

1999 HOUSE EDUCATION

HB 1196

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1196

House Education Committee

Conference Committee

Hearing Date 2-1-99

Tape Number	Side A	Side B	Meter #
Tape #2		x	34.7 to end
Tape #3	x		0.1 to 17.6
Committee Clerk Signature <i>Joan Davis</i>			

Minutes:

Chairman R. Kelsch , Vice-Chair Drovdal , Rep Brandenburg , Rep Brusegaard , Rep. Haas ,
Rep. Johnson , Rep. Nelson , Rep. Nottestad , Rep. L. Thoreson , Rep. Grumbo , Rep. Hanson ,
Rep. Lundgren , Rep. Mueller , Rep. Nowatzki , Rep. Solberg .

Chairman R. Kelsch : We will open the hearing on HB 1196 and ask the clerk to read the title.

Rep. Hanson : sponsor of the bill. District 48. Introduced the bill at the request of Jamestown
public schools. Allows the school district to levy a mill levy to pay the cost of an alternative high
school.

Dr David Haney: Superintendent of Schools Jamestown. (see written attached)

Rep. Haas : Are you suggesting that this be a permissive levy, by board action.

Haney: Yes

Rep. Haas : An up to a maximum levy up to x amount of mills.

Haney: I haven't set any amount.

Rep. Nottestad : I want to congratulate you on your approach to alternative schools.

Chairman R. Kelsch : Do you envision this to be used more in the larger cities?

Haney: No, where there is a need.

Rep Brandenburg : The bill gives the authority to the school board to levy the amount needed. If we allow this bill to pass it allows the school board to levy the tax without a vote of the people.

Haney: No, it is not for building, but to maintain or run it.

Rep Brandenburg : Doesn't the school board already have the authority?

Haney: Not if they are at the cap.

Rep Brandenburg : IF you are at the cap, shouldn't it be a vote of the people?

Haney: The section we are talking about already has four provisions that are permissive levies and do not require a vote.

Vice-Chair Drovdal : Could the school board rent a building and start a school, without a vote of the people.

Haney: Perhaps, you could amend the bill to keep that from happening.

Rep. Nelson : If a board wanted to fund this program, the people would pass a bond issue, we would be at the same point as with this legislation.

Haney: Not if we are talking a bond issue, a bond issue is used to build, not maintain as is the intent of this bill.

Rep. Nelson : If you need operational money, and the people approved a mill levy increase above the cap, that would work.

Haney: Can you are suggesting can be done, that is not an option, but my point is , it is that is not required within existing legislation to permit a district to raise money to send students away from the district. In fairness districts should have the same right to do that to keep students in the district.

Max Lear: appeared in favor of HB 1196.

Rep. Grumbo : How many students are there in Grand Forks that are now in alternative school?

Lear: About one hundred seventy five to two hundred students.

Rep. L. Thoreson : Is this an expensive program to educate these students?

Lear: It is one of the cheapest programs in Grand Forks.

Rep. L. Thoreson : So by retaining those students you collect the state aid?

Lear: It is a bit different for alternative students.

Tom Decker: Director of Finance for DPI, in support of HB 1196.

Rep Brandenburg : If we allow the school board to raise the money without a vote of the people, I have a concern with that.

Decker: They are doing that right now with four other levies.

Rep. L. Thoreson : Are these schools approved by DPI?

Decker: Yes.

Rep. L. Thoreson : Do Then the students graduate from the alternative high school with what?

Decker: They graduate with a high school diploma.

Rep. L. Thoreson : The same as other high school students?

Decker: The same as other high school students.

Rep. L. Thoreson : This isn't like a second class diploma?

Decker: No.

Vice-Chair Drovdal : Comparing this to the high school tuition mill is there any limit to the number of mills that a district can establish per year?

Decker: It is unlimited, except that they can levy only enough to pay high school tuition.

Rep. Haas : How are the schools funded from the state.

Decker: Aggregating the students time until it equals a day.

Rep. Haas : Equal to FTE?

Decker: right. and they are paid on that basis.

Rep. Haas : Then you use the basic per pupil payment.

Rep. Mueller : Would there be something other than a high school program that would fit into this category?

Decker: Talking about to junior high level.

Heney: There is a program call Day Treatment Program and there is state funding for that.

Vice-Chair Drovdal : The students in alternative program under the special education funding?

Decker: Probably not. They are the brighter then average.

Rep. Grumbo : I can raise the mill levy by board action to send these students to another city to an alternative program but I cannot raise mills without this bill to maintain the building that I have in my community?

Decker: That is correct.

Chairman R. Kelsch : Anyone else wishing to speak in support of HB 1196? Anyone wishing to speak in opposition of HB 1196. Hearing none, we will close the hearing on HB 1196.

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1196-2-11-99

House Education Committee

Conference Committee

Hearing Date 2-1-99

Tape Number	Side A	Side B	Meter #
Tape #3		x	13.1 to 20.1
Committee Clerk Signature <i>Joan Deers</i>			

Minutes:

COMMITTEE ACTION

Chairman R. Kelsch, Vice-Chair Drovdal, Rep Brandenburg , Rep Brusegaard , Rep. Haas , Rep. Johnson , Rep. Nelson , Rep. L. Thoreson , Rep. Grumbo , Rep. L. Thoreson , Rep. Mueller , Rep. Nowatzki , Rep. Solberg .

