon resolution of the school board or upon the filing with the school board of a petition containing the signatures of qualified electors of the district equal in number to twenty percent of the number of persons enumerated in the school census for that district for the most recent year such census was taken, unless such census is greater than four thousand in which case only fifteen percent of the number of persons enumerated in the school census is required. However, not fewer than twenty-five signatures are required unless the district has fewer than twenty-five qualified electors, in which case the petition must be signed by not less than twenty-five percent of the qualified electors of the district. In those districts with fewer than twenty-five qualified electors, the number of qualified electors in the district must be determined by the county superintendent for such county in which such school is located. However, the approval of discontinuing either such authority does not affect the tax levy in the calendar year in which the election is held. The election must be held in the same manner and subject to the same conditions as provided in this section for the first election upon the question of authorizing the mill levy.

Sources: S.L. 1929, ch. 235, § 7; 1931, ch. 297, § 2; 1943, ch. 258, § 1; R.C. 1943, § 57-1514; S.L. 1947, ch. 359, § 1; 1951, ch. 137, § 10; 1953, ch. 315, § 3; 1955, ch. 142, § 3; 1957, ch. 354, § 1; 1957 Supp., § 57-1514; S.L. 1959, ch. 170, § 17; 1961, ch. 158, § 87; 1965, ch. 395, § 1; 1967, ch. 429, § 1; 1969, ch. 485, § 1; 1971, ch. 158, § 23; 1971, ch. 542, § 1; 1975, ch. 131, § 10; 1977, ch. 519, § 1; 1983, ch. 202, § 2; 1983, ch. 591, § 4; 1983, ch. 593, § 52; 1983, ch. 607, § 1; 1983, ch. 608, § 15; 1985, ch. 235, § 98; 1985, ch. 617, § 1; 1987, ch. 232, § 6; 1995, ch. 193, § 8; 2001, ch. 161, § 31.

Effective Date.

The 2001 amendment of this section by section 31 of chapter 161, S.L. 2001 became effective July 1, 2001.

2001 SCHOOL LEVIES AVAILABLE FOR ADJUSTMENT UNDER HB 1058

SCHOOL/FUND	LEVY		MAXIMUM % REQUESTED	REQUESTED % MAXIMUM	DIFFERENCE	
	MAXIMUM	REQUESTED			MAXIMUM	REQUESTED
<u>HANKINSON</u>						
GENERAL	\$ 878,628.00	\$ 797,967.00	110.11%	90.82%	10.11%	9.18%
BUILDING	\$ 95,209.78	\$ 73,284.00	129.92%	76.97%	29.92%	23.03%
TECHNOLOGY	\$ 23,802.45	\$ 21,567.00	110.37%	90.61%	10.37%	9.39%
SPECIAL RES.	\$ 14,281.47	\$ 12,940.00	110.37%	90.61%	10.37%	9.39%
<u>FAIRMOUNT</u>						
GENERAL	\$ 601,487.10	\$ 536,500.00	112.11%	89.20%	12.11%	10.80%
BUILDING	\$ 53,425.18	\$ 39,150.00	136.46%	73.28%	36.46%	26.72%
SPECIAL RES.	\$ 11,448.25	\$ 8,700.00	131.59%	75.99%	31.59%	24.01%
TECHNOLOGY	\$ 19,080.42	\$ 14,500.00	131.59%	75.99%	31.59%	24.01%
<u>WYNDMERE</u>						
GENERAL	\$ 1,163,544.40	\$ 1,070,000.00	108.74%	91.96%	8.74%	8.04%
BUILDING	\$ 58,177.22	\$ 54,000.00	107.74%	92.82%	7.74%	7.18%
TECHNOLOGY	\$ 29,088.61	\$ 27,500.00	105.78%	94.54%	5.78%	5.46%

... if a mistake occurred in the 2001 tax year which would result in ten percent or more of the amount a taxing district intended to be levied... (It appears that Wyndmere does not qualify for relief under HB 1058 and Hankinson is questionable, depending on how the 10% difference is calculated. The process needs clarifying.)

