

FISCAL NOTE
Requested by Legislative Council
02/05/2015

Amendment to: HB 1178

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			\$25,000,000			
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties			
Cities			
School Districts		\$25,000,000	
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

House Bill 1178 relates to mineral revenue received by school districts.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The bill amends the K-12 state aid formula by reducing the amount of mineral revenue considered as local revenue in the formula by 50% of the amount of school district debt service payments up to 40% of the mineral revenue received. This effectively reduces the amount considered in the formula to 35%. The K-12 funding formula provides baseline funding on a per student basis and is designed so that any funding not considered local revenue is replaced by state sources.

The assumptions for mineral revenue are based estimates provided in November for the oil and gas gross production tax distribution formula in current law. Further all school districts are expected to apply the proceeds of mineral revenue to repaying school construction loans as the K-12 state aid formula will replace any amount excluded from local revenue.

Mineral revenues projected under the current formula are \$29.2 million in 2015-16 and \$33.7 million in 2016-17. The amount offset in the formula is 75% of those amounts. If the effective rate drops to 35%, the added cost to the integrated formula line will be \$25.0 million.

This would be the maximum amount. Cost will vary directly with the amount of mineral tax allocations and eligible debt service payments. There is no data currently available to project a lesser amount.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*
- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Name: Jerry Coleman

Agency: Public Instruction

Telephone: 701-328-4051

Date Prepared: 02/06/2015

FISCAL NOTE
Requested by Legislative Council
01/12/2015

Bill/Resolution No.: HB 1178

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			\$70,000,000			
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties			
Cities			
School Districts		\$70,000,000	
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

House Bill 1178 relates to mineral revenue received by school districts.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The bill amends the K-12 state aid formula by reducing the amount of mineral revenue considered as local revenue in the formula by the amount of its debt service payments up to 60% of the mineral revenue received. This effectively reduces the amount considered in the formula to 15%. The K-12 funding formula provides baseline funding on a per student basis and is designed so that any funding not considered local revenue is replaced by state sources.

The assumptions for mineral revenue received are based on the 60/40 plan (HB 1176) encompassed in the Executive Budget recommendation. Further all school districts are expected to apply the proceeds of mineral revenue to repaying school construction loans as the K-12 state aid formula will replace any amount excluded from local revenue.

Mineral revenues projected under the 60/40 plan are \$55.1 million in 2015-16 and \$61.5 million in 2016-17. The amount offset in the formula is 75% of those amounts. If the effective rate drops to 15% of the additional cost to the integrated formula line will be \$70 million. This would be the maximum amount. There is no data currently available to project a lesser amount.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*
- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Funding for this amendment is not included in the Executive Budget Recommendation.

Name: Jerry Coleman

Agency: Public Instruction

Telephone: 701-328-4051

Date Prepared: 01/16/2015

2015 HOUSE EDUCATION

HB 1178

2015 HOUSE STANDING COMMITTEE MINUTES

Education Committee
Pioneer Room, State Capitol

HB 1178
1/19/2015
22159

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to mineral revenue received by school districts; to provide an effective date; and to declare an emergency.

Attachment # 1 #2 #3

Minutes:

Chairman Nathe: Opened the hearing on HB 1178.

Representative Kempenich District 39, 1178 addressing some of the issues that we have run into in the past one is the way the tax distribution formula for gross production task for the oil producing counties it creates a little bit of a catch 22 with the way we treat district wealth and in to the school construction part of the communities out in oil country setting up a formula to mirror what we have done in school construction in coal country.

Chairman Nathe: have you seen the fiscal note?

Representative Kempenich: It's hard to quantify both ways I'm guessing numbers are closer to what the governor has used 70 to 75 dollars a barrel of oil to come up with that based on the numbers.

Chairman Nathe: Anyone here in support to HB 1178

Senator Bekkedah District one of Williston in support of HB 1178. The bill is endorsed and approved by our local educators in the Williston district will give extreme help to them as you know we have large gross pressures out there. Most of this group speaks to the west of the approved expansion projects bond issues to try and take some of the load on to themselves. This bill simplifies some of the language for disbursement we feel it gets some of the dollars back to the communities that they need to complete the projects that they have already started.

Senator Rust: I am David Rust, Senator from District 2 in NW ND In support of HB 1178. (4:50) (See Attachment #1) (1238)

Rep Ben Koppelman: Some might ask what the general fund mill levy or building fund levy is in the district, but also how is the 25% that they get to keep currently and how do they use that money.

Senator Rust: That money comes to a school district from the state treasurer. You get 100% of that money and then a year later they subtract out 75% from your payment. It goes into the general fund and used to fund education and increased enrollments, it's basically used the 25% it goes into their general fund.

Rep Ben Koppelman: Do you know what the levy rates are in the building fund in your area?

Senator Rust: I don't have them off the top of my head. I will tell you that they have been going down because we have seen a dramatic increase in taxable evaluations. When I came to Tioga in 1980 I bought a rambler home. In 2001 my house was valued at 84,000 dollars. I think this year it's at 240,000 dollars. I did put new shingles on, I sided it with vinyl siding and I did but new windows in, but I have been seeing in my home 30,000 and 40,000 dollar jumps a year on my home and basically have not been doing anything to it. As you know it's based on true and full value and pretty much they look at what the house down the street sold for and they go "hmm this one's under value we need to increase that" so part of that reason is that tax evaluations have been going down. Now I will tell you and I will bet a day's pay on it that none of our school districts have ever levied fewer dollars. They have all levied more dollars but because of rapidly increasing tax evaluations the more levies have gone down.