Chairman R. Kelsch : We are going to take up HB 1196. What are the wishes of the committee?

Rep. Nottestad : I move a DO PASS as amended.

Rep. L. Thoreson : Second.

Chairman R. Kelsch : Discussion. We will ask the clerk to read the roll on a Do Pass as amended.

The DO PASS as amended motion passes 13 YES 1 NO 1 Absent Floor assignment Rep.

Grumbo .

90403.0101
Title.0200

Adopted by the Education Committee
February 2, 1999

VR
2/2/99

HOUSE AMENDMENTS TO HOUSE BILL NO. 1196 Edu 2-03-99

Page 1, line 2, replace "maintaining" with "operating"

HOUSE AMENDMENTS TO HOUSE BILL NO. 1196 Edu 2-03-99

Page 2, line 24, replace "Establishing and maintaining" with "Operating"

Re-number accordingly

Date: 2-1-99
Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1196

House Education Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as amended

Motion Made By Nottestad Seconded By Thoreson

Representatives	Yes	No	Representatives	Yes	No
Rep. ReaAnn Kelsch-Chairperson	✓		Rep. Dorvan Solberg	✓	
Rep. David Drovdal-Vice Chair	✓				
Rep. Michael D. Brandenburg	✓				
Rep. Thomas T. Brusegaard	✓				
Rep. C. B. Haas	✓				
Rep. Dennis E. Johnson	✓				
Rep. Jon O. Nelson		✓			
Rep. Darrell D. Nottestad	✓				
Rep. Laurel Thoreson	✓				
Rep. Howard Grumbo	✓				
Rep. Lyle Hanson	✓				
Rep. Deb Lundgren					
Rep. Phillip Mueller	✓				
Rep. Robert E. Nowatzki	✓				

Total (Yes) 13 No 1

Absent 1

Floor Assignment Grumbo

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

REPORT OF STANDING COMMITTEE

HB 1196: Education Committee (Rep. R. Kelsch, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (13 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). HB 1196 was placed on the Sixth order on the calendar.

Page 1, line 2, replace "maintaining" with "operating"

Page 2, line 24, replace "Establishing and maintaining" with "Operating"

Renumber accordingly

1999 SENATE EDUCATION

HB 1196

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1196

Senate Education Committee

Conference Committee

Hearing Date March 10, 1999

Tape Number	Side A	Side B	Meter #
1	x		0-4212
3/16/99	x		1000-2500
Committee Clerk Signature <i>Linda Christman</i>			

Minutes:

SENATOR FREBORG opened the hearing on HB1196. All senators were present.

REPRESENTATIVE HANSON, DISTRICT 48, introduced HB1196. This bill would allow a school district to levy a certain number of mills to provide for an alternative high school. You can levy a mill levy to send your kid out of the district to an alternative high school but if you provide your own you cannot levy mills and that is one of the reasons for this bill. Jamestown is in the process of building a new alternative high school.

SENATOR FREBORG : The number of mills is not limited right.

Rep. Hanson: You can ask David. I think its 3, 4, or 5 something in that area.

SENATOR FREBORG : I believe under this section if we read it says the school board of any school district can levy an amount sufficient to cover general expenses including the cost of the following.

Rep. Hanson: We kept that in the House side too and we left it but if you want to put in the number of mills that would be fine with me.

Testimony in Favor: David Haney, Superintendent of Schools in Jamestown. This law already permits districts to levy the local property tax to pay tuition to send students outside of your district to attend an alternative program. Bill provides incentives. The intent is for operational costs. Written testimony attached.

SENATOR FREBORG : Line 24 new language is operate, so you couldn't use that levy to build. Could you use it to maintain the building.

David: Yes, you could use it to maintain the building, but the intent was to use it for the operational costs.

SENATOR O'CONNELL : When you said you were building, explain what you are building.

David: We are building a 3,200 square foot building. Roughly the size of two large homes. It is located right behind our vocational center so that all the support services from the vocational center are there. We have administration from the vocational center that will be in charge of the building. It is a wood structure building, nothing fancy. Vocational education students are building it.

SENATOR KELSH : Line 24 on page 2 of the engrossed bill which was amended by the House, would this not allow you or any school district to levy a mill to build it, it says just operating. Changed from establishing and maintaining to just operating.

David: We are building it now, we're building it from reserve funds that we had in the vocational program. Our intent from the bill was simply to provide funds for operational costs. Pay for our staff, equipment and so on.

SENATOR KELSH : How about Medina, say you were going to cooperate and build the building in Jamestown. That would leave Medina out as far as levying anything to build the building.

David: Medina is part of our vocational center. Jamestown owns the vocational center. We have no expectation that Medina or any other school district would help us pay to build that building. We would invite them to send the students they have. Medina is too small to have the need to build such a school.

SENATOR KELSH : Are you comfortable that if you wouldn't have had those funds left over in vocational education and you were up against your mill levy that only operating would help you in anyway build an alternative school building. This might only be good for Jamestown, this might not be good for the whole state. There may be a district that needs the money to help build it.

David: I would have no objection if you would permit that in the law. My interest is not to give the impression that I'm trying to pork something so we're trying to get extra funds. As liberal as you would want to be we would be more than happy with that.

