

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1311

2005 HOUSE EDUCATION

HB 1311

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1311**

House Education Committee

☐ Conference Committee

Hearing Date **19 Jan 05**

Tape Number	Side A	Side B	Meter #
2	x		4000- end
		x	0 - 2200

Committee Clerk Signature



Minutes:

**Chairman Kelsch opened the hearing on HB 1311.**

**Rep. Mueller introduced the bill.** Some school districts lost state aid because their mill level requirement of 140 mills was not reached for reasons over which they had no control.

**Rep. Jon Nelson, District 7,** testified on behalf of the bill. **(Testimony attached.)**

**Rep. Sitte:** Have any of those school districts impacted now reached 140 mills.

**Nelson:** No, they have not. Some are in the consolidation process, one school district is dissolved and land valuation added to the other which brought them to the 18% level. If we don't raise the mill level to 150 this session, those districts will still have that problem.

Increasing the districts' land valuation when consolidating causes some problems and they need some time consideration to get out of this mess and we need to assist. When they reach 18%, they must drop their mill level and that's where the problem lies.

Page 2

House Education Committee

Bill/Resolution Number **HB 1311**

Hearing Date **19 Jan 05**

**Doug Johnson, assistant executive director, ND Council of Educational Leaders**, testified in support of the bill. **(Testimony attached.)**

**Steve Dick, superintendent of Velva Public School District**, testified in favor of the bill.

**(Testimony attached.)**

**Debbie Marshall, superintendent, TGU School District #60**, testified in favor of the bill.

**(Testimony attached.)**

**Sen. Ryan Taylor, District 7**, spoke in support of the bill. We need to be reasonable in giving folks a chance to comply, the present time line is not reasonable. I urge your favorable consideration of this measure.

There was no opposing testimony.

**Vice Chairman Johnson closed the hearing on HB 1311.**

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1311**

House Education Committee

☐ Conference Committee

Hearing Date **31 Jan 05**

Tape Number	Side A	Side B	Meter #
1		x	1600 -2211

Committee Clerk Signature



Minutes:

**Chairman Kelsch** opened discussion of HB 1311. She asked the wishes of the Committee.

**Rep. Herbel:** I do sympathize with they did get penalized because they could not get to that 140 mil, I still feel they have gotten some benefits from years before that. They weren't at the 185 or 200 mil like many other schools had to be because of the conditions and circumstances that they were in. I probably won't support this bill.

**Rep. Hawken:** Did these districts not get the reorganization bonus?

**Rep. Mueller:** In one case they did. TGU did. I understand what Rep. Herbel is saying and certainly there may be some legitimacy to that, but they really were playing by the rules. They were doing exactly what it was we ask them to do. I think in all cases they would have gone to 140 mils to make sure they weren't jeopardized, but the law also didn't allow them to do that. That's the argument about this and for the bill. They and we thought they had 2 years but DPI said not.

**Rep. Hunsakor.** I agree with Mueller. In visiting with the people from TGU, Towner, Granville, Upham, that's exactly what they're saying. We did everything the way we were supposed to and all of a sudden the rug was pulled out from under us. We don't think that's fair because we followed the rules.

**Rep. Mueller:** I move a **Do Pass and rerefer to Appropriations.**

**Rep. Johnson:** I **Second.**

**Rep. Herbel:** We request back then, \$119,000, from that \$500,000 reorganization?

**Chairman Kelsch:** I think that would stay the same.

**Rep. Mueller:** I don't want to be a broken record, but we in essence did some things to them that we didn't intend and certainly beyond their control and it's only fair we give back to them.

A roll call vote was called.

**Yes: 11 No: 3 Absent: 0 The motion passed and HB 1311 will be rerefered to Appropriations.**

**Rep. Mueller will carry the bill.**

Date:  
Roll Call Vote #:

31 Jan 05  
1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1311

House Education Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken *No pass + refer to appropriation*

Motion Made By *Mueller*

Seconded By *Johnson*

Representatives  
Chairman Kelsch  
Vice Chairman Johnson  
Rep. Haas  
Rep. Hawken  
Rep. Herbel  
Rep. Horter  
Rep. Meier  
Rep. Norland  
Rep. Sitte  
Rep. Wall

Yes No  
✓  
✓  
✓  
✓  
✓  
✓  
✓  
✓  
✓  
✓  
✓

Representatives  
Rep. Hanson  
Rep. Hunskor  
Rep. Mueller  
Rep. Solberg

Yes No  
✓  
✓  
✓  
✓

Total (Yes)

11

No

3

Absent

0

Floor Assignment

*Mueller*

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

**REPORT OF STANDING COMMITTEE (410)**  
January 31, 2005 12:52 p.m.

**Module No: HR-20-1424**  
**Carrier: Mueller**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1311: Education Committee (Rep. R. Kelsch, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (11 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HB 1311 was rereferred to the Appropriations Committee.**

2005 HOUSE APPROPRIATIONS

HB 1311

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1311

House Appropriations Committee  
Education and Environment Division

☐ Check here for Conference Committee

Hearing Date February 4, 2005

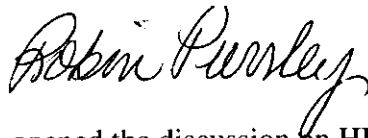
Tape Number  
1

Side A  
X

Side B

Meter #  
3.2 - 5.4

Committee Clerk Signature



Minutes: Chairman Martinson opened the discussion on HB1311.

**Rep. Kelsch, Chairman of House Education Committee** The purpose behind HB1311 was also when in conference committee we added in that you had to go to 140 mills, each school district had to at least be at 140 mills. The understanding we had at the time for the Department of Public Instruction was that each of these school districts would have two years to get up to 140 mills. However that was a wrong interpretation, they only had a year to get up to 140 mills. In current law there is a cap - you can only go up 18% per year in your mills. Some of these schools were not able to get up to 140 mills so their state aid was reduced. This \$119,000 was put in to basically hold a couple of those school districts harmless because it was an error of ours. The \$119,000 is something that if it can be found, fine. If not, they will be held harmless.

**Chairman Martinson** How many school districts?

**Rep. Kelsch** TGU, Mott-Regent, Velva, Lewis & Clark. Four.

**Vice Chairman Brusegaard** Are they all at 140 mills now?

Rep. Kelsch No. In '03 - '04 Mott-Regent was at 138.59, Velva 136.31, TGU (Towner, Granville and Uphand) was at 131, and Lewis and Clark (Berthold) at 139. They will be there.

**Vice Chairman Brusegaard** They've all committed to be there?

**Rep. Kelsch** Yes.

**Chairman Martinson** Closed discussion on HB1311.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1311

House Appropriations Committee  
Education and Environment Division

☐ Check here for Conference Committee

Hearing Date February 7, 2005

Tape Number	Side A	Side B	Meter #
1	X		14.5-16.4

Committee Clerk Signature

**Minutes: Chairman Martinson** opened hearing on HB1311.

**Vice Chairman Brusegaard** I move Do Pass on HB1311.

**Rep. Aarsvold** Second

**Vice Chairman Brusegaard** At last session we required school districts to get up to 140 mills. Part of the problem was some districts were only able to go up so many mills a year they could not get up to that. Two or maybe three districts are all working, raising their mills up as fast as they are allowed to, to get up to the minimum mill levy we set. The feeling is they should not be punished because they are doing all they can to met a state mandate.

**Chairman Martinson** This effected four districts. Mott, Velva, TGU, and Lewis and Clark.

**VOTE: 5 YES and 1 NO with 0 absent. DO PASS. Vice Chairman Brusegaard will carry to the full committee.**

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1311

Appropriations for eligible School Districts receiving reduced amounts of State Aid

House Appropriations Full Committee

☐ Conference Committee

Hearing Date February 8, 2005

Tape Number

1

Side A

Side B

X

Meter #

#23.4 - #28.7

Committee Clerk Signature

*Chris Alexander*

Minutes:

**Rep. Ken Svedjan, Chairman** opened the hearing on HB1311.

**Rep. Bob Martinson** explained that this bill appropriates a small amount of money to four school districts who received less money in foundation aid because their general fund levy fell below 140 mills because of a reorganization or dissolution of a contiguous district. The 4 districts are Mott, Velva, Grandville and Lewis and Clark.

**Rep. Bob Martinson** moved a Do Pass motion on HB1311.

**Rep. Pam Gulleon** seconded.

**Rep. Ken Svedjan, Chairman** clarified that the amount in the bill was \$119,000 and that it was a separate appropriation..

**Rep. Bob Martinson** answered that this was correct and that it broke out into 15,000.00 for each per year.

**Rep. Jeff Delzer** asked about the taxing situation and if there were certain limits. How long can this last before they can go up because they are still below the average.

**Rep. Bob Martinson** answered that these are problems that we will have to look at for years to come because the situation is not going to get any better.

**Rep. Bob Skarphol** asked why the districts fell below the 140 mills. Is there some sort of mechanism that doesn't allow them to come up to the 140? Can you clarify the language of the bill?

**Ms Roxanne Woeste** from Legislative Council answered that there are statutory limits to how much districts can raise their mill levies and some districts didn't have the time to raise their levies because of the reorganization. (meter Tape #1, side B, #26.2)

**Rep. Al Carlson** asked if this is a line item in the budget of the Dept. for Public Instruction.

**Rep. Ken Svedjan, Chairman** answered that this was not in the budget for DPI and that this was a direct appropriation to these 4 schools.

**Rep. Bob Martinson** answered that this bill really should have come directly to the appropriations committee since this is actually an appropriation

**Rep. David Monson** asked if this money was left over from the 2003-05 biennium or if this was a new appropriation out of 2005-07.

**Rep. Bob Martinson** answered that yes, this was new money in 2005-07.

**Rep. Ken Svedjan, Chairman** called for a roll call vote on the Do Pass motion for HB1311.

The motion carried with a vote of 20 yeas, 2 nays, and 1 absence. Rep Mueller will carry the bill to the house floor.

**Rep. Ken Svedjan, Chairman** closed discussion of HB1311.

Date: 2.7.05  
Roll Call Vote #:

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1311

House Appropriations Education and Environment

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

DO PASS

Motion Made By

Rep. Brusegaard

Seconded By

Rep. Aarsvold

**Representatives**  
Chairman Martinson  
Vice Chairman Brusegaard  
Rep. Rennerfeldt  
Rep. Wald

Yes No

☒ ☒ ☒

**Representatives**  
Rep. Aarsvold  
Rep. Gulleason

Yes No

☒ ☒

Total

6

(Yes)

5

No

1

Absent

Floor Assignment

Rep. Brusegaard

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

Date: **February 8, 2005**  
Roll Call Vote #: **1**

**2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. HB1311**

House Appropriations - Full Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken **DO PASS**

Motion Made By **Rep Martinson** Seconded By **Rep Gulleson**

<b>Representatives</b>	<b>Yes</b>	<b>No</b>	<b>Representatives</b>	<b>Yes</b>	<b>No</b>
Rep. Ken Svedjan, Chairman	X		Rep. Bob Skarphol		X
Rep. Mike Timm, Vice Chairman	X		Rep. David Monson	X	
Rep. Bob Martinson	X		Rep. Eliot Glassheim	X	
Rep. Tom Brusegaard	AB		Rep. Jeff Delzer		X
Rep. Earl Rennerfeldt	X		Rep. Chet Pollert	X	
Rep. Francis J. Wald	X		Rep. Larry Bellew	X	
Rep. Ole Aarsvold	X		Rep. Alon C. Wieland	X	
Rep. Pam Gulleson	X		Rep. James Kerzman	X	
Rep. Ron Carlisle	X		Rep. Ralph Metcalf	X	
Rep. Keith Kempenich	X				
Rep. Blair Thoreson	X				
Rep. Joe Kroeber	X				
Rep. Clark Williams	X				
Rep. Al Carlson	X				

Total Yes **20** No **2**

Absent **1**

Floor Assignment **Rep Mueller (Education)**

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

**REPORT OF STANDING COMMITTEE (410)**  
February 8, 2005 2:36 p.m.

**Module No: HR-25-2161**  
**Carrier: Mueller**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1311: Appropriations Committee (Rep. Svedjan, Chairman)** recommends **DO PASS**  
(20 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). HB 1311 was placed on the  
Eleventh order on the calendar.

2005 SENATE EDUCATION

HB 1311

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1311

Senate Education Committee

☐ Conference Committee

Hearing Date 03/08/05

Tape Number	Side A	Side B	Meter #
1	x		5890-end
1		x	0-2645

Committee Clerk Signature *Patty Wilkens*

**Minutes : to provide an appropriation for eligible school districts receiving reduced amounts of state aid.**

**Senator Freborg :** Call the meeting to order on **HB 1311**

**Doug Johnson :** Assistant Executive Director----NDCEL introduced the bill

**See Attached : written testimony**

**Senator Flakoll :** Listed on printout of pg. 3 with Mott, Regent, Velva, TGU, Lewis and Clark.

They were all within 18 % of a 140 mills. Right?

**Doug Johnson :** No, they were not able to reach the 18 %.

**Senator Flakoll :** I see TGU was the lowest at 122?

**Doug Johnson :** Yes, that is correct and by going up to the 18 % brought them up to 131 mills, which was below the amount.

**Senator Flakoll :** My math, if I take 1.18 times 122 I come up with approx. 143 ish.

**Doug Johnson :** If I remember correctly, this situation was at the deadline date for TGU to take the issue to a vote for the people to raise the mill on.

**Senator Flakoll :** Was there any discussion in the House about where anyway of taking it out of current biennium funds? When will payment occur?

**Doug Johnson :** There was no discussion on that at the time. I know that our temp. was went through the AG's office to get that initially in the fall of 2003.