Chairman Nathe: What this bill does is it pays off the construction loans for the schools out on the oil patch at the expense of the state aid formula. So the state makes up that payment. So it's not used on new construction so the money that's taken away from the mineral revenue that's taken away from state aid will be used to pay off existing construction loans and the state has to make that up to the tune of 70 million.

Senator Rust: Kind of yes and no. First of all this is for school constructions or remodel it is not for education, which could include fourplex's for teachers of course, if they are approved by 60% of the voters or have been approved by DPI and have 500,000 dollars or more in value and yes it does allow for you to use the gross production tax that you get which in that sense gets made up in a state payment.

Rep Kelsh: Aren't there also grants or loans available to school districts that are in this situation that have to build new buildings from the state? Some of that oil money or something that we have as far as the state is concerned? Didn't they set up a fund for loans with very low interest or grants out of that?

Senator Rust: Yes now let me explain that to you. I'll take Tioga; the other schools in our area have experienced the same thing. The area community passes a bond issue and

gets 60% of the people then they get bids and the bids came in over a million dollars more than what they felt they would. There was no way they were going to be able to come up with that money and unfortunately they did appeal to the energy impact office and they were given some dollars that got them close. It did not get them to the number that they had passed but got them close using the money for some things for infrastructure and some of those items but as I remember the bid came in so much higher that the money they got from the grant allowed them to get close enough were they were able to proceed with the project and they to come up with other places to get some dollars and as far as paying off on that issue no. and I will be honest with you I have been frustrated for many years when I looked at years ago when coal came in and there was a huge influx of people into a few communities. Coal got treated pretty good and there were a number of schools that got major additions paid for through grants at that time the energy impact office. I kind of in oil country just wanted to be treated like coal. The funding formula for coal is considerably better and so I have to admit that when I look at Tioga unparticular all of the schools they built were a result of the oil and gas industry and their tax pays paid for every dime of it. Its hard to convince people because they think you get these grants that can help you out when in all honesty what is perception and what is reality are different. There are some grants they have helped and a number of schools have had the same thing happen to them, their bids have been significantly higher than anticipated they have gotten some help from the energy impact office to help get them close.

Chairman Nathe: There are two bills coming out in the Senate for 125 million each for new construction loans. I look in this bill I don't see where it says new construction loans I see where it says existing construction loans unless I'm missing it in the underscored language. According the fiscal note written it states that further all school districts are expected to apply their proceeds of mineral revenue to repaying school construction loans as the K-12 state aid formula will replace any amount excluded from local revenue. That goes back to what I asked earlier.

Senator Rust: I would direct your attention to page five of the bill. For purposes of this subsection and the eligible school construction loan means evidence of and indebtedness for a school construction project that occurred on or after January 1,2010. Why 2010 because if you pooled this law now that would mean anyone who build a building would be able to use those monies and anybody who did that last year would not be able to. That doesn't make sense because they are both in the same situation so we look at going back to going back to the beginning of the influx of students and the reason for the bonded indebtedness for paying off a school construction project

Vice Chairman Schatz: Does the school district get any property tax off an oil well?

Senator Rust: No. When you drive by and see a five to eight acre sites and you see that oil pumper going and you see those tanks sitting there not one bit of that is property tax. We have this thing called an in lieu of property tax called a five percent gross oil and gas protection tax so no there is not any property tax to get off that.

Vice Chairman Schatz: The tax is 5 % on production and 6.5% on extraction that's 11.5% recently I believe the numbers 11 cents out of a dollar worth a tax is that a number that goes to the oil producing counties and school districts.

Senator Rust: That number is one that has floated around with reasonable frequency and that number is accurate as well. If a county were to send to the state 156,250,000 million in gross production taxes, 121 million of that goes to the state, 25 million of that goes to the counties and varies subdivisions.

Vice Chairman Schatz: I am just comparing oil to coal. I think it's in statute its 33 cents on a dollar worth of tax goes to the coal producing counties. Am I correct on that number?

Senator Rust: I don't know that number I'm not about to say that I do that sounds correct to me .but I do know that If everything will pass with the 60/40 bill we would be getting 25 to 28 percent. We would be getting in about one in four dollars but right now it depends on the county.

Chairman Nathe: The oil schools would be eligible for this and they would also be eligible for the 250 million and bills that are coming?

Senator Rust: Remember these are loans and those bills provide strictly a low intrest loan so you are going to pay off that building plus one percent interest. Yes, you would be eligible and but you are paying back the money borrowed.

Chairman Nathe: But the oil country schools would have two sources of funding for school construction verses one source for the rest of the schools in the state.

Senator Rust: I don't know atht I would agree with that statement. Its kind of like saying you can go to the bank. Is that a source? Yeah you can get money out of that but youre paying it back are you getting anything out of that. I don't think so. If you have to pay something back what have you gotten that's an advantage to you?

(27:57) **Steve Holen:** Superintendent of McKenzie County Public School District #1 in Watford City. In support of HB 1178. (See Attachment #2) (36:10)

Rep Ben Koppelman: What is your current general fund mill levy and your building fund mill levy?

Steve Holen: Your general 56.38 mills we are product of the 12% cap we have every attempt to go to 70 mills which is the current capacity we can go the 12% cap puts us at 56.38. We were a school district back when the cap was under 10 mills and we were at 53 and we raised the taxes 12% three consecutive years to get to 53. Evaluations are going up rapidly. We are maximizing of what we can levy and we are asking for 10 mills for building fund by a vote that's how much we can ask for. We are maximizing our local tax pays as much as we can.

Rep Ben Koppelman: 25% net that you do get from the oil and gas tax, which I might point out compared to a lot of districts they don't have the benefit of that because they are taxing the land value not what's under the land, but how do you use your 25%?