SENATOR REDLIN : I think another point, in Minot we have an alternative school program and it went into a building that was existing. I would consider that part of operating costs as renting a building or space. It was needed in our community and they made a very favorable agreement on this building. I would interpret operating costs to make it possible to pay rent.

SENATOR COOK : Doesn't subsection H on page 1 does not apply to renting or leasing an alternative school.

David: It does but you have to remember only 4 of those sections are excluded from the 185 mill cap. Provision you are talking about is not excluded. If district is levying only 170 mills they would have the freedom to do that within the difference between the 170-185 but couldn't do it if they had exceeded 185.

SENATOR WANZEK : This only preserves the problem in situations where you are up against 185. If you weren't up against 185 could you levy under the existing law.

David: Yes, we could. 60 districts already are at that. Many districts in the same situation we are.

SENATOR REDLIN : How many alternative schools are there in North Dakota.

David: I don't know, half a dozen or more. Mostly in the larger communities: Bismarck, Fargo, Grand Forks, Minot. Valley City has a version. That is the fastest growing population. We talk about declining enrollment when we talk about student population across the state but there is one segment of enrollment that is not declining and that is students that are coming into the school district that are at risk.

SENATOR WANZEK : Currently in law you said if you were going to tuition those students out to an alternative school outside your district you could raise mills to do that and those currently are excluded from the 185 cap.

David: That is correct.

SENATOR FREBORG : Do students pay to attend the alternative school, do the parents pay a fee.

David: No, that is not permitted under North Dakota Century Code. The district pays. Only way they would pay is if the parents choose to send the child and the school district wouldn't sent them. They would go through the hearing process, the district would win and the parent would lose. Parent would then have an option of entering into a parent tuition agreement.

SENATOR FREBORG : Students over 21 would pay.

David: Yes

Testimony in Favor: Max Laird, NDEA. I am here to speak as an individual. I am a classroom teacher in an alternative high school in Grand Forks. Historically in North Dakota the places where alternative schools exist are those places where they are by virtue of size and ability, able to provide the opportunity for students to attend an alternative school setting. The obstacle Jamestown continues to run into is the fact that in their region there is a significant interest in the opportunity of need and alternative particularly in high school. But because of the size of the school district they are unable to structure it so they can by virtue of tuitioning students in from the outside and within their own context of their tax structure provide for this structure of this alternative education program. The alternative education program in North Dakota offers students an opportunity to get connected with one or two adults at a time and often this helps them so they can build relationships and then translate whatever other problems they have in their lives into their academic programming. Encourage your support of this consideration.

SENATOR FREBORG : What are the problems that the students may have besides a learning disability.

Max: Students we receive often come from a variety of backgrounds. We have Native Americans who are minority students, in addition to that we see students that are adjudicated, not

very many with special needs, large number of high ability even gifted who cannot fit in that main stream structure; family dysfunction, 80-95% students are at risk for some type of adverse behavior.

SENATOR FREBORG : Is the requirement the same for credit and do you give them a diploma.

Max: We are the 25th largest accredited high school in North Dakota. Our academic requirements are exactly the same, performance requirements are the same but delivery is entirely different. I am their facilitator of their learning.

SENATOR FREBORG : Are most of the students below average.

Max: Report cards indicate they are, but if you tested them you would find in many cases they are in fact gifted sometimes.

SENATOR WANZEK : This is a growing enrollment, is it the reflection of society today or is it that we have just gotten better at recognizing the child that needs extra help.

Max: Growing doesn't necessarily mean there are more students. Growing means there is a growing need for places like Jamestown. Need access for students who otherwise are going to become drop outs.

SENATOR O'CONNELL : Mentioned you teach 9 different subjects. What type of degree or certificates are you required to have.

Max: Most of us in alternative settings are multiple certified. I'm certified in all the sciences. We're certified to teach a variety of subjects. There are three requirements in alternative school: seat time, volume of work and quality of production.

SENATOR COOK : The one element that really changes is the time in which they accomplish them. Is that correct.

Max: Yes, we do have a specific set of detailed rules and regulations about attendance, etc. We allow flexibility.

Testimony in Favor: Tom Decker, DPI. I was acting director and assistant director of the alternative high school in Bismarck. It was a peak learning experience in my career. Services provided for these kids are indispensable in the sense that they cannot fit in or succeed in other environments. Jamestown can serve as host for regular alternative high school in cooperation with the neighboring districts. All those districts can levy to send kids in to them but Jamestown can't levy to carry their share of the operation. This is an important piece of legislation for the host district.

SENATOR COOK : Does both Fargo and West Fargo have alternative high schools.

Tom: Yes

SENATOR COOK : Do you favor a lot of consolidation, do you have any fear here that this would maybe allow more alternative schools than what is really efficient.

Tom: That is a possibility but in terms of available money I'm not sure that is going to happen.

SENATOR COOK : Are you comfortable with this bill. Are you supporting regional high schools. If we pass this we could create the opportunity to move away from regional schools where we'd have more than we need.

Tom: Opportunity to have alternative programs is of enough value so that we can take some risk in that direction.

Testimony in Favor: Roger Rieger. There are 2 kinds of alternative operations running in this state.

Close hearing on HB1196.

SENATOR REDLIN : I move a DO PASS.

