

## SENATE EDUCATION COMMITTEE

February 5, 1979

The Senate Education Committee met Monday, February 5, 1979, in Room 402 of the Capitol Building. Senator Bob Brown, Chairman, called the meeting to order at 12:30 p.m. Committee members present were Senators Brown, Ed Smith, Thomas, O'Hara, Anderson, Severson, Fasbender, McCallum and Blaylock. Senator Richard Smith was absent.

### SENATE BILL 273

Senator McCallum, sponsor of the bill, stated the purpose of the bill is to change tuition payment requirements. Currently, a high school student may attend any high school in his county of residence without payment of tuition. Senator McCallum said that tuition is currently paid in elementary districts and this bill would make it the same for high schools. He stated a school in his area is having problems and he introduced the bill at their request.

### PROPOSERS

Robert M. Banks, Superintendent, District 40, Frenchtown, presented his written testimony to the committee and further remarked that this year there are 50 students from out of District attending his school and they may be forced to go to split sessions to accomodate them next year if the same trend continues.

Claude M. "Blacky" Lackner, Chairman of the District 40, Frenchtown, Board of Trustees, stated the tuition problem is growing all over the state. Suburban development and student mobility are contributing factors. He said Frenchtown has bonded themselves to the limit of \$4 million. He further stated that if their levy fails in the future, the students will lose many of the extra curricular activities and frills they now have and as a result will just go down the road to the next school that offers the extras.

Wayne Buchanan, representing the Montana School Boards Association, says the Association supports the bill and said in his personal experience as Director of Special Services the tuition issue is definitely a problem and he certainly supports the bill.

Bob Stockton, OPI, said the law regarding tuition has certain mandatory provisions the committee should be aware of.

There were no opponents to the bill and the hearing was opened to discussion by the committee.

Senator Brown stated the school bus goes through the Whitefish school district picking up students who go to Flathead High from Whitefish. He asked how this bill would affect this situation.

Senator Blaylock asked if parents are already paying mill levy monies and state support, can't they make a case for not paying tuition?

Senator McCallum replied why don't elementary parents object if that is the case.

Senator Smith asked if at present schools could require tuition.

Senator McCallum answered no, they can't.

Senator Blaylock asked how the tuition will be determined.

Senator McCallum stated he thought there is a formula.

Mr. Lackner stated they would only receive the amount calculated over and above the A and B.

Senator Blaylock asked if the tuition could be set high enough so that students couldn't get in.

Mr. Lackner felt attendance couldn't be denied to any student.

Mr. Stockton explained there is a formula that applies. He cautioned the bill would have to be looked at for the removal of retirement plan monies. He further stated high schools can waive tuition on an individual basis but elementary schools must waive for all if they waive for one.

There being no further discussion, the hearing was closed.

#### SENATE BILL 262

Senator McCallum, sponsor of the bill, stated the bill deals with the distribution of the federal forest reserve funds which are disbursed currently  $\frac{2}{3}$  to county road fund and  $\frac{1}{3}$  to the common school fund (foundation program). Mineral County is 93% state and federally owned land and Sanders County is about 60%. The counties keep the  $\frac{2}{3}$  in the county for their road fund but the  $\frac{1}{3}$  is put into the common school fund and disbursed across the state.

Senator McCallum stated the resources being harvested are renewable. He pointed out that all the levies stay in the counties of origin across the state. The bill was drafted with the assistance of the school administrators in his county.

#### PROPOSERS

Charlotte Edwards, Powder River County, stated there isn't a great deal of money available in forest reserve funds in Powder River County but she would still like to see those monies taken out of the foundation program and given back to the counties. She stated the timber tax is similar to the oil and gas fund and Powder River County received \$5 million from that.

Keith Anderson, representing the Montana Taxpayers Association, says the bill mystifies him as the language infers the counties are getting something when actually they aren't. He said the federal forest reserve fund money goes into the state equalization fund and doesn't come back to the counties. The timber tax totals show the counties get the total amount when they actually only receive a small percentage of it (see attachments #1 and #2).

Don Waldron, Assistant Superintendent of Schools in Libby, feels county taxpayers would like to get the money back to the county and to the students in the schools. He said it is inequitable as a huge amount of money is going in and not much is coming back. He introduced several people attending the hearing from Libby.

Penny Underwood, Superintendent of Schools in Lincoln County, reviewed attachment #3 and asked the committee for support of the bill.