Steve Holen: It varies by district; you have to keep into context of where this money is coming from. It is in lieu of property tax, so in any school district it's a property tax revenue in the general fund they are going to obligate it to what's in their budget whether it be staffing or otherwise. The nature of our 25% is not taken away but it counts for some of our impacts that are there with the development that are easily there in nature. I could easily say that some of our 25% was used for employee housing for transportation funding, but in general it is received for general operating expenses of the school district. You also have to keep in mind that comparing it to property tax the formula doesn't necessarily reflect the true and full value of that well head and we would love to take the property tax off that. Right now we are working off a formula so that number may not be equal or reflective of somebody that has that value directly in their property tax.

Rep Ben Koppelman: When I think of other kinds of property tax, do you guys currently collect property tax on the land, the value of the land not the well pad and not the stuff on the well but the raw land was taxed before there was a well on the land and I'm sure it is still at some rate, correct?

Steve Holen: Yes

Rep Ben Koppelman: If that's true then you are collecting property tax on the land just not on the newly recognized value of the oil ability to produce oil but when you draw a parallel to that and to other times of property tax think of a commercial building for example, that building is not valued by my ability to make widgets in that building and those widgets being really valuable. Its valued on what someone making a less valuable widget would also pay and the average of what people are willing to pay drives the value of that building not what it can produce in it.

Steve Holen: I think you are exactly right as for as trying to translate but the best we can do is a major industry moved into the area that dramatically changed the evaluation of the property around it and it changed the work force. So that part of it I think we tax what its bringing to the community and bringing as an industry Yes I think you are very right, a major industry came into the area that dramatically changed the value of property and the work force. Yes we are getting the topic tax which is agriculturally zoned for whatever that was worth now we do receive other evaluation and why was it surpassed because gas plants are paying taxes but they have some resources and when you go through a bond issue and say what about these guys well no they are not contributing to that bond referendum and that's really at the core of what 1178 tries to hit.

Vice Chairman Schatz: What was pasture land 10 years ago worth?

Steve Holen: The value was relatively low and the property evaluations in most western schools was relatively low. We did not have a tremendous amount of value in the property of farming purposes or other purpose and it has increased dramatically

Vice Chairman Schatz: Pasture land out in the bad lands two three hundred dollars and acre that's a lot depending on what goes on in the rest of the state you aren't getting much property tax off that land. Is that correct?

Steve Holen: to bring that context into that formula we were low on our evaluation per pupil because of a low evaluation that was definitely a factor.

Chairman Nathe: If this bill passes how do you see it playing out in McKenzie school district, what would you be using the money for?

Steve Holen: We would target for this to pay for help access the 61 million dollars of school construction that we have already approved and gone forward with and deck capacity of 35 million is not keeping up with that you will see us trying to leverage this revenue to offset those debt issues, because we can't go outside that debt limit other than certain mechanisms that require some sort of an obligation to pay those back. We would like to say that this is a great source to put against those obligations to make those payments that we can't do above and beyond the debt limit and meet those needs we would be leveraging that difference and using those funds to fund bond sales that is working with and against our debt limit which is at the maximum at this time.

44:39

Dr. Aimee Copas: ND counsel for the Arts4530 We recognize there is a tremendous need that come to our colleges and we attend to achieve a quality of school funding we recognize there are things outside our control and one of those things is the regional cost differential with regards to construction in western north Dakota. How would we even out the cost, we thought about how could the state become involved we have taken steps down that road because we don't want that to exacerbate construction cost in other parts of the state because the state got involved and raised the bar for everybody then. There's no ability for us as educational leaders and for the state to equalize the cost of construction we can't change the way the construction companies are operating at this time and what their demand is bringing so we need to find innovative ways to meet the needs of these schools so they can do what they need to do for the kids. As an organization we do back our people out to the west and this is not an east verses west issue we recognize that they need some help and we stand behind them in their plate to do so.

Rep Ben Koppelman: Do you know, our last speaker talked about their ability to go into debt without another way to leverage and they were hoping to do this and what I heard out of that is that they were hoping to use this to make up the difference between what they could bond for and what they need, is that how you believe this program would work, I don't see where a district would have to reach their maximum indebtedness to get these monies is that true or not?

Dr. Aimee Copas: I'm not 100% sure but I do know they are hindered in the construction process because they can't get enough money they can't bond themselves and indebt themselves enough to go ahead and build their building. I'm sure this would assist in this process but I'm sure the purpose behind this is more expansive than that it is to try to even out the cost and give them a bit more of a level playing field so that at least in my own

terms this makes it feel more like to them they have more assistance so the construction cost feels like what it feels like in other areas of the state, whereas right now it cost them so much they can't get in debt to buy it that it might get him into the ball park to meet their needs.

Rep Ben Koppelman: The Bakken factor, it represents 20-40% I can see a program like this making sense when it comes to, ok here's how much extra it cost because they are getting kind of "socked" because they are in the Bakken or here's how much extra we need because we are doing as much as we can locally to bond but we can't bond enough. I get that argument and I think it's a strong argument for something like this. Is this intended to do more because I think if you start to do more than that then other districts are going to say "hold on a minute" West Fargo we have 80 million in debt. A lot of districts would tell you how much they in debt. Can you answer is that really the intent to just take care of the extraordinary cost rather than just the average cost.

Aimee Copas: Based on my best knowledge this is really to try and level out the playing field to help the areas out west to catch up. They are very far behind from the past years of the cost differential being tipped the way it is. I think if it was anything other than that we could have internal strife. I do believe the intent is to even it out best that we can we really are grappling for that is that best way to do it.

Rep Kelsh: Do you have any concerns about the equity factor being disturbed in this bill?