**Senator Flakoll :** I really am confused, I am curious when the payment might go out.

**Doug Johnson :** We put in a request if it could be pd in this last biennium by the AG's request and that was denied by AG. So when we did go to the outside on the hearing in January, the question was asked.

**Representative Nelson :** From Dist. 7.

**See attached : written testimony**

**Senator Flakoll :** Were the inability's to get to 140 mills if you look at straight numbers it looks like they could. Was it b/c they were pulled down some by the reorganization in terms of what they could do? I don't have a problem with the bill, I just trying to get our brain wrapped around it

**Rep Nelson :** That is exactly the situation, there are two districts that are here today to speak individually to their needs. As the situation a occurred, Velva for example had a dissolution around them that brought in 166 sections of land into their district. Prior to that they would have met the threshold, TGU had the same situation with the Willow City School district dissolving and complicating the fact that by the time of the valuation from surrounding counties b/c it is a multi-county school district, come in October when it can't be used. So you make assumptions as

to what valuations are going to be and sometime they are right and sometimes wrong. In each of these cases it involved special event, dissolution or of a school district for example that cause them to get into that situation.

**Steve Dick** : Superintendent of Velva School presented committee with a chart and explained this. There were not many concerns at first b/c they were under the understanding that they had two years to reach the 140 mill. This was the Legislatures intent when they passed the law, DPI interpreted the Law differently and then went to the AG and asked for the opinion and he agreed with DPI. If we would have had the two yrs. we wouldn't have had a problem reaching the 140 mills, the problem in Velva's case was the timing, we couldn't reach the 140 mills the first yr. I feel that DPI has used the wrong taxable valuation when they said the amount of money that Velva would lose, that is the reason for the discrepancy in the bill between 119,000.00 and 128,000.00 something like that. In other schools cases they used the first yr. of the biennium taxable valuation, where in Velva's case they used the second yr. I am not sure why that was done, but as a result Velva tends to lose 24,355.33, making the bill about 5,000.00 dollars short.

**Debbie Marshall** : TGU Superintendent

**See attached : written testimony**

**Opposition of bill**

**None.**

**Jerry Coleman** : Indicated that he was there just to provide information to the committee, he handed out charts and explained them to the committee. Regarding the 140 minimum levy deduct, asking for clarification specifically what districts are to be declare eligible for deficiency payments.

**See attached : written explanation, and charts.**

**Senator Flakoll :** Are you proposing that we list them by name and amount? Example

Mott-Regent, 9257.00

**Jerry Coleman :** That would make life easier for me.

**Senator Taylor :** I can appreciate that it would probably make life somewhat easier, but I think the definition is there. If we look at the districts impacted, are there not only 4 districts who have contiguous, dissolution or reorganization resulting in this situation?

**Jerry Coleman :** Those details I guess I am not aware of, we would have to do some research on that. I am not aware of how many lost the money b/c they didn't increase being capped at 18 %. For money here and today is that 4 districts would be affected and I assume that those would have been TGU, Mott-Regent, Lewis and Clark and Velva.

**Senator Flakoll :** As this is presented to us when would you anticipate the payments would be going out.

**Jerry Coleman :** The bill appropriates the money for the next biennium. After Aug. 1 st. next yr. we would be able to make that distribution.

**Senator Flakoll :** Maybe I had a bad start out this morning to confuse me, but with the 119, thousand plus change, it is not really referenced anywhere, and there is not a fiscal note with it. How does that all play out? Did you understand my question at all?

**Jerry Coleman :** Are you asking whether there was a fiscal note done on this? I don't recall.

**Senator Flakoll :** There is no fiscal note with it, no reference with another bill HB 1311?? I am wondering where is the money?

**Jerry Coleman :** It is in 1311, it specifically says there is appropriated out of any money the sum of 119,917.00. So 1311 actually appropriates the money.

**Senator Taylor :** To clarify, when the bill actually states an appropriation, fiscal note isn't attached to it? So it is its own fiscal note?

**Jerry Coleman :** Indicated yes.

**Senator Freborg :** Should we note have had a fiscal note with 1311.

**Jerry Coleman :** Senator Taylor I understood your comment b/c the bill has the appropriation then a fiscal note is not necessary.

**Senator G. Lee :** Some of my question is answered but say we fix this this time, will there be any other problems in the future going forward with the way the bill is or the law is written? Or will this just be a one time fix?

**Jerry Coleman :** I guess I don't know the answer to that. If the actual problem was not being able to adjust for new land coming into a school district as a result of dissolution's in the case of these two districts here. I don't know if there isn't a fix in law that could reoccur.

**Senator Freborg closed hearing on HB 1311.**

other minutes later in the afternoon of March 8th, 2005

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1311

Senate Education Committee

☐ Conference Committee

Hearing Date 03/08/05

Tape Number	Side A	Side B	Meter #
Afternoon discussion	X		0-2165 action & amendment
3			2330-3513
3	x		

Committee Clerk Signature

*Patty Wilkins*

**Minutes : to provide an appropriation for eligible school districts receiving reduced amounts of state aid.**

**Senator Freborg :** Call the meeting to order on **HB 1311**

**Senator Freborg asked Tom Decker to come up to the podium.**

**Tom Decker :** DPI.

**Senator Freborg :** I just need to know one thing, could these schools have eliminated this problem, was there any opportunity at all to have gotten their levy, other words could they have adopted a budget, prior to the deadlines, which would have automatically increased their levy?

**Tom Decker :** In the case of TGU that got land through dissolution and also Velva who got land through dissolution that might have been extremely difficult b/c there is significantly increase the

valuation apportionment, starting from a lower levy than they had anticipated, so they couldn't make up the difference.

**Senator Freborg :** So their levy actually went down right?

**Tom Decker :** Said that was right b/c they could only levy the same dollar as they could the yr. before or 18 % more, when you get the big increase in valuation, when raising the same levy your levy goes down. This is the unfortunate consequences of good fortune.

**Senator G. Lee :** So you are saying they couldn't avoid what happened?

**Tom Decker :** No, Senator Lee , I don't think the two districts that got their land through the dissolution's could have, the timing was such that the big increase in valuation, that pushed their levies down to the point that they couldn't get them back above 140 mills.

**Senator Taylor :** In the future say another minimum was set at 145 or 150, there is a way we can put a time line in that if another school would come into this situation where they have a one yr. two yr. window, to bring that mill levy up to the minimum, would that be your advise if you could do that all over again. Would that be a way to remedy this?

**Tom Decker :** I am not sure that this would have been possible to anticipate this at the time we passed this legislation, that the timing of this would all come together, the way that it did for these districts. Any time you change the law, high school districts or some district will likely to experience some adverse consequences from it.

**Senator Flakoll :** Off the top of your head, is there taxable value per student, increase?

**Tom Decker :** I could check that, but I am reasonably certain the answer to that is yes. When they have a big bunch of new valuation and probably very few students that their valuation per student went up.

**Senator Flakoll :** So, they might win twice here?

**Tom Decker :** Again, this is the unfortunate consequences of good fortune.

**Senator Flakoll :** We had a certain hand in this current situation but in the future it could stand to reason that someone that is at 142 mills who picks up land through dissolution in the future, could have a somewhat similar situation arise?

**Tom Decker :** That is very possible.

**Senator Flakoll :** This is slightly unrelated, but when I heard it I was bothered hopefully unjustifiably so, but the one case they said that when they received the reorganization bonus, to help them reorganize they were able to drop their mill levy, is that a common occurrence?

**Tom Decker :** I heard that to, they must have chosen to drop their levy or there was a combination of circumstances again, getting 500 thousand dollars put their ending balance over the critical point, then they were subject to a deduct on that end. So, really your kind of in a box. You can get a deduct for being over the ending balance, or you can lower your levy and generate less money locally, so that you are not over that levy.

**Senator Freborg :** Did that bonus raise their ending fund balance, to where they lost money?

**Tom Decker :** I don't think so, I have not heard that, and I could double check that but I don't think so.

**Senator Flakoll :** I believe the ending fund balance on the groups were 35, 17, 17 % and I couldn't find the Lewis and Clark one, quickly while going through this, so I don't think that would probably get it.

**Tom Decker :** We didn't hear any testimony on the House side and hear that they had any trouble with the ending fund balances.

**Senator Freborg :** Is that something we should think about in the future?, Of course we may not have bonuses, but if we did, is it fair to give them a bonus to reorganize and then withhold some payments b/c they push their ending fund balance over?

**Tom Decker :** This whole series of issues is kind of or raising some big questions that you all probably have to decide eventually. When you change the law or provide something in the law, will you hold every district that's affected adversely some way by those changes harmless?

**Senator Freborg :** I don't know if we are or not.

**Tom Decker :** That is the general issue here.

**Senator Taylor :** When we put a law in place we should of repealed the 18 % limitation on their ability to raise the tax, or else we've set them a goal that they cannot achieve with two conflicting laws.

**Tom Decker :** It could be that you could say in law that districts who get a bonus for reorganization are exempt for a year or two from that ending fund balance bonus to give them time to spend that money wisely.

**Senator Freborg :** This bill doesn't deal with a fix, just deals with a hold harmless.

**Senator Erbele :** 8,000.00 to Velva, I don't have an understanding of that.

**Senator Freborg :** I didn't listen to much beyond the bill. Perhaps other areas they could add a little money onto if we want to look at that. They are asking for 119,917.00 and that is all we are considering. I would have to believe that any other legitimate request would have been in the bill. They have been talking about this for a long time, it didn't come up just yesterday.

**Senator Taylor :** I think we would have to choose to amend the bill if we were to do that, but it was a miscalculation when the bill was drawn when they put that figure in based on Velva's

previous valuation rather than the new valuation, I believe with the dissolution. This is the bill as it came from the House with this figure here.

**Senator Flakoll :** I am leaning toward the support of the bill, or the intent of the bill, I just hope we don't get into a rash b/c with 1154 we changed some weighting categories and those kind of things. When we get into a situation where someone says before you change the law, what have you got this now, and so forth.

**Senator Freborg :** If we are concerned about what the weighting factors will do, we can make some adjustments before we pass that bill or kill it.

**Senator Taylor :** Other discussion aside, as we change the law, folks are expecting to do something, whether it is to come to 140 mills that we are reasonable in their ability to do that. We do have some school districts that would have been at 142 or 143 mills, and that was our goal. With that change was to get these districts above 140 mills. They can't help it if a district next to them decides to dissolve, and through the property at them and it is out of their control. If they could just allow this reasonable amount of time for these folks to do what we ask them. They raised the full 18 % and this wasn't enough and there seems to be two conflicts here and I would certainly support the bill as is without an amendment, and move it along.

**Senator Freborg :** Tom, was this 119,000.00 in the three hundred thousand dollars Jerry spoke of as recapture money?

**Tom Decker :** The answer to that is no.

**Senator Freborg :** We did recapture this money. This money was withheld.

**Tom Decker :** True, from these districts for one reason or another, from the 140 mills. That's true.

**Senator Freborg :** So when he said the fraction of 300,000.00 dollars would that not have been in this?

**Tom Decker :** It should have been that's true, so the total being withheld from all districts was that much, now we are going to pay 119,000.00 of it back out on this.

**Senator Freborg :** Is all that money being distributed? There is a payment left I think.

**Tom Decker :** I think there is. Well, in the fact that really all foundation aid dollars and there is money left there is one payment left, so there is money in the pool. June 1 I think is the deadline that the last payment would go out.

**Senator G. Lee :** In terms of this bill it isn't specific to these for the \$ amt. is are we going to lump anyone else into this pile?

**Tom Decker :** Jerry gave you a hand out that shows you in detail what the impact is on districts of the 140 mills of other related consequences that led to some of these things. The totals on his spread sheet were not the same number. So Jerry raised the issue this morning and we discussed it before you came down. It is not clear in the bill, where the 119,000.00 dollars goes, so he was serious when he said we need to know where the money goes.

**Senator G. Lee :** So if our intent is to give these four district the money, we should say that.

**Tom Decker :** It should say it somewhere, if you all are comfortable and you think the auditors will be comfortable with having it in the record of having it in this hearing, this is clearly understood, that these are the districts that are involved otherwise put it in the bill.

**Senator Flakoll :** On the Jerry printout, 140 mill deduct, applied at March payment, so some of that is still out there then, right? Second part of the question is that the total recapture goes towards redistribution from all schools including those that are under 140 mills?

**Tom Decker :** I think what Jerry said this morning is correct, that the money that we recaptured from the 140 mills was to be distributed on supplemental payments that goes to identified set of districts on a formula.

**Senator Freborg :** Those are the dollars I was asking, how much is left to distribute. My thought is that if we collected the money and it went to that fund, we ought to pay it back out of that fund if we are going to do it.

**Tom Decker :** I am sure the accountant can show that, cause there is still payment to make out of there.

**Senator Freborg :** Well then it would be easy to withhold that amt. of money and return it.

**Senator Taylor :** Just reading this as LC drew it up in terms of what school districts. I think the language is here and tell me if you would agree. The purpose of reimbursing eligible school districts that receive reduced amounts of state aid, so reimbursing those that received a reduction, then it goes in further that it defines it, the eligible school district is one that received the reduction during the second yr. of the 03-05 biennium b/c the levy fell below 140 mills as a result of reorganization or dissolution of a contiguous district. When you combine the reimbursing along with that definition, I think it does direct the Department to those four school districts, reimbursed would take you to the four separate amounts. I think the direction is there as counsel drew it up.

**Senator Freborg :** It is only the districts that fell under 140 mills b/c of reorganization. No other districts would qualify even though they lost.

**Senator Taylor :** Correct

**Senator G. Lee :** Were these districts all affected by reorganization or disillusionment? We heard from Velva and TGU, but I am not sure about these others.