SENATOR KELSH : 2nd

SENATOR COOK : I would hope that all of a sudden we don't have a lot more of these than what would be considered efficient. Possibly make it necessary for them to be approved by DPI.

Tom: One of the programs in order to be funded now has to be approved. Any alternative program.

SENATOR WANZEK : We need more accountability in families.

Vote: 7 Yes 0 No

CARRIER: SENATOR REDLIN

March 15, 1999

SENATOR FREBORG : I requested that this bill be returned to the Senate Education Committee. After reading the bill several times I believe we may have done something we didn't want to do. Under subsection F, if it is necessary to operating an approved alternative school program that they can also build the building. That is not what we wanted to do. Because they have an unlimited number of mills to take care of this program. They are not restricted. They are not limited if you look at subsection 2.

SENATOR COOK : We probably just want to remove subsection 2 and subsection 3 of section 1. All that would mean is that they would have to get a vote of approval to levy the mills on an alternative school.

SENATOR FREBORG : If in fact council determines that under subsection B they can levy a specified number of mills for an alternative program anyplace whether at home or away, we don't need the bill.

SENATOR COOK : Does alternative schools fall underneath special education.

SENATOR FREBORG : I believe that it does and so does Council.

SENATOR KELSH : I thought they had an instance where they could not levy. They were told by someone at least they could not levy.

SENATOR FREBORG : I'm not sure they were told by anyone, they determined they could not levy under subsection B. I believe that they believed they could not.

SENATOR REDLIN : Wouldn't they have to be within the 185.

SENATOR FREBORG : Subsection S, the limitation does not apply to subdivisions A, C,F,and S. They don't come under the 185 mill cap. All of the others, they can levy the cost but would have to be within the 185. So it's unlimited. I'm not sure that is what we want to do.

SENATOR REDLIN : Discussed this with DPI but the point that Jamestown people were making was that under C, tuition for students in grades which is by law now is unlimited, they could pay to tuition to Jamesotwn but Jamestown couldn't set up at programs.

SENATOR FREBORG : Lets get John Walstad down here. Do we want to give them an unlimited unspecified number of mills. If its true that they can build a facility under subsection F, do we want them to do that. They could be building by resolution of the board with subsection F, if we take it out they are limited to the difference in their levies applied in 185 which could be substantial

Close hearing.

Discussion opened on HB1196.

John Walstad, Legislative Council appeared before the committee to interpret the meaning

of several statutes. I am neither for or against the bill. My reason for being here is that the Chairman wanted to make sure everyone understands what this bill does. It doesn't change much language in the code but it may have a substantial impact in some district. The section of law that is being amended here is the section that provides a listing of what is included in the school district general fund limitations.

SENATOR FREBORG : A certain school could not use subsection B for an alternative program for an alternative school in their district. They could use subsection B to levy some dollars to send the children to another alternative school. They wanted subsection F to allow them to levy to educate those alternative students in their own district. Under that subsection can they levy to put up a building for that alternative school.

John: That would depend on interpretation of the word "operating" at the beginning of the bill. I believe that initially the bill had "establishing and maintaining" and now it reads "operating". I think that traditionally operating would be expenses of running the program which probably wouldn't include building but I suppose that this district could that they could not operate without a building that might somehow be incorporated in the meaning. Whatever the committees desire on how it should go, we should clarify the language. We should make sure that it covers what the committee intends. For us we are doing that now by establishing some intent in the record.

SENATOR FREBORG : Do you interpret the engrossed bill under subsection D, section 1 that is where they apply the levy, to raise money to educate those children in alternative school.

John: I'm not an expert in these programs but seems to me that what the proponents were talking about is that under subsection C the one about tuition for students in 7-12 in another

district, that is basically unlimited. That they could levy to send those kids outside the district but they don't have that levy authority within the district. How it relates to subdivision D in special education program I'm not sure. The special ed program here is within the general fund it is not an additional type levy. Which is an alternative would be on top of the school district general fund levy. Now if your programs special ed and alternative ed overlap somehow, maybe there could be some shifting.

SENATOR KELSH : You stated what they felt that they could levy so they could send their kids someplace else to alternative school, they could not levy to have an alternative school in their school. If we took F out of subsection 2 of the bill when there is not an unlimited levy they could levy up to the 185 mills. Would that be quite a bit of protection.

John: I believe you are correct. One consideration. If the committees concern is that alternative school program levies would be unlimited the way to resolve that is by removing it from subsection 2. Then it would have to fit within the general fund, now the problem with that is school districts are already pretty well bumped up to that limit. Perhaps just adding authority to levy within the general fund does give them any real option if there is no more room in there.

SENATOR KELSH : All of these go to the vote of the people, even without this.

John: Yes.

SENATOR REDLIN : Some of us believe that you have to have the word alternative school in there somewhere because stretching special ed I think would be difficult because as I read the statutes it refers to disabilities and I think it would be a bit of a stretch to say a disability is something that you don't mind.

John: I think that is correct. Alternative programs don't show up much. There is nothing in

statute saying what that is and it says here that they need to be approved there is nothing in statute saying who does the approval. We presume it is the DPI but it doesn't tell us that in law, and there is nothing in law that provides any kind of levy authority for an alternative school program.

SENATOR REDLIN : Do we need a definition of alternative education.

John: As far as I know the programs that have been running have not encountered a problem.