Aimee Copas: That is why it is good the legislature meets every two years, that this would address the need and if we need to readdress the need because it's going over and above the scope of where we wanted it to we would be able to do so in our next session. I think in the short range I doubt we will have those equity issues that we are discussing. In actuality it will probably bring these schools to greater equity than what they have seen from this stand point. This is something we cannot control the outside costs, it's beyond construction. Their Transportation cost is increasing because of the roads being so bad their busses are being beat up much faster so buss replacement is faster than it used to be. There's a number of things that are angling in on schools where our economic things have been getting the momentum is great and we appreciate it and we love it but there's always a little bit of a dual edge sword so I think we would just have to closely monitor how things are going and readdress it in the next session.

Ben Schafer: Superintendent of Ray Public School, (See attachment #3)53:00 I believe it is a direct tax relief to those who need it.

Chairman Nathe: If this bill passes would you use some of those revenues to pay some of the debt service going back to 2010

Ben Shafer: Yes

Chairman Nathe: In support of HB 1178 Opposition HB 1178

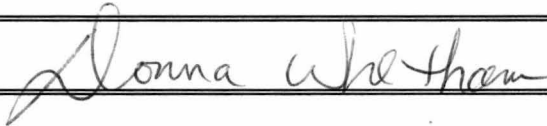
2015 HOUSE STANDING COMMITTEE MINUTES

Education Committee
Pioneer Room, State Capitol

HB 1178
2/3/2015
23100

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to mineral revenue received by school districts; to provide an effective date; and to declare an emergency.

Attachment # 1,2.

Minutes:

Chairman Nathe: Reopened the hearing on HB 1178. We have an amendment to HB 1178.(See Attachment #1). 5

Rep. Zubke: The history of gross production tax is from the 1950's, it comes from in exchange for not taxing property at the well head. 1% of that goes to the state of North Dakota and of the 4 % that is left, 75% goes to the state and 25% is to go to the counties in lieu of that property tax. It directly relates to this bill. The portion that goes to the school district, 25% goes to the general fund and 75% is deducted from there foundation aid formula payment. Then this leaves them no property tax to pay for construction. This bill takes the 75 % deducted from the foundation aid , it takes a percentage of that to go for school construction to deal with an influx of students. The bill started at 80% of the 75% but is now down to 40%. It could never exceed \$1 for \$1 in local funding and it does not let them recoup any funds from the past. (See Attachment #2). It would cost approximately \$25 milliion dollars if everyone used this to the maximum it was available.

Rep. Rohr: How would this impact the ending fund balance?

Rep. Zubke: I don't think this would affect the ending fund balance, this would be for school construction.

Chairman Nathe: It would affect the ending fund balance because we are letting them go into the general fund.

Chairman Nathe: This money could pay off a construction or remodel?

Rep. Zubke: That is correct, but remember it is dollar for dollar match for local funds.

Chairman Nathe: How much money in your example would the school keep?

Rep. Zubke: In this example of \$ 1 million dollars, \$250,000 dollars are going to the general fund, the maximum would be \$300,000 dollars for construction funding .

Rep. Koppleman: When you talk about 1to1 match, when you have the match this year you want to use the \$300, 000, would the district have to have the match money this year also?

Rep. Zubke: My understanding it is confined to the year that they use the money. Both would have to be available in that year.

Chairman Nathe: This money could be used to pay off existing bonded debt?

Rep. Zubke: If the project was done after 2010.

Rep Meier: Currently there is two bills one in the Senate as well, has anyone been tracking how it is doing?

Chairman Nathe: Are you talking about the school construction bill?

Rep Meier: Correct and how is that bill doing?

Chairman Nathe: There are two bills and they total \$250 million dollars. The bill is going through.

Rep. Hunskor: If 40% of the 75 totaled \$500,000, then the school district would have to match that?

Rep. Zubke: Yes that is how I understand that.

Rep. Hunskor: What if a wealthy person wanted to put up the match, would that be legal?

Rep. Zubke: I don't know.

Chairman Nathe: If we pass this, yes that is something they could do.

Rep. Zubke: Move to adopt amendment.

Rep. Koppleman: seconded .

A Roll Call Vote was taken. Yes: 13 No: 0 Absent: 0. Motion carried.

Rep. Zubke: Do Pass as Amended with rereferral to Appropriations.

Vice Chairman Schatz: Seconded

Rep. Kelsh: I believe wind towers and electrical lines are assessed at 75% also, is this going to open the gate for the districts that are affected by that deduct?

Chairman Nathe: We are talking about the K-12 funding formula, but it will open the door for those other industries too.

Rep. Kelsh: I was thinking if we do it for one maybe we should do it for all?

Rep. Rohr: On Page 5 of the bill line1 letter b, would we want to change the date to January 1st 2012?

Rep. Zubke: I think the intention here is that the building started in 2010 for growth and it doesn't allow catch up dollars.

Chairman Nathe: I will resist the motion because they can use this for the existing school loans, that makes me uncomfortable and why we would do this. There are other sources they can use.

Vice Chairman Schatz: I appreciate what you are saying, but what happens out in the patch and myself you do not get to tax that well, it is the only way to pay for its property. I will vote for it.

Rep. Olson: Thinking of the districts that have already raised taxes paid off the loans will not be able to benefit from this and those that didn't will.

Rep. Koppelman: I shared some concern on how far back do we go. We should allow some other deducted areas should be used. What about the districts that already did their construction but that could be made about any construction loan in program.

Chairman Nathe: We will be looking at the surge bill too.

Rep. Zubke: I believe these schools have been taken out of the surge fund bill, I think this bill corrects a wrong and makes it fair.

Rep. Olson: The gross production tax is for the oil coming out of the well, and people coming to the area wouldn't they be buying property and that would raise the tax base, then that should them catch up for the demand of school buildings.