The other question I have is whether or not the 2003 tax year was intentionally omitted from years when corrections could be made.

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Operator's Signature

John A. Rickard

10/2/03
Date

MEMORANDUM

To: Hon. Bruce Eckre
From: Fred Strege
Subject: H.B. 1058
Date: January 18, 2003

This memo supplements earlier e-mails that I submitted to you concerning the rationale for passing H.B. 1058. You mentioned to me that some legislators may feel that this bill creates a windfall for the school districts (Fairmount, Wyndmere and Hankinson). Let me illustrate why this is untrue through a simple analogy.

Think of John as being a minimum wage earner in North Dakota. Think of Dave as being a middle to upper class earner in North Dakota.

John has needs that aren't being met, and none of his wants are being met.

All of Dave's needs are being met, and so are some of his wants.

If John finds \$1,000, he can use that money to pay for some of his needs.

If Dave finds \$1,000, he will spend the money on his wants, as his needs are already paid for.

Which one received a windfall?

My school districts are more like John than like Dave. They are smaller school districts. They limp along every year. They do fine, but they never have enough money to work with. They could always use more to provide a better base line quality education. They skimp on their wants, and they concentrate on their needs. Receiving the ability to recoup their loss will allow them to fund more of their needs.

How do we know that these schools have unfunded needs? I attach for you a schedule obtained from the Office of the State Tax Commissioner. This schedule shows how these schools tax levies have increased over the years. This schedule shows that in the last five years, the schools were at or near their maximum levy every year (185 mills). If these schools didn't "need" the money, their general fund levies would be much less.

This bill gives the schools nothing but opportunity. The bill does not hand out any cash to anyone. It merely gives the school boards of these districts the opportunity to levy

Smith & Strege
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LTD 321 Dakota Avenue P.O. Box 38
Wahpeton, North Dakota 58074-0038

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Yalosta Rickford
Operator's Signature

10/2/03
Date

Page 2
January 18, 2003

what they could have levied had the local mistake not been made. But for the mistake, these schools would not have lost any money and this bill would not have been necessary.

Please let me know how I can be of any further assistance.

FS:fs

Enc

Fax only

cc Bruce Schumacher

Garrett Titus

Rick Jacobson

Howard Swanson

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Operator's Signature

Yolanda Rickford

Date

10/2/03

MEMORANDUM

To: Rep. Bruce Eckre
From: Fred Strege
Subject: H.B. 1058 and 1312
Date: January 18, 2003

In this memo, I will try to reconcile and make some sense of these two bills.

1058 is the Richland County bill and 1312 is the Montpelier bill. 1058 was modeled after the Montpelier bill that was passed in the 2001 session. 1312 is this same 2001 bill, but tweaked a bit. 1312 is presumed to be an improvement over the 2001 bill because of an unanticipated problem that Montpelier encountered.

To illustrate the problem, I enclose and refer to NDCC §§ 57-15-01.1 and 57-15-14. Schools send their budgets to the county. They may budget what they need, but within certain parameters. 01.1 and 14 dictate the parameters.

14 provides that a school can budget what they budgeted in the "prior school year", but:

- a. They can't exceed 185 mills for the general fund, and
- b. Their budget cannot exceed 118% of what they budgeted the previous year ("prior year").

01.1 provides another limitation. This section defines a "base year" to be the highest budget amount from the three previous years. The school may not budget an amount higher than the "base year".

How these section interact with the 2001 Montpelier law is important. The Montpelier school district was allowed, by the 2001 law, to increase their budgeted amount beyond statutory maximums. However, as soon as they collected what they had lost, the 2001 statute returned them to the budgeted amount they had submitted by mistake. The "mistake year" became their prior year under 14 and part of the three years to pick from to determine a base year under 01.1.