SENATOR COOK : Do we have any history that we can see on how existing schools, how the Bismarck School was built, did they levy a tax, etc.

SENATOR FLAKOLL : Relative to if they can or cannot build, do you have it in front of you. Does it have to go into a building fund before it is used for building purposes.

John: I'm not sure as I don't work very often with education. I would guess to build a building, a substantial building the money would have to flow through a building fund. If we are talking about a portable unit or something like that perhaps not.

SENATOR REDLIN : How about renting the building.

John: The question would be is that a part of operating. I'm not sure. Is it necessary, can you operate if you didn't do that, if you couldn't maybe it is operating. I'm really not sure.

SENATOR FREBORG : Probably the best recommendation would be that we should clean up the language a little bit so we'd know what it is doing.

John: If the committee has definite feelings about what this money could be used for perhaps it had better be spelled out here.

SENATOR FREBORG : Do you recognize alternative schools in the same manner under the foundation program that you recognize any other school.

Tom: Our secondary ed unit approves all kinds of programs and these are essentially the kind of requirements as regular ed programs. We count foundation aid the same for both. A number of the places that are running alternative schools have unlimited levies: Bismarck, Fargo, Grand Forks, etc. They can just generate the money out of their general fund. For years Bismarck has been building buildings out of the general fund because they have the funds. They have authority to run alternative high schools under 2908. If you remove the S from the second section and make this subject to the 185 mill cap.

SENATOR COOK : Are you saying that if remove S from subsection two it would have an impact on Bismarck for example.

Tom: It would have no impact on those districts that have come in to levy.

SENATOR FREBORG : If we were to remove that new language in subsection two, and state in a certain number of mills, what would be reasonable.

Tom: Here probably you could say operate an alternative school not to exceed 5 mills. The larger districts can probably raise the money they need.

SENATOR REDLIN : How do you determine tuition on a situation like that.

Tom: Tuition should be figured for an alternative high school pretty much on the same formula that is figured for a regular high school student.

SENATOR KELSH : D does not allow them to levy money to do that, basically pay tuition to themselves.

Tom: Alternative high school students do not qualify as special ed students. Money couldn't be used to deal with them.

SENATOR FREBORG : If the alternative school is located in say for instance the Jamestown school district but was independently operated could they then under subsection C pay tuition.

Tom: Problem with that is independently operated.

SENATOR FREBORG : Do we have any alternative schools in the state that are independently operated.

Tom: Not that I am aware of. Mostly they are operated by the public school district. They are not the kind of operation that are attractive to private schools because they are expensive and the student base is a highly volatile population.

SENATOR FREBORG : If we all favor making some changes to limit the levy and make sure they don't build any buildings perhaps if we favor that rather than a motion right now we could ask Anita to draft some amendments. What kind of restrictions do we want on the levy.

SENATOR COOK : What is the limit for asbestos removal.

SENATOR FREBORG : 15 mills

Discussion continued about the amount of mill levy that would be allowed.

SENATOR FREBORG : If we are in general agreement of a 10 mill cap we will have some amendments drafted. It is certainly more than double what Jamesotwn requested.

Tom: You should consider the possibility of allowing the alternative programs not to exceed 10 mills of the Asbestos Abatement and Removal 15 mill levy.

SENATOR FREBORG : Do we agree to have amendments drawn that they could levy up to 10 mills from the Asbestos Abatement Removal. Remove S from subsection 2.

Closed discussion.

3/16/99

SENATOR FREBORG opened discussion on HB1196.

SENATOR FREBORG: This is a hog house amendment.

SENATOR O'CONNELL: Do you know how many school districts are actually leveling the 15 mills, not necessarily 15 but using them from the Asbestos Fund.

SENATOR FREBORG : According to Mr. Decker it sounded like none.

Tom: There are 13 districts. The highest is 5.97, 5.26, 5.31 and all the others are less than that.

SENATOR FREBORG : It looks like there are plenty of mills for an alternative school.

SENATOR O'CONNELL : Say they didn't have any asbestos at all and you wanted to start an alternative school. How would that work.

SENATOR FREBORG : Not a problem. They can apply up to 10 mills.

SENATOR O'CONNELL : I understand that but if they don't have any asbestos at all for removal.

SENATOR FREBORG : Makes no difference. Allows up to 15 mills and if this should pass and be signed by the Governor it will be in 3 different areas. They don't ever have had to use the Asbestos Abatement Fund.

SENATOR FREBORG : No, the language is there if they need it, if they don't its in two other areas.

SENATOR KELSH : You cannot use to either construct or remodel. Some areas may need minor remodeling, don't know if we need to restrict it so much that they can't make it useable as an alternative school.

SENATOR FREBORG : They can apply up to 10 mills in their building fund by resolution of the board.

Tom: If they approve 10 mills they can use whatever they need. They can go beyond 20 but once they have that authority they have the discretion to levy any amount within that range forever.

SENATOR FLAKOLL : Have we taken off the affective date and do we need an affective date in there.

SENATOR O'CONNELL : Are you comfortable without having a date in there.

SENATOR WANZEK : Might the tax be prorated if they don't implement till later.

SENATOR O'CONNELL : I move to adopt amendment 90403.0201 including section 3 which would include the language on page 3 line 9 & 10.