Rep. Zubke: That is correct, but a lot of the people live in man camps and RV parksand are not building houses there. In some point in time that will catch up. But keep in mind gross production tax is in lieu of property tax.

Rep Meier: In the next 10 years Bismarck will be growing and we will be continuing to build schools as well.

Rep. Hunsakor: There is winners and losers in all areas, this is one avenue where the local school districts have skin in the game. I will support this bill.

Rep. Kelsh: My biggest problem with the bill is the inequity of it, if it was for all the school districts I would support this bill.

Rep. Zubke: This is simply dealing with the gross production tax and how it is impuded. It doesn't deal with all the districts in the state, it is unfair that we cannot tax those well heads and that gets impuded. This is simply trying to correct it.

A Roll Call Vote was taken. Yes: 8 No: 5 Absent: 0. Motion Carried.

Rep. Zubke: will carry the bill.

February 3, 2015

8/23/15

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1178

Page 4, line 28, replace "Sixty" with "Forty"

Page 4, after line 29, insert:

"b. For purposes of applying the calculation in paragraph 3 of subdivision a, the amount being subtracted in accordance with subparagraph a or b may not exceed fifty percent of a school district's revenue contribution to a qualifying project."

Page 5, line 1, replace "b." with "c."

Renumber accordingly

Date: 2/3/15
Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1178

House Education Committee

☐ Subcommittee

Amendment LC# or Description: 15.0576 .01001

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. Zubke Seconded By Rep. Koppelman

Representatives	Yes	No	Representatives	Yes	No
Chairman Nathe	✓		Rep. Hunskor	✓	
Vice Chairman Schatz	✓		Rep. Kelsh	✓	
Rep. Dennis Johnson	✓		Rep. Mock	✓	
Rep. B. Koppelman	✓				
Rep. Looyen	✓				
Rep. Meier	✓				
Rep. Olson	✓				
Rep. Rohr	✓				
Rep. Schreiber Beck	✓				
Rep. Zubke	✓				

Total (Yes) 13 No 0

Absent 0

Floor Assignment _____

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

15.0576.01001 motion carried.

Date: 2/3/14
Roll Call Vote #: 2

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1178

House Education Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☒ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep Zubke Seconded By Rep Schatz

Representatives	Yes	No	Representatives	Yes	No
Chairman Nathe		✓	Rep. Hunskor	✓	
Vice Chairman Schatz	✓		Rep. Kelsh		✓
Rep. Dennis Johnson		✓	Rep. Mock	✓	
Rep. B. Koppelman	✓				
Rep. Looyesen	✓				
Rep. Meier		✓			
Rep. Olson		✓			
Rep. Rohr	✓				
Rep. Schreiber Beck	✓				
Rep. Zubke	✓				

Total (Yes) 8 No 5

Absent 0

Floor Assignment Rep Zubke

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

REPORT OF STANDING COMMITTEE

HB 1178: Education Committee (Rep. Nathe, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (8 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). HB 1178 was placed on the Sixth order on the calendar.

Page 4, line 28, replace "Sixty" with "Forty"

Page 4, after line 29, insert:

"b. For purposes of applying the calculation in paragraph 3 of subdivision a, the amount being subtracted in accordance with subparagraph a or b may not exceed fifty percent of a school district's revenue contribution to a qualifying project."

Page 5, line 1, replace "b." with "c."

Renumber accordingly

2015 HOUSE APPROPRIATIONS

HB 1178

2015 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee Roughrider Room, State Capitol

HB 1178
2/12/2015
23794

- ☐ Subcommittee
☐ Conference Committee

Ammonia Musche

Explanation or reason for introduction of bill/resolution:

Relating to mineral revenue received by school districts; to provide an effective date; and to declare an emergency

Minutes:

Chairman Delzer: Opened hearing on HB 1178

Representative Nathe: This bill is related to deal with mineral revenue received by schools to help pay some school construction loans dating back to 2010. Originally the bill had a 70 million dollar fiscal note on it. There was an amendment proposed in committed which passed and brought the fiscal note down to 25 million dollars. Basically what it does is the fiscal note takes the 75% in lea of, takes 40% of the 75% to bring it down and that is how they got to the dollar amount in that area. There was a lot of discussion and it came up earlier before the revenue picture was clear. We had a big debate on this bill and it was a close vote. There were some assumptions with the 60-40 plan that was going on. They assumed all school districts were expected to apply for these proceeds and minerals. We had a lot of discussion on this whether the state should be involved in paying for a student's construction loan going back to 2010. Many committee members from out west felt sympathetic and supported the bill.

Chairman Delzer: Did you have any talk about all the school construction loan bills that are in the senate?

Representative Nathe: Yes and we pointed out that there were two construction loan bills over there that are other options to help schools and the committee still passed the bill.

Chairman Delzer: Closed the hearing on HB 1178.

2015 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee Roughrider Room, State Capitol

HB 1178
2/23/2015
Job #24263

- ☐ Subcommittee
☐ Conference Committee

Kenneth M. Tolson

Explanation or reason for introduction of bill/resolution:

Relating to mineral revenue received by school districts; to provide an effective date; and to declare an emergency

Minutes:

Chairman Delzer called the hearing to order on HB 1178.

Chairman Delzer: Committee, what are your wishes?

Vice Chairman Keith Kempenich: What this bill basically is doing now, it is using 50 percent of the payment would not be subtracted against. We are trying to address some of it in the impact monies, but it's still kind of, we're on the same direction, but it's on different tracks. We're running parallel. I don't think the two will ever meet. This is an ongoing issue. It's basically debt reduction of new buildings.