**Tom Decker :** Lewis and Clark reorganized, Mott-Regent reorganized but quite some time ago.

**Senator Freborg :** How long ago, Tom?

**Tom Decker :** I would have to call, but at least four yrs. ago.

**Senator Freborg :** We need to find out b/c the time line is such that we would need to find out about it.

**Tom Decker :** Said he would check on that date.

stopped tape for some discussion

tape back on

**Senator Flakoll :** I don't write these things, I try to, understanding the terminology of eligible school districts but it says that received reduced amts. of state aid for the biennium beginning July 1st, 2005 and ending July 30 th, 2007. Then this goes back to talk about the eligible school districts about some receiving a reduction of state aid during the second yr. so on and so forth. I am not sure why they put received reduced amts of state aid for the biennium beginning 2005-2007?

**Senator Freborg :** Would you like to have time to check that language? Explain to the committee what is significant about the second set of dates?

**Senator Flakoll :** I thought originally it was something to do with when that money is paid out b/c of the shortfall in the second year of the biennium 03-05 but I am trying to.....

**Senator Taylor :** It does read a little odd until you look at where the commas are here, but lets see if I can put it in a little different context for you. Appropriate in the sum of 119 thousand dollars or as much as necessary to the Supt. of Public Instruction for the purpose of reimbursing eligible school districts that received reduced amounts of state aid, so that's who he gives it to. Then you have comma, for the biennium begin in July 1, 05 and ending June 30th, 07 that refers back to the 119 thousand dollars that is coming in the biennium of 05-07 for reimbursing and then goes into defining the reimbursing is for something that happened in 03-05. I am not sure that I made this any clearer, the money is coming out of the 05-07 biennium.

**Senator Flakoll :** I think Senator Taylor and myself said the same thing. It is just that if you were to walk onto this thing kind of cold and not know what appears to be legislative intent would you also consider?.....

**Senator Freborg :** We can assume that the bill is correct. I believe Tom is checking to see when they went through the reorganizations.

**Tom Decker :** Mott-Regent was reorganized effective July 1, 2001.

**Senator Freborg :** Why would they be in here then.

**Tom Decker :** We don't (Jerry and I) have a clear answer to that.

**Senator Freborg :** What would you do if we amend the bill to say that we would reimburse the eligible districts?

**Tom Decker :** Who's going to decide who is eligible and who isn't?

**Senator Freborg :** We are assuming that some of this group certainly is, you would have to determine which ones are. I don't think they are, if their reorganization was complete in 2001. They should not be exempt.

**Tom Decker :** Based on the discussion that we had here, it is very clear that TGU and Velva have some common circumstances, that relate to the bill. I think we could probably sort through based on the language of who to determine the eligibility of Lewis and Clark, but not today.

**Senator Freborg** closed hearing on **HB 1311**

**opened HB 1311 back up**

**Senator Flakoll :** I am not sure how long you want to prolong this but it would seem, or we should have amendments with would appear to be the three school's that would be eligible, that being Velva, TGU and Lewis and Clark. There is about a 9 thousand dollar difference the way it looks, with Mott-Regent out of it. Maybe we should have amendments that list them specifically and vote it up or down. Specifically by amount.

**Senator Freborg :** It does say eligible school districts, I don't believe that they would be eligible if the reorganization was complete in 2001.

**Senator Flakoll :** That is the only one which would be Mott-Regent, which would be 9 thousand plus change. We could put Velva, TGU and Lewis & Clark. We could put the correct dollar amt. on these three schools as well. This could all go into the amendment.

**Senator Taylor :** I think you could do it with the language that is in the bill right now. It does say as much as would be necessary.

**Senator Freborg :** If you wish Senator Flakoll lets mend the bill. We would need to subtract the 9,258 dollars from appropriations.

**Senator Flakoll :** The motion is to subtract the 9 thousand plus and list the schools and the amts. they are getting. Would you like me to read the amts.?

**Senator Freborg : Sure**

**Senator Flakoll :** Velva would get 24,355.00 dollars, the second would be TGU getting 93,514.00 and third and final would be Lewis & Clark at 1,321.00, this would not include any moneys for Mott-Regent, and renumbered accordingly.

**Senator Taylor second the motion**

**discussion:**

**Senator G. Lee :** How do we know these are the right numbers. How do we know this is the right information.

**Senator Freborg :** Senator Flakoll didn't finish his motion, or so much appropriation maybe necessary to reimburse these districts.

**Senator Erbele :** If you add the sum of 119,917.00 in the bill and the numbers that Senator Flakoll read off, it would decrease the amt. by 727.00 dollars.

**Senator Taylor :** That's b/c Doug Johnson mentioned that by rights that 119 thousand should have been 128 thousand b/c they were dealing with the wrong numbers. To answer Senator G. Lee what we have right now are actually the DPI numbers that Jerry provided, if you look at the big print out on pg. 3 of 6. These are the most correct numbers.

**Senator Freborg :** Do you all understand the motion? We will look at this before anything happens and hopefully you will be comfortable with this.

**Clerk took the roll call vote on the Flakoll amendment : 6 yea, 0 nay, 0 absent.**

**Senator Flakoll** moved a Do Pass as amended to **HB 1311** and re-referred to appropriations.

**Senator Taylor** second the motion.

**Hearing no other discussion the clerk took the roll call vote : 6 yea, 0 nay, 0 absent**

Page 12

Senate Education Committee

Bill/Resolution Number HB 1311

Hearing Date 03/08/05

**Senator Taylor** will carry the bill.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1311

Page 1, line 5, replace "119, 917" with "119,190"

Page 1, line 11, after the period insert "Only the affected districts listed will receive the following reimbursements:"

Page 1, after line 11, insert:

Velva 1	\$24, 355
TGU 60	93, 514
Lewis and Clark	1, 321

Renumber accordingly

Date: 1/16/05  
Roll Call Vote #:

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1311

Senate SENATE EDUCATION

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Amendment Velwa, TGU, Lewis

Motion Made By

Flakoll

Seconded By

Taylor

Senators  
CH- SENATOR FREBORG  
V-CH- SENATOR G. LEE  
SENATOR ERBELE  
SENATOR FLAKOLL

Yes No  
✓  
✓  
✓  
✓

Senators  
SENATOR SEYMOUR  
SENATOR TAYLOR

Yes No  
✓  
✓

Total (Yes)

6

No

0

Absent

Floor Assignment

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

Date: 3/8/05  
Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1311

Senate SENATE EDUCATION

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass as amended rereferred to appo  
Motion Made By Flakoll Seconded By Taylor

Senators  
CH- SENATOR FREBORG  
V-CH- SENATOR G. LEE  
SENATOR ERBELE  
SENATOR FLAKOLL

Yes No  
✓  
✓  
✓  
✓

Senators  
SENATOR SEYMOUR  
SENATOR TAYLOR

Yes No  
✓  
✓

Total (Yes) 6 No 0

Absent

Floor Assignment Taylor -

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

**REPORT OF STANDING COMMITTEE**

**HB 1311: Education Committee (Sen. Freborg, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1311 was placed on the Sixth order on the calendar.

Page 1, line 5, replace "\$119,917" with "\$119,190"

Page 1, line 11, after the period insert "The following affected districts listed are entitled to receive reimbursements:

Velva 1	\$24,355
TGU 60	93,514
Lewis and Clark	1,321"

Renumber accordingly

2005 SENATE APPROPRIATIONS

HB 1311

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1311

Senate Appropriations Committee

☐ Conference Committee

Hearing Date March 17, 2005

Tape Number

1

Side A

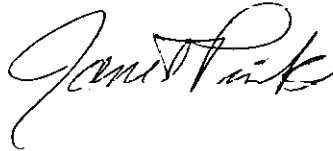
a

Side B

Meter #

2690 - end side a

Committee Clerk Signature



Minutes:

**Chairman Holmberg** opened the hearing on HB 1311.

**Senator Ryan Taylor, District 7, Towner**, discussed HB 1311 indicating this bill compensates for those school districts that didn't reach the mill levy and had events that stuck them between laws. **Senator Krauter** asked which district is TGU 60. The response was Towner, Grandville and Upham.

**Representative John Nelson, District 7, Wolford**, testified in support of HB 1311 indicating that one of the districts that had been on the list was removed because the Department of Public Instruction ruled they did not qualify according to their interpretation.

**Chairman Holmberg** as if he would characterize this as unintended consequences a more accurate term here. The response was yes.

**Senator Kilzer** asked these school districts received reorganization bonuses. The response was yes TGU and Lewis and Clark did.

**Senator Kilzer** asked how much each received from the bonus. The response was up to \$500,000.

**Senator Andrist** asked if it was his understanding that these districts will reach the required 140 mills this year. The response was yes, two of the three will be over that.

**Senator Krauter** asked about the 140 mill not qualifying because it was the 2nd year of the biennium. The response was yes, the reorganizations took place prior to this bill. DPI chose to take one of the schools out because they were one or two years late.

**Senator Krauter** asked if the formula was based on the prior two years. The response was according to DPI they didn't qualify.

**Debby Marshall, Superintendent, TGU District #60**, distributed handouts and testified in support of HB 1311 describing what transacted and why their school district is included in this bill. The handout described two scenarios and how this district is impacted by two conflicting laws.

**Senator Christmann** what the budget would reflect if he went to the auditors office today. The response indicated what was budgeted and what was received.

**Senator Kilzer** asked what happened with the funds when Willow City dissolved. The response was the TGU received \$23,000.

**Senator Robinson** asked what is projected over the next five years in enrollments. The response was the enrollments are declining.

**Senator Holmberg** asked how large their enrollment is today. The response is 325 and next year will loose 40.

**Doug Johnson, Assistant Executive Director, ND Council of Educational Leaders,**

distributed a handout and testified in support of HB 1311 discussing the efforts made to get the required mill levy and that both school districts had dissolved districts added which made it difficult to reach the 140 mill.

**Senator Krauter** asked to have an explanation as to why Mott Regent was taken out of this. The response was it was the ruling of DPI.

**Senator Krauter** asked about Lewis and Clark and was there a dissolved school district involved. The response was we would have to ask DPI.

**Senator Holmberg** asked who the person at DPI was that made the decision. The response was Jerry Coleman

**Senator Christmann** asked if we still had a provision, where enrollments declined and money remained, does that money go to the school districts. The response was that it is supposed to.

**Senator Holmberg** ask LC if Legislators have an option to say the first specific amount of money goes to a specific location. The response was the Legislative assembly did provide for contingent expenditures.

**Senator Christmann** indicated that by this time DPI should have a handle on their enrollments and we could get a feel for whether there would be funds.

**Chairman Holmberg** indicated DPI would be contacted and be present to answer questions on Friday morning.

**Chairman Holmberg** closed the hearing on HB 1311.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1311

Senate Appropriations Committee

☐ Conference Committee

Hearing Date March 18, 2005

Tape Number

1

Side A

x

Side B

Meter #

2479-3232

Committee Clerk Signature



Minutes:

**Chairman Holmberg** called the hearing to order for HB 1311 explaining that several questions were raised in the original hearing..

**Gerry Coleman, Department of Public Instruction (DPI)**, appeared to at the request of Chairman Holmberg, to respond to questions on HB 1311. Mr. Coleman indicated that the bill dealt with the dissolution and resolution of school districts. The schools that originally qualified for this bill were the Lewis and Clark School, Mott/Regent School, TGU district, and Velva. He indicated the Mott/Regent reorganization happened several years earlier and the problem was they didn't know the property valuation at the time the mill levy was set.

**Chairman Holmberg** indicated the committee was told Mr. Coleman was the one that made the ultimate decision to drop a school district from this provision. The response was that he was only questioned about which tax valuation was used when making the decision.

**Senator Robinson** indicated Mr. Coleman testified that this reorganization happened several

Page 2

Senate Appropriations Committee

Bill/Resolution Number 1311

Hearing Date March 18, 2005

years ago and that was not the testimony we received so I am confused and still confused. The response was that the direct language in the bill was referring to districts involved in resolution and dissolution.

**Chairman Holmberg** asked that Mr. Coleman visit with DPI and put together a history of what happened and get that information to Senate Appropriations and we will refer the information to the subcommittee to meet on.

**Chairman Holmberg** closed the discussion.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1311

Senate Appropriations Committee

☐ Conference Committee

Hearing Date March 23, 2005

Tape Number

1

Side A

a

Side B

Meter #

765

Committee Clerk Signature



Minutes:

**Chairman Holmberg** opened discussion on HB 1311. An amendment was distributed and it would remove the money from the general fund and take it from the \$2.1 million that will be paid to schools this biennium.

**Senator Fischer** moved was made to accept the amendment 0201. Senator Robinson seconded and a voice vote was taken. The motion carried.

**Senator Robinson** moved a **DO PASS WITH AMENDMENT**, Senator Mathern seconded and a roll call vote was taken resulting in 12 yes, 0 no and 3 absent.

**Chairman Holmberg** closed the discussion on HB 1311.

Date 3/23/05  
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 1311

Senate SENATE APPROPRIATIONS

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 50569.0201 .0300

Action Taken

Motion Made By

Robinson

Seconded By

Mather

Senators	Yes	No	Senators	Yes	No
CHAIRMAN HOLMBERG	/		SENATOR KRAUTER		
VICE CHAIRMAN BOWMAN	/		SENATOR LINDAAS	/	
VICE CHAIRMAN GRINDBERG			SENATOR MATHERN	/	
SENATOR ANDRIST	/		SENATOR ROBINSON	/	
SENATOR CHRISTMANN	/		SEN. TALLACKSON	/	
SENATOR FISCHER	/				
SENATOR KILZER	/				
SENATOR KRINGSTAD					
SENATOR SCHOBINGER	/				
SENATOR THANE	/				

Total (Yes)

12

No

Absent

3

Floor Assignment

Holmberg

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

**REPORT OF STANDING COMMITTEE**

**HB 1311, as amended, Appropriations Committee (Sen. Holmberg, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). HB 1311, as amended, was placed on the Sixth order on the calendar.