SENATOR FLAKOLL : 2nd

Vote: 7 Yes 0 NO

SENATOR COOK : Do Pass as amended.

SENATOR WANZEK : 2nd

Vote: 7 Yes 0 No

SENATOR COOK : I move we reconsider our actions by which we adopted the amendments and by which we passed HB1196.

SENATOR WANZEK : 2nd

Vote: 7 Yes 0 No

SENATOR COOK : I move we reconsider our actions on HB1196 and move a DO PASS
on 3/10.

SENATOR REDLIN : 2nd

Vote: 7 Yes 0 No

SENATOR COOK : I move amendments 90403.0201 plus section 3 and establishing a date
effective September 31, 1998.

SENATOR REDLIN : 2nd

Vote: 7 Yes 0 No

SENATOR COOK : I move a DO PASS as amended.

SENATOR REDLIN : 2nd

Vote: 7 Yes 0 No

CARRIER: SENATOR REDLIN

Date: 3/10/99
Roll Call Vote #: _____

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1196

Senate EDUCATION Committee

Subcommittee on _____
or

Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass on HB 1196

Motion Made By Redlin Seconded By Kelsh

Senators	Yes	No	Senators	Yes	No
Senator Freborg, Chairman	✓				
Senator Cook, Vice Chairman	✓				
Senator Flakoll	✓				
Senator Wanzek	✓				
Senator Kelsh	✓				
Senator O'Connell	✓				
Senator Redlin	✓				

Total (Yes) 7 No 0

Absent _____

Floor Assignment Redlin

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

REPORT OF STANDING COMMITTEE (410)
March 10, 1999 2:26 p.m.

Module No: SR-43-4488
Carrier: Redlin
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1196, as engrossed: **Education Committee (Sen. Freborg, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1196 was placed on the Fourteenth order on the calendar.

Date: 3/16/99
 Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. HB 1196

Senate EDUCATION Committee

- Subcommittee on _____
 or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Move we adopt amendment 90403.0201 including sect
13 which would include lang. on page 3 line 9 & 10
 Motion Made By O'Connell Seconded By Flakoll

Senators	Yes	No	Senators	Yes	No
Senator Freborg, Chairman	✓				
Senator Cook, Vice Chairman	✓				
Senator Flakoll	✓				
Senator Wanzek	✓				
Senator Kelsh	✓				
Senator O'Connell	✓				
Senator Redlin	✓				

Total (Yes) 7 No 0

Absent _____

Floor Assignment _____

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

Date: 3/16/99
Roll Call Vote #: 2

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1196

Senate EDUCATION Committee

- Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as amended

Motion Made By Cook Seconded By Wanzek

Senators	Yes	No	Senators	Yes	No
Senator Freborg, Chairman	✓				
Senator Cook, Vice Chairman	✓				
Senator Flakoll	✓				
Senator Wanzek	✓				
Senator Kelsh	✓				
Senator O'Connell	✓				
Senator Redlin	✓				

Total (Yes) 7 No 0

Absent _____

Floor Assignment _____

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

Date: 3/16/99
Roll Call Vote #: 3

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1196

Senate EDUCATION Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number _____

Action Taken Move to reconsider our actions by which we adopted the amendments by which we passed HB 1196

Motion Made By COOK Seconded By Wanzek

Senators	Yes	No	Senators	Yes	No
Senator Freborg, Chairman	✓				
Senator Cook, Vice Chairman	✓				
Senator Flakoll	✓				
Senator Wanzek	✓				
Senator Kelsh	✓				
Senator O'Connell	✓				
Senator Redlin	✓				

Total (Yes) 7 No 0

Absent _____

Floor Assignment _____

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

Date: 3/16/99
Roll Call Vote #: 4

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1196

Senate EDUCATION Committee

- Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Moves to reconsider our actions on HB 1196 + move
a DO / PA on 3/10

Motion Made By Cook Seconded By Redlin

Senators	Yes	No	Senators	Yes	No
Senator Freborg, Chairman	✓				
Senator Cook, Vice Chairman	✓				
Senator Flakoll	✓				
Senator Wanzek	✓				
Senator Kelsh	✓				
Senator O'Connell	✓				
Senator Redlin	✓				

Total (Yes) 7 No 0

Absent _____

Floor Assignment _____

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

Date: 3/14/99
 Roll Call Vote #: 5

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. HB1196

Senate EDUCATION Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number _____

Action Taken I move amendments 90403.0201 plus sect. 3 a
establishing a date effective
Sept 31, 98

Motion Made By Cook Seconded By Redlin

Senators	Yes	No	Senators	Yes	No
Senator Freborg, Chairman	✓				
Senator Cook, Vice Chairman	✓				
Senator Flakoll	✓				
Senator Wanzek	✓				
Senator Kelsh	✓				
Senator O'Connell	✓				
Senator Redlin	✓				

Total (Yes) 7 No 0

Absent _____

Floor Assignment _____

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

Date: 3/16/99
Roll Call Vote #: 6

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1196

Senate EDUCATION Committee

- Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken move & Do Pass as amended

Motion Made By Cook Seconded By Redlin

Senators	Yes	No	Senators	Yes	No
Senator Freborg, Chairman	✓				
Senator Cook, Vice Chairman	✓				
Senator Flakoll	✓				
Senator Wanzek	✓				
Senator Kelsh	✓				
Senator O'Connell	✓				
Senator Redlin	✓				