Representative Skarphol: I think for the purpose of insuring that we use the right terms, imputed is no longer a term that is relevant in a funding formula for K-12. It's subtracted. That's the point of this bill, that those schools that receive dollars do not have the benefit of what those oil and gas dollars represent in a bonding issue because they represent property tax. They're getting a payment in lieu of property tax. What this bill seeks to do is to recognize that at least half of that value should be allowed to be used to pay for school construction because when you bond a construction project in a school district that has oil and gas tax revenue, you are putting a higher burden on the property tax payers because of the lack of recognition of what that oil and gas tax represents. I understand Rep. Sanford's discomfort with this, but I don't believe it's been adequately recognized in the equity formula to begin with, and the cost of educating students or building buildings in certain areas of the state is much more expensive than in other areas of the state. And when you pay everybody the same, you're not recognizing those differences. And what this bill seeks to do is give some minimal recognition to that disparity. I would hope the committee could support it, and send it across to the Senate, and the ultimate discussion will take place in conference committee.

Representative Sanford: Again I will mention that this leads us down the road further of getting ourselves back into an equity war, an equity issue. Somebody is going to look at this and sue. When I looked at school districts in the west that are talking about an impact, I looked back at more than a few years ago when I was working in a couple of those school districts. They don't have as many children today as they did then. Probably not even half as many, with the impact. Their increased taxable valuation is up substantially, and these kind of things exacerbate the movement that's going on towards getting out of the equity standard. One of the things that I haven't understood yet is what's the difference between a good impact and a bad impact? Most of the impacts we're talking about are pretty good. You'd like to have more students in your school. You'd like to have more people in your community. You'd like to have your tax base grow. I think those things are happening. On the other side, some of it is really challenging. So you can't generalize. But I'm struggling with what's happening. What we've been through with two lawsuits, and we seem to be dismantling, step by step, that issue of getting back to equity.

Chairman Jeff Delzer: On the property tax side, you have a lot of other areas that have a lot of in-lieu-of property taxes as well. So it's not just a certain area, and I think this one is pretty restricted on the area.

Representative Monson: I have to agree with Rep. Sanford. It's really difficult to work with a formula that is over in the Senate at this time with a piece of legislation like 1178 that is never going to be in same committee at the same time, to get the full effect of it. So I'm not saying there isn't some merit in 1178. In order to get the whole formula, the whole picture, and to keep the equity portion, we need to look at the whole thing at one time. We can always put bits and pieces, or even the whole bill, 1178, into that formula, when we get it over here. So I would hope that we would reject this at this time, and we'll see what the whole formula looks like for K-12, and we'll do it as a whole picture instead of piece-meal.

Chairman Delzer: We need a motion one way or the other.

Rep. Kempenich: I move a Do Pass on 1178.

Rep. Skarphol. Second

Chairman Delzer: Further discussion? Seeing none, the clerk will call the roll for a Do Pass on HB 1178.

ROLL CALL VOTE TAKEN

YES: 3 NO: 20 ABSENT: 0

MOTION FAILED

Chairman Delzer: Would someone care to move the other?

Rep. Monson: Move Do Not Pass on HB 1178.

Rep. Hogan: Second.

Chairman Delzer: Any discussion? Seeing none, the clerk will call the roll for a Do Not Pass on HB 1178.

ROLL CALL VOTE TAKEN

YES: 20 NO: 3 ABSENT: 0

MOTION CARRIED

Rep. Sanford is the carrier.

Chairman Delzer: This bill basically was part of 1176, too, was it not? So the issue is still out there. It will be discussed in the second half. We have 2013 in the second half. It will certainly be discussed again.

Chairman Delzer closed the hearing on HB 1178.

Date: 2/23/15

Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1178

House Appropriations Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation:	<input type="checkbox"/> Adopt Amendment	<input type="checkbox"/> Without Committee Recommendation
	<input checked="" type="checkbox"/> Do Pass	<input type="checkbox"/> Do Not Pass
	<input type="checkbox"/> As Amended	<input type="checkbox"/> Rerefer to Appropriations
	<input type="checkbox"/> Place on Consent Calendar	
Other Actions:	<input type="checkbox"/> Reconsider	<input type="checkbox"/> _____

Motion Made By: Kempenich Seconded By: Skarphol

Representatives	Yes	No	Absent	Representatives	Yes	No	Absent	Representatives	Yes	No	Absent
Chairman Jeff Delzer		✓		Representative Nelson		✓		Representative Boe		✓	
Vice Chairman Keith Kempenich	✓			Representative Pollert		✓		Representative Glassheim		✓	
Representative Bellew		✓		Representative Sanford		✓		Representative Guggisberg		✓	
Representative Brandenburg	✓			Representative Schmidt		✓		Representative Hogan		✓	
Representative Boehning		✓		Representative Silbernagel		✓		Representative Holman		✓	
Representative Dosch		✓		Representative Skarphol	✓						
Representative Kreidt		✓		Representative Streyle		✓					
Representative Martinson		✓		Representative Thoreson		✓					
Representative Monson		✓		Representative Vigasaa		✓					
<u>2 7 0</u>				<u>1 8 0</u>				<u>0 5 0</u>			

Totals	
(Yes)	<u>3</u>
No	<u>20</u>
Absent	<u>0</u>
Grand Total	

Motion Failed

Floor Assignment: _____

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

Date: 2/23/15
Roll Call Vote #: 2

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1178

House Appropriations Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☐ Do Pass ☒ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By: Monson Seconded By: Hogan