In lieu of the amendments adopted by the Senate as printed on page 773 of the Senate Journal, House Bill No. 1311 is amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 37 of chapter 667 of the 2003 Session Laws, relating to contingent payments; and to declare an emergency.

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

**SECTION 1. AMENDMENT.** Section 37 of chapter 667 of the 2003 Session Laws is amended and reenacted as follows:

**SECTION 37. CONTINGENT PAYMENTS - DISTRIBUTION.** If any moneys appropriated for per student payments and transportation payments in the grants - state school aid line item in Senate Bill No. 2013 remain after payment of all statutory obligations for per student and transportation payments during the biennium beginning July 1, 2003, and ending June 30, 2005, the superintendent of public instruction shall distribute the remaining moneys as follows:

1. The superintendent of public instruction shall use the first \$119,190, or so much of that amount as is necessary, for the purpose of reimbursing eligible school districts that received reduced amounts of state aid. For the purposes of this subsection, an eligible school district is one that received a reduction in state aid during the second year of the 2003-05 biennium because the district's general fund levy fell below one hundred forty mills as the result of a reorganization or the dissolution of a contiguous district. The following affected districts listed are entitled to receive reimbursements:

<u>Velva 1</u>	<u>\$24,355</u>
<u>TGU 60</u>	<u>93,514</u>
Lewis and Clark	<u>1,321</u>

- ~~2.~~ 3. The superintendent of public instruction shall use the ~~first~~ next \$250,000, or so much of that amount as is necessary, for the purpose of providing reimbursements to the chief administrators of joint powers agreements pursuant to section 19 of this Act.
- ~~2- 3.~~ 4. The superintendent of public instruction shall use the next \$1,000,000, or so much of that amount as is necessary, for the purpose of providing reorganization bonuses, pursuant to section 15.1-12-11.1, to school districts having reorganizations effective after July 1, 2003, and before July 1, 2005. If insufficient moneys exist to fully meet the requirements of this subsection, the superintendent of public instruction shall prorate the payments according to that percentage of the amount available to which a school district is entitled.
- ~~3- 4.~~ 5. The superintendent of public instruction shall use the remainder of the moneys to provide additional per student payments on a prorated basis,

according to the average daily membership of each school district during the 2004-05 school year.

**SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

2005 TESTIMONY

HB 1311

HB 1311  
19 Jan 05

Good Morning Madam Chairman and members of the House Education Committee. For the record my name is Jon Nelson and I serve in the ND House of Representatives in the 7th district. It is a pleasure for me to appear before your committee this morning to introduce HB 1311.

At the end to the last session, several amendments to the K-12 funding bill were added in conference committee. Among those was a provision that required school districts that did not have a mill levy of at least 140 mills, the difference between the actual mill levy and 140 mills would be subtracted from that districts foundation aid payment. It was my understanding and I think the understanding of many of this committee that school districts would have two years to comply with this provision.

When DPI began implementation of this provision though, they used 2003 valuations which caused an immediate impact for schools that could not meet the 140 mill threshold. This affected in particular four school districts that were in the process or just completed reorganization or dissolution within their school districts.

HB 1311 attempts to correct this misunderstanding regarding the implementation of this provision and reimburse these four districts the money that was withheld them.

I hope this committee will continue the policy of promoting school districts that become more efficient rather than penalizing them. Each one of these districts are viable districts and stand out as examples of leaders in creating a template for rural North Dakota school district models for the future. It would be very unfortunate to allow this policy to inhibit further progress.

Please consider a DO PASS recommendation on HB 1311 and thank you for your consideration.

## DISTRICTS IMPACTED BY 140 MILL MINIMUM

School districts which lost foundation aid lost during the 2003-04 school year because reorganization, consolidation or dissolution of a school district caused their mill level to fall below the 140 mill requirement as established in SB 2421 of the 2003 legislative session.

School District	2002-03 Levy	2003-04 Levy	2003 Valuation	Diff 140 mills	Loss 04-05
Mott/Regent	140	138.59	\$6,565,972	1.41	\$9,258
Velva 1	137.1	136.31	\$5,288,329	3.69	\$19,514
TGU 60	122.92	131.3	\$10,748,684	8.7	\$93,514
Lewis & Clark	141.8	139.85	\$8,809,662	0.15	\$1,321
		TOTALS	\$24,254,162	13.95	\$123,607

School districts which lost foundation aid lost during the 2003-04 school year because their mill level to was below the 140 mill requirement as established in SB 2421 of the 2003 legislative session. Bold districts may be eligible for 18% mill cap by NDCC 57-15-14.

School District	2002-03 Levy	2003-04 Levy	2003 Valuation	Diff 140 mills	Loss 04-05
Golden Valley	112.26	133.87	\$1,190,035	6.13	\$7,295
Zeeland	114.01	131.02	\$2,651,267	8.98	\$23,808
Bowline Butte 1	108.78	119.78	\$425,788	20.22	\$8,609
Horse Creek 32	49.92	77.61	\$1,073,791	62.39	\$66,994
Bakker 10	108.66	106.71	\$625,453	33.29	\$20,821
Union 12	91.18	67.44	\$593,084	72.56	\$43,034
Spiritwood 26	132.06	132.11	\$3,035,728	7.89	\$23,952
Eureka 19	133.86	138.53	\$824,800	1.47	\$1,212
Sweet Briar	59.19	75.71	\$350,024	64.29	\$22,503
Central Elementary#32	73.46	79.91	\$1,401,715	60.09	\$84,229
Marmath #12	65.81	76.07	\$912,881	63.93	\$58,360
Rhame #17	130.27	139.5	\$2,078,882	0.5	\$1,039
Sheets #14	97.71	125.19	\$396,991	14.81	\$5,879
Billings Co.	38.12	41.63	\$4,767,753	98.37	\$469,004
Strasburg 15	127.34	139.7	\$2,906,311	0.3	\$872
Alexander 2	138.87	136.02	\$2,720,221	3.98	\$10,826
Oberon 16	128.01	115.55	\$954,784	24.45	\$23,344
Belcourt 7	0	0	\$307,058	140	\$42,988
Mandaree 36	97.28	98.58	\$71,006	41.42	\$2,941
		TOTALS	\$27,287,572		\$917,714

# Testimony on HB 1311

By

**Dr. M. Douglas Johnson, Assistant Executive Director—NDCEL**

Madam Chairman and members of the Committee, my name is Doug Johnson and I am the assistant executive director of the ND Council of Educational Leaders which represents North Dakota's school leaders. I am here to testify in support to HB 1311.

During the 58<sup>th</sup> Legislative Assembly, SB 2421 was passed into law. This law required that school districts have a minimum mill levy of 140 mills which includes the general fund, high school tuitions, and high school transportation. However, Section 57-15-14 of the NDCC limits schools to 185 mills in their general fund and also limits their general fund levy increases to 18 percent each year if they are under the 185 mill cap. In order for a district to comply with this new administrative rule, a district would have to be in violation of 57-15-14. Further, districts which have recently reorganized are not, by law, able to increase their mill levy beyond those stated in their reorganization plan. In addition, it was the legislative intent of this bill to have the law go into effect on July 1, 2004. School districts, by law, must levy mill increases at the next regular election upon resolution of the school board (57-15-14). School districts who would have to meet the new administrative rule would not be able to increase their mill levy until after the deadline date established for filing reports for foundation aid payment by the Department of Public Instruction. Consequently, those school districts would not be able to increase their mill levy as directed by law and would lose foundation aid payment for the 2003-04 school year. It was our belief that the law was intended to be applicable to school districts for the 2004-05 school year, giving them the needed time to follow current statute for increasing mill levies for their district.

An Attorney General's opinion on the above questions was sought by representative Jon Nelson and Philip Mueller. The AG's office disagreed with the questions that were asked and concurred that NDDPI could enact the requirement as of July 1<sup>st</sup>, 2003 because this had been past practice in calculating a district's final mill levy. Consequently, school districts that had been dissolved or reorganized were not able to meet the requirement of the law as changed by SB 2421.

HB 1311 allows for four school districts who were impacted by this law to be eligible to receive compensation for money lost during the 2003-04 school year because they could not, because of reorganization or dissolution, meet the 140 mill levy requirement. The calculated amount for this compensation is \$123,607. I have included in my testimony all information related in our efforts to rectify this problem for these four school districts.

Thank you for your attention and I encourage you to give HB 1311 a Do Pass recommendation. I will be happy to answer any questions that you might have regarding this testimony.

**North Dakota**  
**Council of**  
**EDUCATIONAL LEADERS**



September 12, 2003

The Honorable Jon Nelson  
4680 71st NE  
Wolford, ND 58385

Dear Representative Nelson:

The North Dakota Council of Educational Leaders (NDCEL) is asking for your help in resolving a problem, which is significantly impacting some North Dakota school districts. I will attempt to explain this problem based on a call I received from the superintendent of the Velva School District on Thursday, September 11, 2003. Steve Dick, Velva superintendent, called with the following problem:

The Velva School District, through the dissolution of the Butte School District, has added an additional 166 sections of taxable land to its taxable value. This increased the Velva School District's total taxable valuation and consequently lowered Velva's mill rate to approximately 110 mills. The superintendent applied the required maximum 18 percent increase to the Velva budget as directed in Section 57-15-14 of the NDCC which states that the aggregate amount levied each year by any school district may not exceed the amount in dollars which the school district levied in the prior years plus 18 percent up to a general fund levy of 185 mills on the dollar of the taxable valuation of the district. Applying the 18 percent rule established in section 57-15-14 of the NDCC brought the Velva School District up to 132 mills which was still 8 mills short of the required 140 mills as established by SB 2421.

In June, the NDDPI issued an administrative rule which placed the requirements of SB 2421 into effect on July 1, 2003. Because of this ruling, the Velva School District could not reach the required minimum 140-mill levy this coming school year without being in violation of NDCC 57-15-14. The only other option for the Velva School District was to pass a resolution to increase their mill levy at the next regular election. The Velva School Board met on Thursday, September 11, 2003 and decided their constituents would not support a tax increase at this time. Consequently, the Velva School District stands to lose approximately \$50,000 in foundation aid payment because it cannot meet the obligations of SB 2421 as interpreted by NDDPI administrative rule.

The NDCEL has been very concerned about this issue since the NDDPI issued its administrative rule on SB 2421 in June of this year. The NDCEL does not believe the intent of SB 2421 was to have it in effect as of July 1, 2003, but was intended by the legislators to go into effect on July 1 of 2004. On July 8, 2003 the NDCEL asked representatives Jon Nelson and Phil Mueller to seek

Representative Jon Nelson  
Page 2  
September 12, 2003

an Attorney General's opinion on the apparent conflicts in NDCC 57-15-14, SB 2421, and the administrative rule for SB 2421 established by the NDDPI. As of this writing, there has been, to our knowledge, no opinion issued on this question. We ask that you assist us in resolving this issue by checking on the status of the Attorney General's opinion and encourage that the opinion be issued as soon as possible.

If you have any additional questions regarding this issue, please feel free to give me a call. We would appreciate any help that you can give in resolving this issue.

Sincerely,

M. Douglas Johnson  
Assistant Executive Director

mc

Enclosure: July 8, 2003 Letter to the North Dakota Attorney General



Wayne Stenehjem  
ATTORNEY GENERAL

STATE OF NORTH DAKOTA  
OFFICE OF ATTORNEY GENERAL

STATE CAPITOL  
600 E BOULEVARD AVE DEPT 125  
BISMARCK, ND 58505-0040  
(701) 328-2210 FAX (701) 328-2226

LETTER OPINION  
2003-L-41

September 26, 2003

Honorable Phillip Mueller  
State Representative  
1632 101st Avenue SE  
Wimbledon, ND 58492-9309

Honorable Jon Nelson  
State Representative  
4680 71st Street NE  
Wolfford, ND 58385-9536

Dear Representatives Mueller and Nelson:

Thank you for your letter asking about several matters relating to the amendment of N.D.C.C. § 15.1-27-05 in Senate Bill No. 2421, which was passed during the special session of the 2003 Legislature. Senate Bill No. 2421 is almost identical to Senate Bill No. 2154, which was passed during the regular 2003 legislative session, and then vetoed by Governor John Hoeven. The language amending N.D.C.C. § 15.1-27-05 was in Senate Bill No. 2154, and later included in Senate Bill No. 2421.

Section 15.1-27-05, N.D.C.C., specifies some of the computations the Department of Public Instruction (hereafter, "Department") must make to determine the amount of state payments due school districts. Section 15.1-27-05, N.D.C.C., directs the Department to add together various state payments<sup>1</sup> and from that total subtract certain amounts. Senate Bill No. 2421, which amends N.D.C.C. § 15.1-27-05, provides that after June 30, 2004, the Department shall subtract or deduct an additional amount under certain circumstances as follows:

If the mills levied by the [school] district for general fund purposes, plus the mills levied for high school transportation and high school tuition purposes are fewer than one hundred forty, [the Department shall subtract] the number of mills by which the district's levies are below one hundred forty multiplied by the taxable valuation of property in the district.

<sup>1</sup> These payments are tuition apportionment payments, per-student payments, special education aid, and teacher compensation payments. N.D.C.C. § 15.1-27-05.

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September 26, 2003

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2003 N.D. Sess. Laws ch. 667, § 10, codified at N.D.C.C. § 15.1-27-05(1)(c) (emphasis added).

You ask when the deduction required by subdivision c of subsection 1 of N.D.C.C. § 15.1-27-05 goes into effect. Senate Bill No. 2421 clearly states this provision is "[e]ffective after June 30, 2004"; thus, it is my opinion that this deduction goes into effect on July 1, 2004.

The Department indicated that in doing the computations under N.D.C.C. § 15.1-27-05(1)(c) after June 30, 2004, it will use the school district's mill levy determined by October 10, 2003. You ask whether this is proper.