Total (Yes) 7 No 0

Absent _____

Floor Assignment Redlin

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

REPORT OF STANDING COMMITTEE

HB 1196, as engrossed: Education Committee (Sen. Freborg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1196 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact subsection 1 of section 57-15-14.2 and section 57-15-17.1 of the North Dakota Century Code, relating to mill levies for alternative education programs; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 57-15-14.2 of the North Dakota Century Code is amended and reenacted as follows:

1. A school board of any school district may levy an amount sufficient to cover general expenses including the costs of the following:
 - a. Board and lodging for high school students as provided in section 15-34.2-06.
 - b. The teachers' retirement fund as provided in section 15-39.1-28.
 - c. Tuition for students in grades seven through twelve as provided in section 15-40.2-12.
 - d. Special education program as provided in section 15-59-08.
 - e. The establishment and maintenance of an insurance reserve fund for insurance purposes as provided in section 32-12.1-08.
 - f. A final judgment obtained against a school district.
 - g. The district's share of contribution to the old-age survivors' fund and matching contribution for the social security fund as provided by chapter 52-09 and to provide the district's share of contribution to the old-age survivors' fund and matching contribution for the social security fund for contracted employees of a multidistrict special education board.
 - h. The rental or leasing of buildings, property, or classroom space. Minimum state standards for health and safety applicable to school building construction shall apply to any rented or leased buildings, property, or classroom space.
 - i. Unemployment compensation benefits.
 - j. The removal of asbestos substances from school buildings or the abatement of asbestos substances in school buildings under any method approved by the United States environmental protection agency and any repair, replacement, or remodeling that results from such removal or abatement and for providing an alternative education program as provided in section 57-15-17.1.
 - k. Participating in cooperative vocational education programs approved by the state board.

- l. Maintaining a vocational education program approved by the state board and established only for that school district.
- m. Paying the cost of purchasing, contracting, operating, and maintaining schoolbuses.
- n. Establishing and maintaining school library services.
- o. Equipping schoolbuses with two-way communications and central station equipment and providing for the installation and maintenance of such equipment.
- p. Establishing free public kindergartens in connection with the public schools of the district for the instruction of resident children below school age during the regular school term.
- q. Establishing, maintaining, and conducting a public recreation system.
- r. The district's share of contribution to finance an interdistrict cooperative agreement authorized by section 15-47-40.1.

SECTION 2. AMENDMENT. Section 57-15-17.1 of the North Dakota Century Code is amended and reenacted as follows:

57-15-17.1. Multiyear asbestos abatement and alternative education program levy by school district.

1. The governing body of any public school district may by resolution adopted by a two-thirds vote of the school board dedicate a tax levy for purposes of this section of not exceeding fifteen mills on the dollar of taxable valuation of property within the district for a period not longer than fifteen years. The school board may authorize and issue general obligation bonds to be paid from the proceeds of this dedicated levy for the purpose of providing:
 - a. Providing funds for the removal of asbestos substances from school buildings or the abatement of asbestos substances in school buildings under any other method approved by the United States environmental protection agency and for any repair, replacement, or remodeling that results from removal or abatement of asbestos substances; and
 - b. Providing alternative education programs.
2. All revenue accruing from the levy under this section, except revenue deposited as allowed by subsection 3, must be placed in a separate fund known as the asbestos abatement fund and must be accounted for within the capital projects fund group and disbursements must be made from such funds within this fund group for the purpose of asbestos abatement.
3. All revenue accruing from up to ten mills of the fifteen-mill levy under this section may be placed in a separate fund known as the alternative education program fund. Disbursement may be made from the fund for the purpose of providing an alternative education program, but may not be used to construct or remodel facilities used to accommodate an alternative education program.

4. Any moneys remaining in the asbestos abatement fund after completion of the principal and interest payments for any bonds issued for any school asbestos abatement project and any funds remaining in the alternative education program fund at the termination of the program must be transferred to the general fund of the school district upon the order of the school board.

SECTION 3. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 1998."

Renumber accordingly

1999 TESTIMONY

HB 1196

Comments on HB 1196

From: David W. Haney, Superintendent of Schools
Jamestown, ND

I thank Representative Hanson for sponsoring HB1196 which would amend Section 57-15-14.2 of the NDCC.

As you are aware, Section 57-15-14.2 gives local school districts authority to levy property tax for a series of educational functions. The majority of them fall under a restrictive funding cap. Certain items are excluded from the cap because they provide a unique service to a school district that is distinct from normal functions. This is clearly stated in the law and I will not take the time to read each item to you.

In addition a history of the mills levied under the various section of 57-15-14.2 is published on an annual basis. The most recent copy I have reports data from the 1997-1998 school year. I offer the summary page of it to you as an illustration. The report for the 1998-1999 term will be available in the near future and can be obtained from the Department of Public Instruction.

If you refer to the report you will note the third item, general fund levy; 187.57 mills was the average mill levy in the state last school year. Though the mill cap is 185 mills, the average general fund levy exceed it. At one time, the law permitted minimum increases above the 185 mill levy cap; today about 60 school districts remain above the 185 mill cap. They exceed it under a NDCC provision no longer in effect. The dollar amount they levy is frozen under current restrictions and as property valuations increase their mill levies will decline and some will fall below the 185 cap as is the case in Jamestown.