Representatives	Yes	No	Absent	Representatives	Yes	No	Absent	Representatives	Yes	No	Absent
Chairman Jeff Delzer	✓			Representative Nelson	✓			Representative Boe	✓		
Vice Chairman Keith Kempenich		✓		Representative Pollert	✓			Representative Glassheim	✓		
Representative Bellew	✓			Representative Sanford	✓			Representative Guggisberg	✓		
Representative Brandenburg		✓		Representative Schmidt	✓			Representative Hogan	✓		
Representative Boehning	✓			Representative Silbernagel	✓			Representative Holman	✓		
Representative Dosch	✓			Representative Skarphol		✓					
Representative Kreidt	✓			Representative Streyle	✓						
Representative Martinson	✓			Representative Thoreson	✓						
Representative Monson	✓			Representative Vigasaa	✓						
<u>7</u> <u>20</u>				<u>8</u> <u>1</u> <u>0</u>				<u>5</u> <u>0</u> <u>0</u>			

Totals

(Yes)	<u>20</u>
No	<u>3</u>
Absent	<u>0</u>
Grand Total	<u>23</u>

Floor Assignment: Sanford

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

REPORT OF STANDING COMMITTEE

HB 1178, as engrossed: Appropriations Committee (Rep. Delzer, Chairman)
recommends **DO NOT PASS** (20 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed HB 1178 was placed on the Eleventh order on the calendar.

2015 TESTIMONY

HB 1178

HB 1178 Testimony:

#1

#1
HB 1178
1/19/15

Mr. Chairman and Members of the House Education Committee.

For the record I am David Rust, Senator from District 2 in NW ND.

I am here in support of HB 1178 which addresses the repayment of school construction loans from a school district's share of oil and gas gross production taxes (GPT).

A number of school districts in oil country have been forced to build new schools or classroom additions due to rapidly increasing enrollments. The objective of the bill is for those school districts to use all or part of its GPT to pay off their bonded indebtedness for those new buildings or additions prior to having those dollars deducted at 75% through the state aid formula.

There was some concern that a school district's GPT could pay the entire amount of the bonds, so 3 (b) of subsection 5 on page 4 of the bill was inserted to prevent that. I'm really not sure if that will happen, but I suppose it is possible.

The concept was that no district should be able to pay off more than 80% of the construction loan with GPT as the school district should have some "skin in the game."

A credit of 80% of 75% equates to 60%; hence that language in lines 28 and 29. It was also stated that way for ease of administering the state aid payment.

The bill will allow schools that incurred bonded indebtedness as far back as January 1, 2010 to use their GPT if:

- 1) the project was approved by 60% of the voters of the district, OR
- 2) the cost of the project is in excess of \$500,000 and received approval from DPI.

The effective date of this bill is July 1, 2015 and it does contain an emergency measure.

Some may object to this as it violates "equity." I would remind them that education is "equalized" through the formula, school construction is not. Schools constructing buildings in the most parts of ND get somewhere around 30% to 40% more for their dollar as their construction costs are significantly lower than for schools located in the Bakken. There's even a term for those increased costs; it's called "the Bakken premium."

For that matter, I'm not aware of many schools in areas other than oil country being forced into building or buying four-plexes or homes to house teachers--no housing, no teachers.

Taxpayers are forced to pay for buildings as a result of the influx of people. Being able to use GPT dollars to pay off those bonds would be like a "Bakken Equity Equalization Factor."

I really could go "on and on" about this subject. I know you will have others who will testify on the bill. I urge you to give this bill a "Do Pass."

Thank you.

2

HB 1178

1/19/15

**HB 1178
Testimony
House Education Committee
January 19th, 2015**

Re: Support for HB 1178

Good afternoon Chairman Nathe and members of the House Education Committee. For the record, my name is Steve Holen and I am the current superintendent of schools for the McKenzie County Public School District #1 in Watford City. I am here to testify in support of HB 1178 and the concept behind the use of oil and gas production tax revenue for school construction.

School districts have been included in the oil and gas gross production tax formula since its creation decades ago. The production tax formula was designed to provide in lieu of property tax revenue to the political subdivisions in areas of which oil development is occurring and property tax is not collected on the actual drilling and extraction of oil and gas. Since school districts are a large contributor to the local property tax base obligation; school districts received GPT to offset lost local property tax base and capacity. Following the 2007 legislative session; school district's receiving gross production tax revenue were required to have it "imputed" as part of the state foundation aid program. In 2007, school districts were required to impute 60% of the GPT revenue and in 2008, that amount increased to 70%. In 2013; legislation changed the imputation process to a pure subtraction in the state foundation aid formula and increased the percentage to 75%. At this time; school districts receiving this in lieu of revenue are required to subtract 75% of this amount from their direction allocation of state foundation aid payments from DPI regardless of its use.

The process of including the gross production tax revenue in the calculation of state foundation aid revenue, which is designed for local school district general operating expenses, is understandable and consistent with equity and adequacy pursuits. However, the capacity to service debt through bond issues for school construction is not equalized by the state of North Dakota and is simply based on the taxable valuation of the school district looking to issue the bonds. Given the nature of the GPT to be in lieu of property tax and since property tax leveraged for school construction in "normal" situations does not affect the foundation aid formula; the use of GPT revenue for school construction should not be subtracted from the school district's general operating expenses capacity through the state foundation aid formula.

The challenges of school construction in areas impacted by oil development are numerous. These areas are forced to leverage its local tax base; which is already highly impacted by infrastructure needs at the city and county levels. Patrons are fine with having "skin in the

game”, but they simply want to know the taxes paid by the oil companies can be accessed for school construction and reduce local property tax burden. Reducing this revenue by 75% does not allow for effective use of the GPT revenue for debt repayment and actual property tax relief. The cost of construction in oil-impacted areas is higher than other areas of the state and by at least a 25-30% factor. The varying levels of school construction costs can easily be documented in the state to verify the higher costs associated with construction in the western portion of the state. The GPT paid by oil companies can be used to help leverage this cost inflation if the concept involved with HB 1178 is implemented into the foundation aid program.