The response to this question depends upon the filing requirements in state law. By October 10 of a year, school districts must have their budgets and tax levies finally determined for that current fiscal year. N.D.C.C. §§ 57-15-13, 57-15-31.1. The taxes levied must then be certified to the county auditor. N.D.C.C. § 57-15-32. On or before December 15, each school district must file with the Department the taxable valuation and mill levy certifications. N.D.C.C. § 15.1-27-02(2). Thus, by December 15, 2003, school districts must file with the Department the mill levies determined October 10, 2003, and certified to the county auditor. These taxable valuation and mill levy certifications are used, among other things, to determine state aid under N.D.C.C. ch. 15.1-27. Before November 1, 2004, the Department must make the computations required by N.D.C.C. ch. 15.1-27 in order to determine the state aid due school districts for the 2004-05 school year. N.D.C.C. § 15.1-27-01(3), (4). When the Department does these computations on or before November 1, 2004, the most recent mill levy certifications filed with the Department will be those determined October 10, 2003, and filed with the Department on or before December 15, 2003. The Department has traditionally used the information filed with the Department on the preceding December 15 when computing deductions under N.D.C.C. § 15.1-27-05 for a particular school year. See N.D.A.G. 2000-L-23; cf. Zenith School Dist. v. Peterson, 81 N.W.2d 764, 768 (N.D. 1957) ("The fact that [state aid] payments each year were to be computed upon the records of the previous year is of no significance. The payments were for the year in which they were made, but because complete records were not available for that year at the time the payments were made, they were, as a matter of convenience, computed on the previous year's records.").

Given the timing in the statutes requiring the October 10 certifications to be filed with the Department on or before December 15, and the Department's requirement to determine state aid by November 1, it is my opinion that the mill levies the Department should use to determine the deduction under N.D.C.C. § 15.1-27-05(1)(c) for state aid for the 2004-05 school year are the October 10, 2003, mill levies filed with the Department on or before December 15, 2003.

## LETTER OPINION 2003-L-41

September 26, 2003

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An argument may be made that even though school districts are not required to file their mill levies determined by the October 10, 2004, deadline with the Department until December 15, 2004, the Department should still use the October 10, 2004, mill levies to compute state aid under N.D.C.C. ch. 15.1-27, by November 1, 2004, for the 2004-05 school year. A review of the legislative history is helpful.

The idea of applying a deduction if a school district is levying less than a certain number of mills was discussed by the Senate Education Conference Committee between April 15 and April 22, 2003, when considering Senate Bill No. 2154. The conference committee considered whether the provision should be effective after June 30, 2004, or after June 30, 2005. The conference committee solicited feedback from representatives of the Department. Hearing on S.B. 2154 Before the Senate Education Conference Comm., 2003 N.D. Leg. (Apr. 21).

The Department provided to the conference committee, on April 21, 2003, a document which states: "For purposes of determining deductions from state aid under 15.1-27-05, mill levy and taxable valuation data from the most recently completed school year is used." This document includes a table which indicates that for the 2004-05 school year the state aid deduction under N.D.C.C. § 15.1-27-05(1)(c) would be determined by using the mill levy of the school district for the preceding school year. The document also states: "Data for state aid calculations is one year behind data for local levy purposes." Hearing on S.B. 2154 Before the Senate Education Conference Comm., 2003 N.D. Leg. (Apr. 21) (Testimony of Jerry Coleman).

The conference committee determined that the language should be effective after June 30, 2004. This legislative history indicates that the conference committee was aware that when state aid computations would be done for the 2004-05 school year, the Department would use the October 10, 2003, mill levies reported by the school districts on or before December 15, 2003.

Currently there are school districts that levy less than 140 mills for general fund, high school transportation, and high school tuition purposes. Section 57-15-14, N.D.C.C., generally limits the increase in a school district's budget to 18% above the previous year, up to a general fund levy of 185 mills. You ask whether the 18% increase limit in N.D.C.C. § 57-15-14 conflicts with the provision in N.D.C.C. § 15.1-27-05(1)(c) effective after June 30, 2004, that requires a deduction related to the number of mills a school district levies below 140 mills. It is my opinion that these sections of the law are not in conflict.<sup>2</sup> The amendment in N.D.C.C. § 15.1-27-05(1)(c) will not require a school district to levy a

<sup>2</sup> In interpreting statutes, the goal is to harmonize statutes and avoid conflict. Ebach v. Ralston, 469 N.W.2d 801, 804 (N.D. 1991). In enacting a statute, it is presumed the Legislature knows the law and is aware of previously enacted statutes. Olson v. N.D. Dept. of Transp. Director, 523 N.W.2d 258, 260 (N.D. 1994).

## LETTER OPINION 2003-L-41

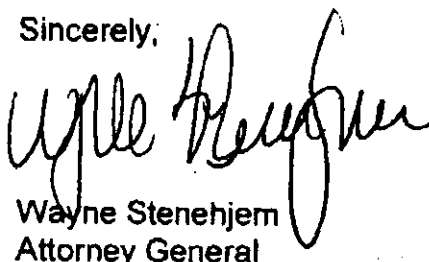
September 26, 2003

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minimum of 140 mills for general fund, high school transportation, and high school tuition purposes. The amendment simply provides that if the levy for those purposes is less than 140 mills, then the deduction applies. A school district that increases its budget by 18% and still has not reached a 140 mill levy will simply be unable to levy 140 mills unless there is some other means under state law to increase their levy, for example, pursuant to N.D.C.C. § 57-15-01.1 or N.D.C.C. § 57-15-14.

You indicate there are some school districts which have formed a new school district through the school district reorganization process under N.D.C.C. ch. 15.1-12. You state their reorganization plans specify a set number of mills for their first year of operation and that the reorganization plan must be voted on and approved by the electors of each of the districts involved in the reorganization. See N.D.C.C. §§ 15.1-12-10, 15.1-12-11. You ask, if the reorganization plan is voted on and approved and it sets the 2003-04 levy for general fund, high school transportation, and high school tuition purposes under 140 mills, can the new school board vote to increase the levy to 140 mills. As I indicated previously, the amendment in N.D.C.C. § 15.1-27-05(1)(c) will not require a school district to levy a minimum of 140 mills for general fund, high school transportation, and high school tuition purposes. The amendment simply provides that if the levy for those purposes is less than 140 mills, then the deduction applies. The addition of the deduction related to the number of mills levied under 140 mills in N.D.C.C. § 15.1-27-05(1)(c) does not authorize a change in the reorganization plan. The reorganization plan must be complied with as written, or an attempt can be made to get a majority of the qualified electors to agree to a change in the reorganization plan. See N.D.C.C. § 15.1-12-21.

Sincerely,

Wayne Stenehjem  
Attorney General

las/pg

HB 1311  
19 Jan 05



**VELVA PUBLIC SCHOOL DISTRICT No. 1**  
101 FOURTH STREET WEST ★ P.O. Box 179  
VELVA, NORTH DAKOTA 58790  
PHONE 701.338.2022 ★ Fax 701.338.2023

Mr. , Madam, Chairman and members of this committee. My name is Steve Dick. I am the Supt. Of the Velva Public School District in Velva, N.D.

I am in favor of HB 1311 and I would like to give you a brief background of the Velva Public School Districts problem of not being able to reach the 140 mills when the law went into effect in school year 2003-2004.

School Year	Taxable Valuation	Tax Year	Mill Levy	Dollars Levied
2001-2002	\$4,974,733.00	2000	145.74	\$725,000.00
2002-2003	\$5,037,893.00	2001	143.91	\$725,000.00
2003-2004	\$5,288,239.00	2002	137.10	\$725,000.00
2003-2004	\$5,288,239.00			
	\$1,105,582.00	Tax Valuation Received From Butte School District		
2003-2004	\$6,393,821.00	Taxable Valuation For Foundation Aid Purposes		

2004-2005	\$6,600,361.00	2003	136.31	\$899,702.58
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These are the figures DPI is using in determining the amount of money we will lose for not being at 140 mills.  $140.00 - 136.31 = 3.69$  mills X \$,600,361.00 = \$24,355.33

2005-2006	\$6,667,152.00	2004	148.27	\$990,000.00
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In October of School Year 1999-2000 The Butte School District decided that this would be their last year and they would become a non-operating District for the next 3 years. After these 3 years they would reorganize. This reorganization took place in June 2003.

The problem became the timing in all of this. The Legislature's intent was one date, DPI's determination was another date and the Attorney General issued an opinion favoring DPI.

# TGU SCHOOL DISTRICT #60

**TGU Towner & TGU Granville Schools**

Debby Marshall, TGU Superintendent

TGU School District #60  
PO Box 270  
Towner, ND 58788  
701-537-5414

TGU Towner  
PO Box 270  
Towner, ND 58788  
701-537-5414

TGU Granville  
210 6th St SW  
Granville, ND 58741  
701-728-6641

HB 1311  
19 Jan 05

TO: Honorable Members of the House Education Committee

FROM: Debby Marshall, TGU Superintendent  
*Debby Marshall*

DATE: Wednesday, January 19, 2005

RE: Testimony Supporting HB 1311

Towner, Granville and Upham Schools reorganized as the TGU School District #60 on July 1, 2001. TGU was one of the first school districts in the state to receive the \$500,000 reorganization bonus. The newly reorganized district educated students at three schools (TGU Towner, K-12; TGU Granville, K-12; and TGU Upham, K-3) and covered 944.22 land sections. At the conclusion of the 2002-2003 school term, due to projected declining enrollments and to increase cost efficiency, the TGU Upham School was closed. Those students have continued their education at either the TGU Towner or TGU Granville Schools.

On June 30, 2003, the Willow City School District dissolved. As a result, TGU School District was awarded 41.90% of their taxable valuation expanding the TGU District's size to 1,043.22 sections of land. Our district was honored when over 67% of the Willow City students elected to continue their education at TGU Towner School.

The TGU School District is appreciative of the North Dakota legislators' efforts to support education and are cognizant of the difficult task they have in providing equitable funding to all North Dakota districts. ND legislators and each ND school district face their own unique challenges. TGU has faced many challenges since reorganizing. We have united students, parents, and educational professionals from several communities into an effective team which delivers high quality education. We have increased our cost effectiveness by becoming more efficient in the way we educate our students and administer our programs. We have incorporated innovations in how students are educated in our school system. All of this has been done while facing declining enrollments, increased mandates of which we have no control, and a steady

erosion of State financial support. The most recent challenge faced by the TGU School District was reaching a minimum of one hundred forty mills for their general fund in the 2003-2004 year, as per N.D.C.C. § 15.1-27-05(1)(c), when statute did not take into consideration the results a dissolution from a contiguous district would have on another district's mill levy.

TGU made a good faith effort and explored every option to find a provision in statute allowing the district to increase their mill levy to one hundred forty during the 2003-2004 year. Attachment A is a comparison of the district's mill levy with and without the addition of the taxable valuation from the dissolved Willow City School District.

I strongly urge committee members to take on the challenge of voting in favor of House Bill No. 1311. The bill is an excellent opportunity for North Dakota legislators to correct an oversight on a statute that did not take into consideration the impact a reorganization or dissolution would have on another district's mill levy.

On behalf of TGU School District, I thank you for your time and consideration.

**Scenario I: TGU School District's mill levy excluding the taxable valuation from the dissolved Willow City School District.**

2003-2004	Taxable Valuation	9,886,811
	\$ Amount Levied	\$1,411,280
	Maximum 18% allowed by statute	
	Mill Levy	142.74

*The TGU School District #60 would have exceeded the minimum 140 mill levy requirement, as per N.D.C.C. § 15.1-27-05(1)(c), had the district not received the taxable valuation from the dissolved Willow City School District.*

**Scenario II: TGU School District's mill levy including the taxable valuation from the dissolved Willow City School District.**

2003-2004	Taxable Valuation	10,748,684
	\$ Amount Levied	\$1,411,280
	Maximum 18% allowed by statute	
	Mill Levy	131.30

*Since current statute does not allow school districts that receive additional taxable valuation from a dissolved district to increase their general fund request beyond the 18% above their previous request, TGU fell short of meeting the 140 mill levy requirement. Resulting in the district receiving \$93,513,55 less in their 2004-2005 foundation aid payment.*

Good Morning Mr. Chairman and members of the Senate Education Committee. For the record my name is Jon Nelson and I serve in the ND House of Representatives in the 7th district. It is a pleasure for me to appear before your committee this morning to introduce HB 1311.

At the end to the last session, several amendments to the K-12 funding bill were added in conference committee. Among those was a provision that required school districts that did not have a mill levy of at least 140 mills, the difference between the actual mill levy and 140 mills would be subtracted from that districts foundation aid payment. It was my understanding and I think the understanding of many of this committee that school districts would have two years to comply with this provision.

When DPI began implementation of this provision though, they used 2003 valuations which caused an immediate impact for schools that could not meet the 140 mill threshold. This affected in particular four school districts that were in the process or just completed reorganization or dissolution within their school districts.

HB 1311 attempts to correct this misunderstanding regarding the implementation of this provision and reimburse these four districts the money that was withheld them.

I hope this committee will continue the policy of promoting school districts that become more efficient rather than penalizing them. Each one of these districts are viable districts and stand out as examples of leaders in creating a template for rural North Dakota school district models for the future. It would be very unfortunate to allow this policy to inhibit further progress.

Please consider a DO PASS recommendation on HB 1311 and thank you for your consideration.

**TESTIMONY ON HB 1311  
SENATE EDUCATION COMMITTEE**

**March 8, 2005**

**By Jerry Coleman**

**328-4051**

**Department of Public Instruction**

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Mr. Chairman and members of the committee:

My name is Jerry Coleman and I am the Assistant Director School Finance and Organization for the Department of Public Instruction. I am here to provide information regarding the 140 minimum levy deduct and to ask for clarification regarding specifically which districts are to be declared eligible for the deficiency payment.