To show how that would operate in our Richland County situation, I will use Fairmount as an example and I will talk in terms of mills. In ²⁰⁰¹1999, Fairmount was at 185 (actually 184.28) mills. In the year ²⁰⁰⁰2000, because of the large increase in taxable valuation in the Fairmount School District due to the addition of Alliance Pipeline Improvements, the general fund levy reduced to around 145 mills (given the higher valuation, we needed less mills to generate the budget submitted). Under 1058 or the 2001 Montpelier bill, after Fairmount collected what they had lost, their "base year" and their "prior school

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2001
year" would be calculated by using the 145 mills figured for the mistake year (2000), rather than what they had wanted to levy or had historically levied, i.e. 185 mills. They have to start at ground zero again (the mistake year level) and they are facing caps on increases (can't increase beyond 18% over the mistake year budget). Hence, they have to make up ground again at a slower pace and they aren't able to levy all they would like to. It will take them two or three years to reach their 185 mill maximum.

1312 seeks to eliminate that problem for Montpelier in that it contains an election in subsection 5 which allows the school to elect to use, as its "base year" or its "prior school year" the budgeted amount that it had intended to use in the mistake year (this would most likely be an amount equal to 118% of the previous year's budget). In the Fairmount example, we would not be kicked back to the 145 mill levy, but we would be at about 170 mills and we are able to make up ground faster.

The logic is sound. 1312 should be passed as written. 1058 should be amended. The circled language in subsections 3 and 5 of 1312 should be added to 1058. Otherwise, 1058 language need not change. To be clear, 1058 should remain as is, but the circled language from 1312 should be added.

Now, because 1058 and 1312 seeks to amend the same NDCC statute, i.e. §57-15-63, we have a conflict because both bills can't amend the same statute. I suggest that 1312 be passed as written (to amend §57-15-63), and that 1058 be passed and codified as §57-15-64 (so as not to conflict with §57-15-63). Your statute drafters that you consult may have a better idea. The point here is that both bills need to coexist without one superseding the other.

Please let me know if you have any questions or you need anything else from me.
Thank you for your help.

FS:fs

Enc

cc Bruce Schumacher
Rick Jacobson
Garrett Titus
Howard Swanson

Sent by fax only

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NO. 7195 P. 2
FEB. 27. 2002 4:20PM NORTH DAKOTA TAX DEPT.

School Districts	1998	1998	1997	1998	1995	1994	1993	1992	1991
Mantador									
General	144.83	145.93	148.77	139.77	146.54	125.13	161.42	106.78	94.26
H.S. Tuition	58.49	58.32	61.01	52.14	57.97	48.56	51.82		8.12
Total	204.32	204.25	209.78	191.91	204.31	173.69	141.34	106.78	102.38
Hankinson									
General	184.22	185.00	183.40	183.19	180.26	180.00	178.60	174.46	155.69
Building	18.93	17.19	19.83	9.82	20.00				
Sp. Reserve	3.00	3.00							
Technology	5.00	5.00	4.96	5.00					
Total	209.15	210.19	208.19	198.01	210.26	180.00	178.60	174.46	155.69
Fairmount									
General	184.28	185.00	182.52	184.33	185.39	180.00	185.26	180.00	173.38
Sp. Assessment	1.28	1.26	1.27	1.36	1.37	1.48	1.54	1.80	1.68
Building	12.70	12.75	12.45	13.28	14.00	14.00	14.00	14.00	14.00
Int. & Skg. (Bond)		12.38	12.20	8.14	7.50	12.55	14.27	14.84	9.07
Sp Reserve	2.87	2.88	2.81	3.00	3.00	2.77	3.00		
Technology	5.00	5.00	4.89	5.00					
Total	206.11	219.27	215.94	215.11	211.26	210.80	218.07	210.44	198.13
Wyndmere									
General	210.28	185.00	182.21	183.19	180.73	170.92	167.96	150.76	138.58
Sp. Assessment		0.30	0.30	0.30	0.30	0.30	0.00		0.27
Building	10.00	10.00	9.86	10.00	10.00	2.91	3.00	3.07	3.07
Technology	5.00	5.00	4.83	5.00					
Int. & Skg. (Bond)									
Total	225.28	200.30	197.30	198.49	191.03	174.13	170.96	172.82	161.85