Larrae Rocheleau, Superintendent of Schools, Thompson Falls, stated he felt if the 1/3 goes to the foundation program, then the 2/3 for county road maintenance should go to the state highway fund to be consistent. He said the Idaho law is the same as Montana's except the 1/3 goes directly to the county. He stated President Carter wants to repeal law regarding 874 money which would also be a hardship for the counties with large amounts of federal land. He cited a court case in Texas in which the federal government is decreed to be the donor and the state only the trustee. In Montana, at this point, the state is the beneficiary. He further stated that if this bill passed, local special levies could be lowered substantially in areas where forest reserve fund monies are high.

Jim Koke, Superintendent of Schools, Superior, stated they have the highest tax base in the state. Mineral County has 93% of its land owned by the state and federal government. He said their levies are getting higher and higher. They had special levies of \$85,000 and could have lowered that by \$57,000 if they had gotten their forest reserve funds. He feels they are doing a good but only basic job because they are taxed to the hilt and with the extra money they could be doing more and better.

Jim Wilson, rancher from Sanders County, stated they argued with the feds over this 25%. After the forest service took out all their expenses they were left with 6-7%. Now everyone is interested in this windfall tax money. He cited Plains as an example. A sawmill went in and a lot of roads were built due to the logging industry. The population increased and they had to build more schools and now the people are leaving and they are stuck with the schools and are having to play catch up. If they had the reserve money, they wouldn't be in that position.

Bill Gould, Lincoln County Commissioner, stated it is clear in the federal law (attachment #4) that counties are entitled to all money generated in their counties. He said perhaps the legislature felt the money was payment in lieu of taxes. But the federal law says it isn't. He thanked Senator McCallum for introducing the bill.

Ted Rollins, Superintendent of the Troy Public Schools, stated he had been in the business for 30 years. He urged the committee to please retain local control if any changes were made. Troy is in a bind being levied to the limit and the new school building bids have been so high that they're having to eliminate a lot.

Anna Murphy, Superior, stated she is an interested taxpayer in Mineral County. She said they are proud of their schools but taxes in 1978 had skyrocketed - some over 300%. As a result, school levies are going to have a real bad time passing. This bill will be the only thing that will save their schools.

Tom Doohan, Superintendent of Schools, Alberton, Mineral County, stated they are the highest taxed town in the state and as a result are providing only basic no frill education. He said their costs are going up like everyone else's and he doesn't feel they can ask taxpayers for more because they won't do it.

Wayne Buchanan, representing the Montana School Boards Association, stated he agreed with the previous testimony. He stated the bill is an excellent way to help reduce property taxes which is an intent of this legislature if the papers are to be believed.

Senator Hafferman stated there is 82% federal and state owned land in his home county, Lincoln. He stated he supports the bill and cosigned it and will work for its passage.

Hallie Weydimeyer, Lincoln County School Board member, stated the federal law specifically states these funds are for the schools in the counties and the roads in the counties where the forests are located.

Mr. Banks stated that Idaho once wanted to amend their laws to match Montana's and the federal people said that at the least the Montana law was questionable and probably outright illegal.

Harold Skelton, St. Regis, urged support of the bill and cited the interstate going through their canyon and the expense of that construction.

There were no opponents to the bill and the hearing was opened to discussion by members of the committee.

Senator McCallum stated 33 out of 56 counties receive forest fund monies. The counties with the highest amounts of federal and state land are Lincoln, Flathead, and Sanders. He feels the inequity is obvious and the school districts need the money and should receive it. If 874 money is lost it will complicate the problem even more. He urged the committee to support the bill.

Senator Blaylock asked if this is adopted, can this rationale be applied to coal taxes, gold, oil, etc. Will the revenues be kept only in the county of origin? He stated he thought it was decided that all the kids in the state were important, not some in one county more so than others.

Mr. Waldron replied that he couldn't disagree with the idea of share and share alike. But the bill was introduced on the basis of the intent of federal legislation (attachment #5).

Jim Morey, Lincoln County Commissioner, said he felt the federal law is quite explicit.

Hallie Weydimeyer stated the forest is a renewable resource and with proper management it will continue to be productive.

Mr. Morey stated he questions the net proceeds tax.

Senator Brown asked about the history of the 1/3 going into the state in the first place.

Mr. Stockton replied that when the money first came in in 1908 it was put into the common school fund. In 1949, the common school fund became a source of revenue for the foundation program.