HB 1311 appropriates \$119,917 for the purpose of reimbursing eligible districts that received reduced amounts of state aid because the school district's general fund levy fell below one hundred forty mills as a result of reorganization or dissolution of a contiguous district.

It is not clear to the Department which districts would be considered eligible under the language "... as a result of reorganization or dissolution of a contiguous district."

If the intention of the legislature is to give districts another year to increase their levies to avoid the loss of state aid through the minimum levy deduct then the language of the bill should be amended to reflect this.

I have attached a schedule showing the anticipated amounts generated from the minimum levy deduct that became effective the second year of the biennium. The amount generated from this levy will be distributed through the supplemental payments formula at the end of the biennium.

Mr. Chairman, that concludes my testimony and I will be happy to answer your questions.

2004-05 Payment Year  
 15.1-27-05 Equilization Factors  
 Taxable Value and Mill Levy Data from 2003-04 school year.  
 GF3 Levy = General Fund operating, tuition and transportation levies.  
 Deducts are applied in order of appearance in the statute.

CODIST	DNAME	Tax Value	GF3 Levy	Entitlements subject to deducts	Mill Deduct	EFBD	140 Mill Deduct Gross	140 Mill Deduct Applied - @ March Payment
1013	Hettinger 13	6,139,490	171.60	1,240,101.94	221,021.64	-	-	-
2002	Valley City 2	14,235,324	189.36	3,727,080.76	512,471.66	-	-	-
2046	Litchville-Marion 46	5,925,802	140.04	782,510.99	213,328.87	-	-	-
2065	N Central 65	6,017,816	140.00	615,396.88	216,641.38	-	-	-
2082	Wimbleton-Courtenay 82	5,548,584	146.70	619,433.65	199,749.02	-	-	-
3005	Minnewaukan 5	1,420,647	189.10	584,089.90	51,143.29	-	-	-
3006	Leeds 6	4,225,726	169.20	762,000.50	152,126.14	-	-	-
3009	Maddock 9	3,862,542	171.55	822,678.93	139,051.51	-	-	-
3016	Oberon 16	954,784	115.55	171,040.44	34,372.22	-	23,344.47	23,344.47
3029	Warwick 29	1,118,881	141.24	823,530.35	40,272.52	-	-	-
3030	Fl Totten 30	97,029	315.46	712,127.25	3,493.04	-	-	-
4001	Billings Co 1	4,767,753	41.63	261,822.92	171,639.11	-	-	-
5001	Bottineau 1	9,804,295	157.58	2,461,723.05	352,954.62	2,666,052.34	469,003.86	-
5017	Westhope 17	3,535,832	148.59	588,246.29	127,289.95	-	-	-
5054	Newburg-United 54	5,005,800	147.85	343,848.06	180,208.80	-	-	-
6001	Bowman 1	4,552,963	164.73	1,362,587.55	163,906.67	-	-	-
6017	Rhame 17	2,078,882	139.50	350,506.87	74,839.75	-	1,039.44	1,039.44
6033	Scranton 33	3,378,080	165.48	641,137.87	121,610.88	-	-	-
7014	Bowbells 14	2,901,493	172.33	366,737.05	104,453.75	-	-	-
7027	Powers Lake 27	2,029,851	184.86	462,067.57	73,074.64	-	-	-
7036	Burke Central 36	3,404,287	140.00	391,397.88	122,554.33	-	-	-
8001	Bismarck 1	134,108,431	232.39	34,205,035.45	4,827,903.52	-	-	-
8025	Naughton 25	239,045	221.71	27,884.82	8,605.62	-	-	-
8028	Wing 28	2,030,631	145.28	362,463.07	73,102.72	-	-	-
8029	Baldwin 29	681,457	148.21	89,180.26	24,532.45	18,740.63	-	-
8033	Menoken 33	1,130,017	256.19	87,914.39	40,680.61	-	-	-
8035	Sterling 35	1,925,914	195.75	141,415.76	69,332.90	-	-	-
8039	Apple Creek 39	1,662,682	240.36	211,185.92	59,856.55	-	-	-
8045	Manning 45	193,462	258.45	26,254.74	6,964.63	-	-	-
9001	Fargo 1	175,953,552	288.79	36,230,335.88	6,334,327.87	-	-	-
9002	Kindred 2	10,477,225	175.54	2,188,777.59	377,180.10	-	-	-
9004	Maple Valley 4	8,370,641	159.00	1,074,095.89	301,343.08	-	-	-

CODIST DNAME	Tax Value	GF3 Levy	Entitlements subject to deducts	Mill Deduct	EFBD	140 Mill Deduct		140 Mill Deduct Applied - @ March Payment
						Gross	-	
9006 West Fargo 6	83,729,593	190.06	17,604,862.10	3,014,265.35	-	-	-	-
9007 Mapleton 7	2,603,952	264.14	396,432.58	93,742.27	-	-	-	-
9017 Central Cass 17	11,110,685	168.57	2,607,926.12	399,984.66	-	-	-	-
9080 Page 80	3,374,591	169.80	448,591.26	121,485.28	-	-	-	-
9097 Northern Cass	9,688,519	182.11	1,516,640.56	348,786.68	-	-	-	-
10014 Border Central 14	3,102,039	169.45	150,328.42	111,673.40	-	-	-	-
10019 Munich 19	3,133,631	144.20	458,802.86	112,810.72	-	-	-	-
10023 Langdon Area 23	11,904,696	164.86	1,628,500.61	428,569.06	-	-	-	-
11040 Ellendale 40	6,181,637	175.96	1,199,765.49	222,538.93	-	-	-	-
11041 Oakes 41	7,528,015	186.00	1,710,442.99	271,008.54	-	-	-	-
12001 Divide County 1	6,602,574	146.30	1,061,952.95	237,692.66	-	-	-	-
13008 Dodge 8	624,615	186.35	153,010.45	22,486.14	-	-	-	-
13016 Killdeer 16	7,171,632	158.04	1,304,912.56	258,178.75	-	-	-	-
13019 Halliday 19	1,970,599	161.36	153,535.85	70,941.56	-	-	-	-
13037 Twin Buttes 37	17,914	-	237,376.42	644.90	-	2,507.96	2,507.96	-
14001 New Rockford 1	5,376,932	185.00	1,287,479.79	193,569.55	-	-	-	-
14012 Sheyenne 12	1,519,800	167.79	373,374.24	54,712.80	-	-	-	-
15006 Hazelton-Moffit-Braddock 6	3,749,681	155.93	606,857.95	134,988.52	-	-	-	-
15010 Bakker 10	625,453	106.71	41,053.50	22,516.31	-	20,821.33	18,537.19 *	-
15012 Union 12	593,084	87.64	43,724.87	21,351.02	46,526.21	31,053.88	-	-
15015 Strasburg 15	2,906,311	139.70	758,299.65	104,627.20	-	871.89	871.89	-
15036 Linton 36	5,263,965	175.08	1,199,878.05	189,502.74	-	-	-	-
16010 Carrington 10	10,129,514	160.23	1,953,878.95	364,662.50	-	-	-	-
17003 Beach 3	4,010,606	148.36	1,097,945.32	144,381.82	-	-	-	-
17006 Lone Tree 6	1,351,335	186.63	191,090.73	48,648.06	40,819.98	-	-	-
18001 Grand Forks 1	96,519,972	225.34	25,404,163.79	3,474,718.99	-	-	-	-
18044 Larimore 44	6,380,533	192.37	1,688,975.40	229,699.19	-	-	-	-
18061 Thompson 61	4,955,730	165.76	1,356,148.62	178,406.28	-	-	-	-
18125 Manvel 125	3,243,747	212.98	612,697.32	116,774.89	-	-	-	-
18127 Emerado 127	1,840,943	216.01	462,541.66	66,273.95	-	-	-	-
18128 Midway 128	5,339,359	184.03	964,942.14	192,216.92	-	-	-	-
18129 Northwood 129	5,058,994	175.92	1,053,575.84	182,123.78	-	-	-	-
18140 Grand Forks AFB 1	-	-	205,046.10	-	-	-	-	-
19018 Roosevelt 18	2,102,060	191.55	548,386.25	75,674.16	-	-	-	-
19049 Elgin-New Leipzig 49	4,013,652	201.12	790,450.90	144,491.47	-	-	-	-
20007 Midkota 7	5,401,419	192.31	623,434.48	194,451.08	-	-	-	-
20018 Griggs County Central 18	5,628,561	190.00	1,108,674.45	202,628.20	-	-	-	-

CODIST	DNAME	Tax Value	GF3 Levy	Entitlements subject to deducts	Mill Deduct	EFBD	140 Mill Deduct Gross	140 Mill Deduct Applied - @ March Payment
21001	Mott-Regent 1	6,566,029	138.59	1,132,897.88	236,377.04	-	9,258.10	9,258.10
21009	New England 9	4,777,940	161.16	750,779.14	172,005.84	-	-	-
22011	Pettibone-Tuttle 11	1,100,897	173.50	59,415.39	39,632.29	-	-	-
22014	Robinson 14	1,148,638	200.30	46,311.64	41,350.97	-	-	-
22020	Tuttle-Pettibone 20	1,296,252	184.49	202,177.12	46,665.07	-	-	-
22026	Steele-Dawson 26	4,202,176	155.87	978,072.22	151,278.34	-	-	-
22028	Tappen 28	1,612,921	195.00	441,636.04	58,065.16	-	-	-
23003	Edgeley 3	5,297,696	151.95	928,829.32	190,717.06	-	-	-
23007	Kulm 7	4,308,160	162.90	576,667.74	155,093.76	-	-	-
23008	LaMoure 8	4,856,774	158.54	1,119,553.45	174,843.86	-	-	-
23011	Verona 11	1,928,743	178.87	173,207.70	69,434.75	-	-	-
24002	Napoleon 2	3,836,841	170.71	912,095.17	138,126.28	-	-	-
24056	Gackle 14	4,542,436	140.89	532,791.78	163,527.70	-	24,355.33	24,355.33
25001	Velva 1	6,600,361	136.31	1,368,744.45	237,613.00	-	-	-
25014	Anamoose 14	1,861,848	168.11	382,580.16	67,026.53	-	-	-
25057	Drake 57	3,658,412	150.56	569,671.70	131,702.83	-	93,513.55	93,513.55
25060	TGU 60	10,748,684	131.30	1,543,520.09	386,952.62	-	23,808.38	23,808.38
26004	Zeeland 4	2,651,267	131.02	296,222.71	95,445.61	-	-	-
26009	Ashley 9	3,749,827	159.04	718,570.69	134,993.77	-	-	-
26019	Wishek 19	3,955,964	169.66	926,200.15	142,414.70	-	-	-
27001	McKenzie Co 1	9,511,487	145.39	1,894,389.72	342,413.53	-	-	-
27002	Alexander 2	2,720,221	136.02	301,318.57	97,927.96	-	10,826.48	10,826.48
27014	Yellowstone 14	1,458,712	189.94	344,079.26	52,513.63	-	-	-
27018	Earl 18	449,279	-	57,701.72	16,174.04	872,661.72	62,899.06	-
27019	Bowline Butte 19	425,788	119.78	17,070.89	15,328.37	6,570.80	8,609.43	-
27032	Horse Creek 32	1,073,791	77.61	42,238.96	38,656.48	114,438.89	66,993.82	-
27036	Mandaree 36	71,006	98.58	807,152.38	2,556.22	-	2,941.07	2,941.07
28001	Montefiore 1	3,166,889	171.44	825,804.51	114,008.00	-	-	-
28004	Washburn 4	4,249,141	144.00	1,095,926.19	152,969.08	-	-	-
28008	Underwood 8	4,444,428	174.60	918,625.53	159,999.41	-	-	-
28050	Max 50	2,738,989	149.87	677,316.68	98,603.60	-	-	-
28051	Garrison 51	6,157,924	178.63	1,171,388.31	221,685.26	-	-	-
28072	Turtle Lake-Mercer 72	4,162,417	149.04	778,833.97	149,847.01	-	-	-
28085	White Shield 85	266,965	185.00	523,525.87	9,610.74	-	-	-
29003	Hazen 3	5,544,207	185.00	2,289,458.96	199,591.45	-	-	-
29020	Golden Valley 20	1,190,035	133.87	206,571.02	42,841.26	-	7,294.91	7,294.91
29027	Beulah 27	9,505,977	185.00	2,646,738.81	342,215.17	-	-	-