The category I want to focus on is the sixth one, high school tuition. You will note the high school tuition levy is used frequently. It is used when a local district does not provide the high school programs required by a student or group of students. It is used to pay the cost when student(s) attend a high school in another community. Since tuition is a permissive levy, not restricted to the 185 mill cap, a school district can levy mills for the program without reducing funding for general fund programs.

The first point I want to make is that Section 57-15-14.2 of the NDCC provides the opportunity to levy for an educational need - paying high school tuition - without restricting funding for general education programs.

The second point I want to make is that House Bill 1196 would add one additional program to the permissive levies - establishing and maintaining an approved alternative school program.

Though the state as a whole is facing a decline in student

enrollment; the number of at-risk-students is increasing. At-risk-students for various reasons will not complete their high school requirements, will not graduate, and probably will not become productive members of society. The risk can be reduced when a school district or a group of school districts join together to provide an approved alternative school program.

An approved alternative school program is a modified educational program tailored to the unique needs and learning styles of the at-risk-students. Students are permitted to learn at their own pace which may be slower or faster than the regular education students. Students are permitted to concentrate on fewer subjects at one time, but they are still required to master all of the standard curriculum. Time schedules are modified, but performance standards are maintained. Individualized instruction is provided, but individual responsibility is expected. A less formal school setting is provided; achievement is criterion referenced and not group referenced. Attendance is not optional; student contracts are developed and students are held to their commitments. Subject centered instruction is discouraged; staff become facilitator. Ownership for learning is fostered as is pride in accomplishments.

Within my school district, twenty five students have been identified as candidates for an alternative program. That equals five percent of the junior and senior classes. Multiply that number by the total number of high school across the state and it become apparent how important HB 1196 is to the future of a significant number of young men and women in our state.

Students who fall into the category of at-risk-students do not fit into a specific mold. Some are aggressive; some have had minor scrapes with the law; some have a difficult home life; some have low self-esteem; some see the world in a different manner than we do; some do not function under the structure of a school system. They all share a common destiny - rejection and failure. Unless we provide interventions, they will lose the opportunity to become productive citizens; when this happens we lose too.

As much as I care about these children and as badly as I want to help them; I do not want to do this at the expense of regular education students.

Passing HB1196 will make a difference. It will provide Jamestown and many other school districts in the state the incentive to establish and maintain an approved alternative school program. As proof of our faith, I invite you to visit my community where you will see students from Jamestown, Montpelier, Medina, Pingree-Buchanan, and Wimbledon-Courtenay building a 3200 square foot home for an alternative school program. The students in our vocational building trades class are doing the majority of the construction. The students are getting the same experience they would receive building a house which is the normal activity for the class.

When interviewed by Channel Four Television ,KXJB of Fargo, one

vocation student said "Building the alternative school is fun; one day I will be able to drive by it and tell my children I helped to build it."

With your approval, the student who complete their education within the walls of the alternative school will graduate with the same positive attitude as the vocational students who constructed the building housing the approved alternative school program.

What HB1196 does is to provide the host or receiving school districts the same opportunity currently provided to sending school districts: those district paying tuition to receiving school districts. Section 57-15-14.2 permits school districts to levy a tax to pay tuition without diverting funds from general education.

HB1196 provides the same opportunity to school districts who host an approved alternative school program.

MILL LEVY SUMMARY FOR 1997-98

The following is a summary of the number of mills levied by school districts by county. The summary also contains the total taxable valuation of the school district and the taxable valuation per pupil. The taxable valuation per pupil is calculated by dividing the total taxable valuation by the number of children ages 6-17 reported on the 1997 school district census. The statewide average taxable valuation per pupil for the current school year is \$9,440.

To determine the amount of revenue that a mill levy will raise, multiply the taxable valuation of the school district by the number of mills levied. (Example: taxable valuation \$1,500,000 X .040 mills = \$60,000.)

The type of General Fund levy is denoted by use of the following codes: R = regular mill levy authorized by statute and set by the school board; S = specified maximum mill levy; U = unlimited mill levy; E = excess mill levy in accordance with NDCC 57-16. Of the school districts reporting a mill levy

type, 218 districts have a regular mill levy, four districts have a specified mill levy, one district has an excess mill levy and four districts have an unlimited levy. Six districts levied less than 70 mills for general fund purposes. Six districts made no levy for general fund purposes. Five districts did not make a levy for the 1997-98 school year. The total average levy for 1997-98 is 213.72 mills.

According to the data reported, no elections were held to establish a specified maximum general fund mill levy during 1997. Fifty-five percent of the bond elections were successful.

The county and state totals were determined by totaling the taxable valuations for the school districts and calculating the number of mills required to raise the same amount of revenue if there were only a single county or state levy for each of the funds.

***** District No. *****	District Name	Taxable Value	Value Per Pupil	Mills Levied													Total		
				General	Coop Prog	Tech	HS Tuit	HS Tran	Judge	Asbes-tos	Sp Reserve	Sp Asses	Build	Asbes-tos-B	Sink /Int	Bond Judge			
STATE TOTALS		1,148,999,564	9,440	187.57			.77	3.41	.22			.63	.39	1.14	9.86	.18	9.55		213.72