Mr. Rocheleau stated he didn't want to sound threatening and did not intend his statement to be interpreted as a threat, but if the legislation isn't enacted, they will pursue the subject further, even through the courts if necessary.

Senator Thomas asked how much reduction in the school foundation program would result if the bill were enacted.


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Feb. 5, 1979

Bob Stockton stated the reduction in the foundation proram would be \$3,142,793.

Senator Brown asked Mr. Stockton if he had been asked to compile data for a fiscal note.

Mr. Stockton replied he had not as yet.

There being no further business, the meeting adjourned to reconvene Wednesday, February 7, at 12:30 p.m.

  
\_\_\_\_\_  
Senator Bob Brown, Chairman

jdr

Date 2/5/79

ROLL CALL

EDUCATION COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
Sen. Bob Brown, Chairman	X		
Sen. Ed Smith, Vice Chairman	X		
Sen. Jesse O'Hara	X		
Sen. George McCallum	X		
Sen. Elmer Severson	X		
Sen. Mike Anderson	X		
Sen. Chet Blaylock	X		
Sen. Larry Fasbender	X		
Sen. Richard Smith		X	
Sen. Bill Thomas	X		

Each Day Attach to Minutes.

DATE July 5, 1979COMMITTEE ON EDUCATION BILL NO. 262

273

## VISITOR'S REGISTER

NAME	REPRESENTING	Check One	
		Support	Oppose
Charles H. Lachman	Dist #40 Frenchtown	✓	
Robert M. Banks	Dist #40 Frenchtown	✓	
F. MacDonald	1-6 St Regis	✓	
<del>Robert J. Lachman</del>	Dist #1-6 St Regis	✓	
Robert A. Bak	Dist #1-6 St. Regis	✓	
Jim Watkins	O.P.I.	—	—
Ted M. Rolfe	Supt. Troy Public Schools	✓	
Bill Ginnell	Lewis County Commissioner	✓ 262	
LP Doherty	Dist #2 Albion, NY	✓ 262	
Anna J. Murphy	Mineral County Dist No. 3	✓	
Walter F. Hoffmann	Dist. 11 Seneca County	✓ 262	
Don Walden	Little Public Schools	✓ 262	273
Frank J. Anderson	Seneca County Dist 2	✓ 262	✓ 273
Ken R. Macey	Seneca County Commissioner	✓ 262	
Allen D. Hewitt	OBPP		
Wayne Buchanan	MSBA	SB 262 " 273	
William E. Wilson		SB 262	
David L. Law			
Jim Lake	Dept. of School Inspection	✓ 262	
Larry Rochelson	Supt. of Schools Thompson Falls	✓ 262	
Hallie M. Weydemeyer	LC #1 State member, Fortuna	✓ 262	
Anna H. Pusey	Dist #1 St. Regis	✓ 262	
Jim Pusey	Dist #1 Salton Elementary	✓ 262	

NAME: \_\_\_\_\_

DATE: 2-5-79

ADDRESS

PHONE :

REPRESENTING WHOM?

APPEARING ON WHICH PROPOSAL:

DO YOU:

SUPPORT?

✓

AMEND?

OPPOSE?

COMMENTS :

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Claude H. Lubner DATE: 2-5-79

ADDRESS: RT # 2, Missoula, mt 59801

PHONE: 216-3280

REPRESENTING WHOM? Robert Lee #40 Frickman mt.

APPEARING ON WHICH PROPOSAL: SB # 273

DO YOU: SUPPORT? ✓ AMEND?        OPPOSE?       

COMMENTS: Chairman of the Board of Dist  
#40

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.



NAME: S. Keith Anderson

DATE: 2/5/79

ADDRESS: Helena

PHONE: 442-2130

REPRESENTING WHOM? Atlanta Telegraph & Messenger

APPEARING ON WHICH PROPOSAL: 262

SUPPORT?

AMEND?

OPPOSE?

COMMENTS: \_\_\_\_\_

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Donald B. Walden DATE: 2-5-79

ADDRESS: Rt #3 Box 1517 Little Mt. 57923

PHONE: 293-6204

REPRESENTING WHOM? Little Public Schools

APPEARING ON WHICH PROPOSAL: SB 262

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: Would like to protect a group of  
USFS land and have some other present conditions  
for the Committee

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Penny Lindemann DATE: 2-2-77

ADDRESS: 418 Mineral Ave. Liberty, Mo. 64068

PHONE: 406-293-3317 - 293-7781 Ext 201

REPRESENTING WHOM? Lincoln County Supl. of Schools

APPEARING ON WHICH PROPOSAL: SB. 262

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: \_\_\_\_\_

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PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME :

DATE: \_\_\_\_\_

ADDRESS :

PHONE:

REPRESENTING WHOM?