117,868.88

CODIST	DNAME	Tax Value	GF3 Levy	Entitlements subject to deducts	Mill Deduct	EFBD	140 Mill Deduct		140 Mill Deduct Applied - @ March Payment
							Gross	-	
30001	Mandan 1	37,490,130	175.49	10,737,220.61	1,349,644.68	-	-	-	-
30004	Little Heart 4	828,159	146.05	105,226.91	29,813.72	-	-	-	-
30007	New Salem 7	3,790,082	163.19	1,220,810.91	136,442.95	-	-	-	-
30008	Sims 8	1,510,929	168.78	137,589.85	54,393.44	-	-	-	-
30013	Hebron 13	3,684,415	149.28	672,011.85	132,638.94	-	-	-	-
30017	Sweet Briar 17	350,024	75.71	49,507.43	12,600.86	-	22,503.04	-	22,503.04
30039	Flasher 39	2,975,560	186.14	868,419.10	107,120.16	105,006.77	-	-	-
30048	Glen Ullin 48	4,037,990	152.55	829,564.72	145,367.64	-	-	-	-
31001	New Town 1	2,653,374	160.55	2,331,983.37	95,521.46	-	-	-	-
31002	Stanley 2	5,802,748	184.40	1,211,712.60	208,898.93	-	-	-	-
31003	Parshall 3	3,350,367	173.22	997,645.58	120,613.21	-	-	-	-
32001	Dakota Prairie 1	9,290,581	186.00	1,100,353.60	334,460.92	-	-	-	-
32066	Lakota 66	4,443,019	185.43	938,901.89	159,948.68	-	-	-	-
33001	Center-Stanton 1	4,689,693	179.99	1,085,535.88	168,828.95	-	-	-	-
34001	Pembina 1	3,724,026	171.36	610,416.03	134,064.94	-	-	-	-
34006	Cavalier 6	7,816,454	190.26	1,634,970.25	281,392.34	-	-	-	-
34012	Valley 12	3,458,261	205.23	658,927.72	124,497.40	-	-	-	-
34019	Drayton 19	5,333,874	186.23	732,381.68	192,019.46	-	-	-	-
34027	Wahalla 27	4,504,907	207.14	993,657.18	162,176.65	-	-	-	-
34043	St Thomas 43	2,841,952	219.50	519,436.38	102,310.27	-	-	-	-
34055	Neché 55	3,252,933	192.11	404,113.71	117,105.59	-	-	-	-
35001	Wolford 1	1,602,390	185.00	257,163.52	57,686.04	-	-	-	-
35005	Rugby 5	10,275,725	182.80	1,858,222.06	369,926.10	-	-	-	-
36001	Devils Lake 1	16,548,453	185.00	6,017,624.58	595,744.31	-	-	-	-
36002	Edmore 2	4,479,730	145.32	374,490.66	161,270.28	-	-	-	-
36044	Starkweather 44	2,680,745	153.09	393,339.00	96,506.82	-	-	-	-
37002	Sheldon 2	1,382,304	226.54	144,290.86	49,762.94	-	-	-	-
37006	Fl Ransom 6	836,675	190.92	85,552.80	30,120.30	-	-	-	-
37019	Lisbon 19	8,514,341	183.02	2,005,377.59	306,516.28	-	-	-	-
37022	Enderlin 22	5,441,816	181.93	1,074,783.97	195,905.38	-	-	-	-
38001	Mohall-Lansford-Sherwood 1	10,139,640	159.73	1,428,015.21	365,027.04	-	-	-	-
38026	Glenburn 26	3,404,276	140.00	1,048,056.37	122,553.94	-	-	-	-
39005	Mantador 5	1,382,080	140.64	94,428.00	49,754.88	-	-	-	-
39008	Hankinson 8	5,004,147	185.00	1,073,877.86	180,149.29	-	-	-	-
39018	Fairmount 18	4,089,921	182.43	437,238.47	147,237.16	-	-	-	-
39028	Lidgerwood 28	3,524,086	185.00	871,731.95	126,867.10	-	-	-	-
39037	Wahpeton 37	18,289,649	186.34	4,584,539.41	658,427.36	-	-	-	-

CODIST DNAME	Tax Value	GF3 Levy subject to deducts	Entitlements	Mill Deduct	EFD	140 Mill Deduct Gross	140 Mill Deduct Applied - @ March Payment
39042 Wyndmere 42	6,095,428	177.18	969,439.96	219,435.41	-	-	-
39044 Richland 44	5,035,378	184.48	1,072,111.35	181,273.61	-	-	-
40001 Dunseith 1	1,435,298	155.24	2,085,684.59	51,670.73	-	-	-
40003 St John 3	709,881	162.00	1,068,810.77	25,555.72	-	-	-
40004 Mt Pleasant 4	3,822,320	178.95	1,066,922.87	137,603.52	-	-	-
40007 Belcourt 7	307,058	-	5,458,634.24	11,054.09	-	42,988.12	42,988.12
40029 Rolette 29	2,789,355	185.00	744,376.19	100,416.78	-	-	-
41002 Milnor 2	3,427,641	174.88	999,236.38	123,395.08	-	-	-
41003 N Sargent 3	2,796,186	189.29	781,336.19	100,662.70	-	-	-
41006 Sargent Central 6	6,635,676	176.31	1,021,494.57	238,884.34	-	-	-
42016 Goodrich 16	1,634,617	194.03	221,661.08	58,846.21	-	-	-
42019 McClusky 19	2,365,197	181.38	454,706.39	85,147.09	-	-	-
43003 Solen 3	1,411,617	185.00	712,275.90	50,818.21	-	-	-
43004 Ft Yates 4	497,949	180.59	765,502.34	17,926.16	-	-	-
43008 Selfridge 8	1,315,814	188.20	463,242.29	47,369.30	-	-	-
44012 Marmarth 12	912,881	76.07	67,433.29	32,863.72	23,409.75	58,360.48	11,159.82 *
44014 Sheets 14	396,991	125.19	17,413.08	14,291.68	-	5,879.44	3,121.40 *
44032 Central Elementary 32	1,401,715	79.91	34,676.19	50,461.74	1,661.25	84,229.05	-
45001 Dickinson 1	28,259,095	185.00	8,854,699.99	1,017,327.42	-	-	-
45009 South Heart 9	2,685,242	160.00	938,725.48	96,668.71	-	-	-
45013 Belfield 13	1,542,212	153.68	850,706.84	55,519.63	-	-	-
45034 Richardson-Taylor 34	4,242,166	185.00	1,026,539.21	152,717.98	-	-	-
46010 Hope 10	3,424,926	175.04	511,151.20	123,297.34	-	-	-
46019 Finley-Sharon 19	4,154,502	187.31	755,229.22	149,562.07	-	-	-
47001 Jamestown 1	28,469,866	189.00	8,088,695.66	1,024,915.18	-	-	-
47003 Medina 3	3,140,426	172.85	641,595.59	113,055.34	-	-	-
47010 Pingree-Buchanan	2,963,201	163.39	606,810.48	106,675.24	-	-	-
47014 Montpelier 14	2,319,480	185.00	420,632.91	83,501.28	-	-	-
47019 Kensal 19	2,611,258	151.65	265,714.60	94,005.29	-	-	-
47026 Spiritwood 26	3,035,728	132.11	59,422.16	109,286.21	299,307.27	23,951.89	-
48002 Bisbee-Egeland 2	3,559,049	173.74	342,851.03	128,125.76	-	-	-
48008 Southern 8	3,823,594	167.91	944,320.14	137,649.38	-	-	-
48028 North Central 28	2,410,377	169.57	287,641.04	86,773.57	-	-	-
49003 Central Valley 3	5,792,213	151.06	1,013,684.10	208,519.67	-	-	-
49007 Hatton 7	3,635,324	178.80	948,746.97	130,871.66	-	-	-
49009 Hillsboro 9	8,569,108	164.13	1,412,218.63	308,487.89	-	-	-
49014 May-Port CG 14	10,443,528	180.01	1,879,249.98	375,967.01	-	-	-

CODIST DNAME	Tax Value	GF3 Levy subject to deducts	Entitlements	Mill Deduct	EFD	140 Mill Deduct Gross	140 Mill Deduct Applied - @ March Payment
50003 Grafton 3	9,686,172	194.96	2,978,158.74	348,702.19	-	-	-
50020 Minto 20	3,795,091	175.06	910,983.43	136,623.28	-	-	-
50039 Lankin 39	940,926	180.05	232,433.04	33,873.34	-	-	-
50051 Nash 51	866,981	176.94	81,575.09	31,211.32	-	-	-
50078 Park River 78	5,605,316	186.99	1,358,384.51	201,791.38	-	-	-
50079 Fordville 79	1,851,695	170.41	321,488.81	66,661.02	-	-	-
50108 Edinburg 106	1,796,180	181.88	550,867.18	64,662.48	-	-	-
50128 Adams 128	1,906,680	167.05	340,371.13	68,640.48	-	-	-
51001 Minot 1	67,667,022	191.62	22,285,617.35	2,436,012.79	-	-	-
51004 Nedrose 4	4,334,206	233.14	820,268.36	156,031.42	-	-	-
51007 United 7	6,126,882	155.05	1,888,785.16	220,567.75	-	-	-
51010 Bell 10	2,186,931	223.29	549,824.00	78,729.52	-	-	-
51016 Sawyer 16	2,249,722	183.48	544,414.76	80,989.99	-	-	-
51019 Eureka 19	824,800	138.53	58,891.41	29,692.80	18,459.76	1,212.46	1,212.46
51028 Kenmare 28	6,570,332	185.00	1,042,355.82	236,531.95	-	-	-
51041 Surrey 41	2,775,106	180.81	1,297,397.62	99,903.82	-	-	-
51070 S Prairie 70	3,024,272	179.41	557,702.94	108,873.79	-	-	-
51160 Minot AFB 160	-	-	315,791.55	-	-	-	-
51161 Lewis and Clark 161	8,809,662	139.85	1,532,070.97	317,147.83	-	1,321.45	1,321.45
52025 Fessenden-Bowdon 25	7,201,523	149.97	900,029.03	259,254.83	-	-	-
52035 Pleasant Valley 3	970,593	185.00	89,924.64	34,941.35	-	-	-
52038 Harvey 38	8,350,095	182.97	1,537,248.60	300,603.42	-	-	-
52039 Sykes 39	1,667,141	171.31	292,812.11	60,017.08	-	-	-
53001 Williston 1	16,027,675	238.47	7,028,702.47	576,996.30	-	-	-
53002 Nesson 2	3,269,365	180.77	713,826.12	117,697.14	-	-	-
53006 Eight Mile 6	1,444,372	180.01	929,181.10	51,997.39	-	-	-
53008 New 8	7,230,535	207.45	728,515.46	260,299.26	-	-	-
53015 Tioga 15	5,647,392	181.85	943,750.02	203,306.11	-	-	-
53091 Wildrose-Alamo 91	1,911,192	167.43	213,341.87	68,802.91	-	-	-
53099 Grenora 99	3,477,523	182.67	315,656.92	125,190.83	9,961.67	-	-
	1,468,087,318		342,801,480.25	52,851,143.46	4,223,617.04	1,099,588.89	300,605.06 *

\* Estimated through the end of the year.

# Testimony on HB 1311

By

**Dr. M. Douglas Johnson, Assistant Executive Director—NDCEL**

Mr. Chairman and members of the Committee, for the record my name is Doug Johnson and I am the assistant executive director of the ND Council of Educational Leaders which represents North Dakota's school leaders. I am here to testify in support to HB 1311.

During the 58<sup>th</sup> Legislative Assembly, SB 2421 was passed into law. This law required that school districts have a minimum mill levy of 140 mills which includes the general fund, high school tuitions, and high school transportation. However, Section 57-15-14 of the NDCC limits schools to 185 mills in their general fund and also limits their general fund levy increases to 18 percent each year if they are under the 185 mill cap. In order for a district to comply with this new administrative rule, a district would have to be in violation of 57-15-14. Further, districts which have recently reorganized are not, by law, able to increase their mill levy beyond those stated in their reorganization plan. In addition, it was the legislative intent of this bill to have the law go into effect on July 1, 2004. School districts, by law, must levy mill increases at the next regular election upon resolution of the school board (57-15-14). School districts who would have to meet the new administrative rule would not be able to increase their mill levy until after the deadline date established for filing reports for foundation aid payment by the Department of Public Instruction. Consequently, those school districts would not be able to increase their mill levy as directed by law and would lose foundation aid payment for the 2003-04 school year. It was our belief that the law was intended to be applicable to school districts for the 2004-05 school year, giving them the needed time to follow current statute for increasing mill levies for their district.

An Attorney General's opinion on the above questions was sought by Representatives Jon Nelson and Philip Mueller. The AG's office disagreed with the questions that were asked and concurred that NDDPI could enact the requirement as of July 1<sup>st</sup>, 2003 because this had been past

practice in calculating a district's final mill levy. Consequently, school districts that had been dissolved or reorganized were not able to meet the requirement of the law as changed by SB 2421.

HB 1311 allows for four school districts to be eligible to receive compensation for money <sup>they</sup> school districts may have lost during the 2003-04 school year because of the AG's ruling. All four of these districts either went through reorganization or added dissolved districts and, for that reason, were not able to ~~the tax~~ meet the 140 mill levy requirement for the 2003-04' school year.

Finally, HB 1311 has a fiscal note of \$119,917. This was based on data from the 2002-03' School Financial Facts which gave Velva a taxable valuation of \$4,288,238. When using the data from the 2003-04' School Financial Facts it added the Butte school district to Velva's taxable valuation which brought Velva's taxable valuation to \$6,600,361. When this data is used, the actual loss to Velva goes from \$15,824 to \$24,355 and raises the calculated amount for compensation related to HB 1311 is \$128,448. I would ask that the committee consider amending HB 1311 to the \$128,288 to correct the error to the Velva school district so they will to collect the additional \$8,531 should HB 1311 be passed by the legislature.

This concludes my testimony. I have included in my testimony all information related in our efforts to rectify this problem for these four school districts in the hand out provided. Thank you for your attention and I encourage you to amend HB 1311 and give it a Do Pass recommendation. I will be happy to answer any questions that you might have regarding this testimony.

## DISTRICTS IMPACTED BY 140 MILL MINIMUM

School districts which lost foundation aid lost during the 2003-04 school year because reorganization, consolidation or dissolution of a school district caused their mill level to fall below the 140 mill requirement as established in SB 2421 of the 2003 legislative session.

School District	2002-03 Levy	2003-04 Levy	2004 Valuation	Diff 140 mills	Loss 04-05
Mott/Regent	140	138.59	\$6,566,029	1.41	\$9,258
Velva 1	137.1	136.31	\$4,288,239	3.69	\$15,824
TGU 60	122.92	131.3	\$10,748,684	8.7	\$93,514
Lewis & Clark	141.8	139.85	\$8,809,662	0.15	\$1,321
		TOTALS	\$24,254,162	13.95	\$119,917

School districts which lost foundation aid lost during the 2003-04 school year because their mill level to was below the 140 mill requirement as established in SB 2421 of the 2003 legislative session. Bold districts may be eligible for 18% mill cap by NDCC 57-15-14.