Equity is not defined by doing the same for everyone; but ensuring all aspects of funding affect school districts in a similar manner. The GPT revenue collected by school districts should not be treated differently than “normal” property tax capacities of all districts in the state. The oil industry has the obligation to invest in school infrastructure that is impacted by the employment force required to produce the oil and gas. Allowing the use of GPT revenue to be used for school construction and debt service helps equalize the school construction disparity currently present in the state and offer “true” property tax relief to the citizens with high tax burdens in oil impacted areas.

The North Dakota Association of School Administrators legislative focus group has unanimously approved its endorsement of the concept outlined in HB 1178. The use of GPT revenue for school construction does not affect school equity in the foundation aid formula, but it addresses an inequity in school construction capacity present with the GPT formula and its intent to represent a local tax base and to be leveraged for school infrastructure needs. HB 1178 helps provide a needed lifeline to oil impacted school districts for school construction and helps put them on a level playing field with its non-oil producing school district counterparts in terms of school construction.

I ask for your full support of the concept presented in HB 1178 and the equity it attempts to provide to those school districts that receive gross production tax revenue.

3
HB 1178
1/19/15

HB 1178

Jan. 19, 2015

Ben Schafer, Supt. of Ray, ND

Mr. Chairman and members of the committee. I am the Superintendent of Ray Public School in Ray, ND. I stand in support of HB 1178. We all know what has gone on the past few years in the Western part of our state. This legislation is something that was worked on in the interim and supported unilaterally by our NDCEL legislative focus group, which represents our entire state.

When all of this began, the people of Ray decided they did not want to 'waste' tax dollars on temporary buildings. The people of the district, a group who have been supportive of education, passed a bond issue by over 90% yes vote. This has been absolutely necessary to provide the best education we are able over the past few years.

Currently, within our district, there are 600 homes to be built out. If this comes to fruition we will most likely go back to the people for another bond issue vote. I don't feel as if most local people are feeling as many positive ramifications as negative in Ray and towns like ours. To ask them to build again would be unfair in my opinion.

This bill, which includes monies for debt service back to 2010, will provide much needed DIRECT tax relief for those people who have lost their way of life while their taxes increased. With costs soaring and the differences in cost to build in Eastern vs. Western North Dakota I believe that this legislation can provide a way for schools to stay equitable regardless of geography.

15.0576.01001
Title.

Prepared by the Legislative Council staff for 2/3/15
Representative Zubke
January 23, 2015

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1178

Page 4, line 28, replace "Sixty" with "Forty"

Page 4, after line 29, insert:

"b. For purposes of applying the calculation in paragraph 3 of subdivision a, the amount being subtracted in accordance with subparagraph a or b may not exceed fifty percent of a school district's revenue contribution to a qualifying project."

Page 5, line 1, replace "b." with "c."

Renumber accordingly

HB 1178

#2
2/3/15

Levy Fund	Maximum Levy per HB 1013 (2013 session)
General Fund	70 (60 subtracted through state aid formula)
Miscellaneous Funds	12
Special Reserve	3
Building Fund	Up to 20 if voted by the people
Sinking and Interest Fund	Set by a vote of the people for construction

School District Current GPT Example	
GPT Distribution	\$1,000,000
Foundation Aid Deduction (75%)	\$750,000
GPT Funding to General Fund	\$250,000

School District HB 1178 GPT Example	
GPT Distribution	\$1,000,000
GPT Funding to General Fund	\$250,000
Construction and Debt Funding (40% of \$750,000)	Max. \$300,000
Local dollar for dollar match required	
Foundation Aid Deduction	Min. \$450,000

**Construction and Debt Funding Dollars Could Only
be Used as Follows:**

- ◆ Placed in the Sinking and Interest Fund to pay off bonded debt. Since this is a specified levy to pay off bonds, any amount placed in that fund would reduce the levy placed on the taxpayers of that district. It would have no effect on the district's General Fund.
- ◆ Placed in the Building Fund to pay off a school construction or remodel that must be at least \$500,000 and approved by the DPI. It would have no effect on the district's General Fund.

Why January 1, 2010?

Many school districts have already begun, or completed, school construction projects that they are now paying for through financing that was approved by bond issuance approved by the voters. This date allows those districts to receive funding for those approved projects going forward, it is not retroactive that a school district will not receive dollars already paid in years 2010 through 2014.

Gross Production Tax (GPT) is "in lieu of property tax"

- ◆ GPT is considered local revenue for school districts that receive funds
 - ◆ GPT distributions go to the school district General Fund
- ◆ 75% of GPT distribution dollars are deducted from foundation aid

The Property Tax Impact			
	Current Funding with GPT	With Property Tax on Oil Well Site	The property tax impact for a school district can be seen in this example. The district issues a construction bond for \$10,000,000 on a 20 year term. The district has a total taxable value of \$20,000,000, thus 25 mills are necessary to service the payment of the bonds. If the district was able to include the valuation of oil development (i.e. the well site including pump jack, tanks, etc.) the valuation of the district would increase. In this scenario an assumption of \$5,000,000 taxable valuation increase for the district. This is figured on 100 oil wells at a true and full value of \$1,000,000 for each well site. With the increase in valuation the mills necessary is reduced to 20, resulting in savings of \$45.00.
Taxable Value	\$20,000,000	\$25,000,000	
Construction Bond	\$10,000,000	\$10,000,000	
Bond Term	20 Years	20 Years	
Mills Needed	25.00	20.00	
Residential Value	\$200,000	\$200,000	
Property Tax Increase	\$225.00	\$180.00	