APPEARING ON WHICH PROPOSAL:

DO YOU:

SUPPORT?

X

AMEND?

OPPOSE?

COMMENTS :

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME:

*Jim Kake*

DATE:

ADDRESS:

*Box 487 Superior*

PHONE:

*922-4851*

REPRESENTING WHOM?

*Superior Public Schools*

APPEARING ON WHICH PROPOSAL:

*SB 262*

DO YOU:

SUPPORT?

☒

AMEND?

OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME :

DATE: 2/5/78

ADDRESS :

PHONE :

REPRESENTING WHOM?

APPEARING ON WHICH PROPOSAL:

DO YOU:

SUPPORT?

X

AMEND?

OPPOSE?

COMMENTS :

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Bill Gould DATE: Feb 5, 1979

ADDRESS: RT 1 Box 814, Eureka, Mo. 64501

PHONE: 889-3746

REPRESENTING WHOM? Lincoln County Commissioner

APPEARING ON WHICH PROPOSAL: SB 262

DO YOU: SUPPORT? Yes AMEND? \_\_\_\_\_ OPPOSE? \_\_\_\_\_

COMMENTS: I support the bill in its original  
form and have submitted prepared material  
indicating my reasons

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Ted Rollins DATE: 8-5-79

ADDRESS: P.O. Box 187, Troy, Mont. 59935

PHONE: 406-295-4606

REPRESENTING WHOM? Troy Public Schools

APPEARING ON WHICH PROPOSAL: SB-262

DO YOU: SUPPORT? yes AMEND? \_\_\_\_\_ OPPOSE? \_\_\_\_\_

COMMENTS: Retain school Board of trustees  
discretion over use of part of  
Nat'l Forest earnings money

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Anna J. Murphy DATE: 2-5-79

ADDRESS: Superior, Montana

PHONE: 822-4582

REPRESENTING WHOM? Interested taxpayers

APPEARING ON WHICH PROPOSAL: SB 262

DO YOU: SUPPORT? X AMEND? \_\_\_\_\_ OPPOSE? \_\_\_\_\_

COMMENTS: I support SB 262 as written.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: T. P. Doohan DATE: 2/5/79

ADDRESS: Box 335 Alberton, Mt. 59820

PHONE: (406) 722-3381

REPRESENTING WHOM? Dist. #2

APPEARING ON WHICH PROPOSAL: SB-262

DO YOU: SUPPORT? ✓ AMEND?        OPPOSE?       

COMMENTS: I am supt of schools in the  
highest taxed town in Montana. Our  
town is 93% owned by State-Federal.  
We are about to lose our largest  
"tax-payer", the Milwaukee Road.  
We must have the local tax  
relief that is inherent in SB-262. It  
would be the only fair and equitable  
interpretation of the intent of the  
current law, that these monies were  
"in lieu of tax money". We cannot have  
private ownership. Therefore, we must  
have monies "in lieu of".

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Senet-Hoffmann

DATE: 5 Feb 79

ADDRESS: Rt. 3 Box 1274 Leno, N.Y. 159723  
2217 9 Ave Helena Mont 59601

PHONE: 293-4825 - 442-0609

REPRESENTING WHOM? Lincoln County Dist 11

APPEARING ON WHICH PROPOSAL: 262

SUPPORT?

AMEND?

OPPOSE?

COMMENTS: \_\_\_\_\_

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Harold H. Hutton

Feb 5

St Regis Mont

649 5840

School Diet 1-6

SB 562

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME:

Roger A. Bak

DATE:

2/5/79

ADDRESS:

P.O. Box - 253

PHONE:

649-2718

REPRESENTING WHOM?

Al. High Public Schools - District #1+6  
*Menard County*

APPEARING ON WHICH PROPOSAL:

SB-262

DO YOU:

SUPPORT?



AMEND?

OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

4 Feb 1979

Senator Bob Brown  
Chairman, Education Committee  
Capitol Station  
Helena, Mt., 59601

Dear Senator Brown:

Please work for the passage of Senate Bill No. 262 which seeks to correct a long-standing injustice in Montana's allocation of federal forest reserve money to school districts.