School District	2002-03 Levy	2003-04 Levy	2003 Valuation	Diff 140 mills	Loss 04-05
Golden Valley	112.26	133.87	\$1,190,035	6.13	\$7,295
Zeeland	114.01	131.02	\$2,651,267	8.98	\$23,808
Bowline Butte 1	108.78	119.78	\$425,788	20.22	\$8,609
Horse Creek 32	49.92	77.61	\$1,073,791	62.39	\$66,994
Bakker 10	108.66	106.71	\$625,453	33.29	\$20,821
Union 12	91.18	67.44	\$593,084	72.56	\$43,034
Spiritwood 26	132.06	132.11	\$3,035,728	7.89	\$23,952
Eureka 19	133.86	138.53	\$824,800	1.47	\$1,212
Sweet Briar	59.19	75.71	\$350,024	64.29	\$22,503
Central Elementary#32	73.46	79.91	\$1,401,715	60.09	\$84,229
Marmath #12	65.81	76.07	\$912,881	63.93	\$58,360
Rhame #17	130.27	139.5	\$2,078,882	0.5	\$1,039
Sheets #14	97.71	125.19	\$396,991	14.81	\$5,879
Billings Co.	38.12	41.63	\$4,767,753	98.37	\$469,004
Strasburg 15	127.34	139.7	\$2,906,311	0.3	\$872
Alexander 2	138.87	136.02	\$2,720,221	3.98	\$10,826
Oberon 16	128.01	115.55	\$954,784	24.45	\$23,344
Belcourt 7	0	0	\$307,058	140	\$42,988
Mandaree 36	97.28	98.58	\$71,006	41.42	\$2,941
		TOTALS	\$27,287,572		\$917,714

## DISTRICTS IMPACTED BY 140 MILL MINIMUM

School districts which lost foundation aid lost during the 2003-04 school year because reorganization, consolidation or dissolution of a school district caused their mill level to fall below the 140 mill requirement as established in SB 2421 of the 2003 legislative session.

School District	2002-03 Levy	2003-04 Levy	2004 Valuation	Diff 140 mills	Loss 04-05
Mott/Regent	140	138.59	\$6,566,029	1.41	\$9,258
Velva 1	137.1	136.31	\$6,600,361	3.69	\$24,355
TGU 60	122.92	131.3	\$10,748,684	8.7	\$93,514
Lewis & Clark	141.8	139.85	\$8,809,662	0.15	\$1,321
		<b>TOTALS</b>	<b>\$24,254,162</b>	<b>13.95</b>	<b>\$128,448</b>

School districts which lost foundation aid lost during the 2003-04 school year because their mill level to was below the 140 mill requirement as established in SB 2421 of the 2003 legislative session. Bold districts may be eligible for 18% mill cap by NDCC 57-15-14.

School District	2002-03 Levy	2003-04 Levy	2003 Valuation	Diff 140 mills	Loss 04-05
Golden Valley	112.26	133.87	\$1,190,035	6.13	\$7,295
Zeeland	114.01	131.02	\$2,651,267	8.98	\$23,808
Bowline Butte 1	108.78	119.78	\$425,788	20.22	\$8,609
Horse Creek 32	49.92	77.61	\$1,073,791	62.39	\$66,994
Bakker 10	108.66	106.71	\$625,453	33.29	\$20,821
Union 12	91.18	67.44	\$593,084	72.56	\$43,034
Spiritwood 26	132.06	132.11	\$3,035,728	7.89	\$23,952
Eureka 19	133.86	138.53	\$824,800	1.47	\$1,212
Sweet Briar	59.19	75.71	\$350,024	64.29	\$22,503
Central Elementary#32	73.46	79.91	\$1,401,715	60.09	\$84,229
Marmath #12	65.81	76.07	\$912,881	63.93	\$58,360
Rhame #17	130.27	139.5	\$2,078,882	0.5	\$1,039
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Billings Co.	38.12	41.63	\$4,767,753	98.37	\$469,004
Strasburg 15	127.34	139.7	\$2,906,311	0.3	\$872
Alexander 2	138.87	136.02	\$2,720,221	3.98	\$10,826
Oberon 16	128.01	115.55	\$954,784	24.45	\$23,344
Belcourt 7	0	0	\$307,058	140	\$42,988
Mandaree 36	97.28	98.58	\$71,006	41.42	\$2,941
		<b>TOTALS</b>	<b>\$27,287,572</b>		<b>\$917,714</b>

July 8, 2003

Dear Mr. Stenehjem

We have been approached by several of our constituents regarding the minimum 140 mill levy requirement for school districts enacted by the 2003 Legislature in SB 2421. The problems that are cited most are related to an apparent conflict in language in the code, the timeline for application of the law, and the effect of this legislation on newly reorganized district reorganization plans. There have been many questions on the Department of Public Instruction's interpretation through administrative rule. First, the administrative rule currently requires districts to have a minimum mill levy of one hundred and forty mills or increase their mill levy enough so that there is an increase in their current level of financial support to at least eighteen percent of their previous year's taxable evaluation. I believe this rule conflicts with current law 57-15-14 which sets tax levy limitations for school districts.

SB 2421 requires that school districts have a minimum mill levy of 140 mills which includes the general fund, high school tuition, and high school transportation. Section 57-15-14 of the NDCC limits schools to 185 mills in their general fund and also limits their general fund levy increases to 18 percent each year if they are under the 185 mill limit. There are some schools that now are required to increase their levies to 140 mills or lose foundation aid. Several of these school districts can not reach the 140 mill minimum without exceeding the 18 percent limit in Section 57-15-14. **Our first question is, are these sections of the law in conflict and can the schools who need more than an 18 percent increase in their levy to reach the 140 mill minimum exceed the limits imposed in 57-15-14?**

Secondly, there are some school districts that have recently formed new districts through the reorganization process outlined in Century Code. Their Reorganization Plans specify a set number of mills for their first year of operation. This entire plan is voted on and approved by the electors of all the districts involved in the reorganization. **Our second question is, if the Reorganization Plan is voted upon and approved, and it sets the first year's (2003-2004) general fund levy at an amount less than 140 mills, can the new school board vote to increase the levy to meet the new requirements under SB 2421?**

Thirdly, SB 2421 calls for the 140 mill levy to be effective after June 30, 2004. Under current statute the aggregate amount levied each year by any school district may not exceed the amount in dollars which the school district levied in the prior years plus eighteen percent up to a general fund levy of one hundred and eighty-five mills on the dollar of the taxable valuation of the district. SB2154 enacted statute change so that districts must provide a minimum levy of one hundred forty mills or twenty percent of a districts total taxable valuation. In order for a district to comply with this new administrative rule, a district would have to be in violation of 57-15-14. Further, districts

which have recently reorganized are not, by law, able to increase their mill levy beyond those stated in their reorganization plan. A clarification is needed to assist affected districts in determining what they can or cannot levy to meet the one hundred forty mill levy requirement of SB2154.

Second, the administrative rule is to be effective as of July 1, 2003. I understand that the Department of Public Instruction is interpreting this to mean that all districts must be compliant with this rule by the levy deadlines in August of 2003 if they wish to get their full entitlement in foundation aid payments for the 2003-04 school year. This appears to be full year in advance of what the 2003 Legislature intended and will result in school districts collecting property tax a year in advance of the June 30, 2004 effective date. **Our third question is, when does the portion of Section 15.1-27-05 pertaining to the 140 mill deduction in SB 2421 go into effect and will schools have to levy the 140 mills for the 2003-04 school year when the statute states "effective after June 30, 2004" in order to avoid losing any foundation aid?** School districts, by law, must levy mill increases at the next regular election upon resolution of the school board (57-15-14). School districts who would have to meet the new administrative rule would not be able to increase their mill levy until after the deadline date established for filing reports for foundation aid payment by the Department of Public Instruction. Consequently, those school districts would not be able to increase their mill levy as directed by law and would lose foundation aid payment for the 2003-04 school year. It is my belief that the law was intended to be applicable to school districts for the 2004-05 school year, giving them the needed time to follow current statute for increasing mill levies for their district.

School districts will be setting their levies in July and must certify them with the County Auditor by August 15. They still will have an opportunity to amend their levy by October 10, but by then, it will be too late as the DPI will commence reducing foundation aid to those schools who have not levied at least 140 mills with the first foundation aid payment in September of 2003 if they continue with their timeline.

Thank you very much for your prompt attention to this matter. We are looking forward to hearing from you regarding your opinion on these important issues and look forward to working with you in the future.

Sincerely,

Phillip Mueller  
State Representative  
District 24

Jon Nelson  
State Representative  
District 7

**NDCEL Question:**

The North Dakota Council of Educational Leaders (NDCEL) is seeking your interpretation of the effect of the proposed initiated measure to limit any tax increase by requiring 60% approval of those voting. Specifically, if passed, we are asking your opinion on what effect this initiated measure would have on school district's ability to set tax levies.

Currently, school districts determine their budget for the coming year. They then set an appropriate tax levy that results in a mill rate between 140 and 185 mills, or unlimited as in the case of Bismarck- to generate the money required to meet the proposed budget. We are asking your interpretation with the following question as it relates to the initiated measure to limit any tax increase to a 60% approval of those voting.

Would it be considered a tax increase if a district proposed an increase in their next year's budget but, because of an increase in taxable evaluation, did not require any change or actually lowered the current mill rate to meet that budget?

The above situation could occur when a district's taxable valuation has increased enough to cover or exceed the cost of a district's proposed budget or budget increase. I would appreciate your response on these two important questions. If you have any questions, please feel free to give me a call.

**Tax Dept. Reply:**

Dr. Johnson: Thank you for your e-mail. The language in the initiated measure is so vague that it is impossible to know exactly what it means. For that reason, we cannot determine what effect the initiated measure would have on a school district's, or any political subdivision's, ability to set tax levies.

Does a "tax increase" mean an increase in tax dollars, tax rates, or what? If it is interpreted to mean an increase in tax dollars, the scenario you describe, in which an increase in taxable valuation produces more revenue even with a lower mill rate, could be considered a tax increase.

If this initiated measure passes, I am sure it will be necessary to seek an Attorney General's Opinion on several issues.

Marcy Dickerson  
State Supervisor of Assessments  
Office of State Tax Commissioner  
mdickerson@state.nd.us  
(701) 328-3128

# Testimony on HB 1311

By

**Dr. M. Douglas Johnson, Assistant Executive Director—NDCEL**

Mr. Chairman and members of the Senate Appropriations Committee, for the record my name is Doug Johnson and I am the assistant executive director of the ND Council of Educational Leaders which represents North Dakota's school leaders. I am here to testify in support of amended HB 1311.

During the 58<sup>th</sup> Legislative Assembly, SB 2421 was passed into law. This law required that school districts have a minimum mill levy of 140 mills which includes the general fund, high school tuitions, and high school transportation. However, Section 57-15-14 of the NDCC limits schools to 185 mills in their general fund and also limits their general fund levy increases to 18 percent each year if they are under the 185 mill cap. In order for a district to comply with this new administrative rule, a district would have to be in violation of 57-15-14. Further, districts which have recently reorganized are not, by law, able to increase their mill levy beyond those stated in their reorganization plan. In addition, it was our understanding that the legislative intent of this bill was to have an effective date of July 1, 2004. School districts, by law, must levy mill increases at the next regular election upon resolution of the school board (57-15-14). School districts who would have to meet the new administrative rule would not be able to increase their mill levy until after the deadline date established for filing reports for foundation aid payment by the Department of Public Instruction. Consequently, those school districts would not be able to increase their mill levy as directed by law and would lose foundation aid payment for the 2003-04 school year. It was our belief that the law was intended to be applicable to school districts for the 2004-05 school year, giving them the needed time to follow current statute for increasing mill levies for their district.

An Attorney General's opinion on the above questions was sought by Representatives Jon Nelson and Philip Mueller. The AG's office disagreed with the questions that were asked and concurred that NDDPI could enact the requirement as of July 1<sup>st</sup>, 2003 because this had been past

practice in calculating a district's final mill levy. Consequently, school districts that had been dissolved or reorganized were not able to meet the requirement of the law as changed by SB 2421.

HB 1311 allows for four school districts to be eligible to receive compensation for money they may have lost during the 2003-04 school year because of the AG's ruling. All three of the districts in engrossed bill HB 1311 either went through reorganization or added dissolved districts and, for that reason, were not able meet the 140 mill levy requirement for the 2003-04' school year.

This concludes my testimony. I have included in my testimony all information related in our efforts to rectify this problem for these four school districts in the hand out provided. Thank you for your attention and I encourage the Senate Appropriations Committee to give amended HB 1311 a Do Pass recommendation. I will be happy to answer any questions that you might have regarding my testimony.

## DISTRICTS IMPACTED BY 140 MILL MINIMUM

School districts which lost foundation aid lost during the 2003-04 school year because reorganization, consolidation or dissolution of a school district caused their mill level to fall below the 140 mill requirement as established in SB 2421 of the 2003 legislative session.

School District	2002-03 Levy	2003-04 Levy	2004 Valuation	Diff 140 mills	Loss 04-05
Velva 1	137.1	136.31	\$6,600,361	3.69	\$24,355
TGU 60	122.92	131.3	\$10,748,684	8.7	\$93,514
Lewis & Clark	141.8	139.85	\$8,809,662	0.15	\$1,321
		TOTALS	\$24,254,162	12.54	\$119,190

School districts which lost foundation aid lost during the 2003-04 school year because their mill level to was below the 140 mill requirement as established in SB 2421 of the 2003 legislative session. Bold districts may be eligible for 18% mill cap by NDCC 57-15-14.

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