I believe Montana's present law (Sec 17-3-213 and 20-9-331, MCA) which effectively places national forest receipt money in a statewide common school fund is in violation of federal law (16 USC Sec 500). The federal law states that 25% of national forest receipts are:

"...for the benefit of the public schools and public road as the county or counties in which such national forest is situated..."

Montana's apparent rational for the current injustice is that the 25% of national forest receipts are considered "payment in lieu of property taxation" (Sec 20-9-331 part(2) f. MCA).

But under Interpretive Notes and Decisions of federal law 16 USC Sec 500 it very clearly states:

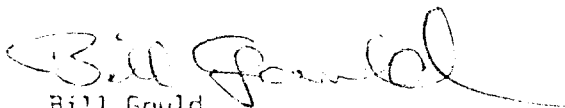
"Payments made by United States pursuant to 16 USC Sec 500 are not in lieu of taxes..." (United States v County of Fresno--1973)

and again:

"Payments made by Federal Government under provisions of 16 USC Sec 500 were not in lieu of taxes." (Bartlet v Collector of Revenue--1973).

If the 46th Legislature does not correct the present injustice through Senate Bill No. 262 (or a comparable bill), I will work for change through the courts.

Sincerely,

  
Bill Gould  
Lincoln County Commissioner  
Rt. 1, Box 81A  
Eureka, Mt., 59917

Property Tax to be Collected  
in 1979  
On Net and Gross Proceeds of:

	Miscellaneous Mines	Metal Mines	Coal Mines	Oil & Gas	TOTAL
beaverhead	\$20,680				\$20,680
Big Horn			2,897,756	38,384	2,936,140
Blaine				1,127,247	1,127,247
boardwater					
Carbon	16,620			556,539	573,159
Carter	5,631			71,194	76,825
Cascade					
Couteau				104,712	104,712
Custer				9,297	9,297
Cuniels					
Cowson				125,455	125,455
Creeper Lodge					
Ellon				2,106,360	2,106,360
Ergus					
Flathead					
Gallatin					
Garfield	49,689			26,804	76,493
Glacier				1,808,250	1,808,250
Golden Valley				20,850	20,850
Granite		4,015			4,015
Grill	4,394			601,832	606,226
Jefferson		115			115
Madith Basin	2,992				2,992
Mike					
Mewis & Clark		1			1
Liberty				380,044	380,044
Lincoln	230,228				230,228
Madison	172,143	59			172,202
McCone				241,718	241,718
Mcagher	40	544			584
Mineral					
Missoula					
Musselshell			6,672	608,344	615,016
Nork					
Petroleum				75,562	75,562
Phillips				128,059	128,059
Pondera				265,803	265,803
Powder River			20,553	5,030,469	5,051,022
Powell	93,529	3			93,532
Prairie				14,219	14,219
Qualli	8,461				8,461
Rchland			650,237	1,645,531	2,295,768
Roosevelt				653,280	653,280
Rosebud			1,505,955	1,335,741	2,841,696
Sanders					
Sheridan				716,485	716,485
Silver Bow		736,890			736,890
Stillwater				102,712	102,712
Teet Grass					
Teton				129,582	129,582
Toole				1,185,718	1,185,718
Treasure	1,617				1,617
Valley				15,489	15,489
Westland					

State of Montana  
Office of Public Instruction  
Georgia Rice, Superintendent  
Helena 59601

ELEMENTARY SCHOOL  
General Fund Revenues Work Sheet  
SECTION B—COUNTY

Due September 1 with  
Annual Report of County Superintendent

COUNTY Glendora

1978-79

COUNTY EQUALIZATION (Basic County Levy for Elementary Schools)

- |   |                      |                        |
|---|----------------------|------------------------|
| 27. Taxable Valuation of County (from County Assessor)  |                      | \$ <u>18,848.069</u>   |
| 28. Revenue for each mill of Taxable Valuation, County (line 27 x .001)   |                      | \$ <u>18,843.069</u>   |
| 29. Basic 25 Mill County Levy Amount (line 28 x twenty-five)  |                      | \$ <u>471,076.73</u>   |
| 30. a. County Reimbursement to Districts for Transportation (Total District Budget Form Items 02-00-33 and 17-00-33; include County's share of Schedule for Joint Districts.) |                      | \$ <u>40,317.24</u>    |
| b. Last year's actual Reimbursements for Transportation   | \$ <u>36,143.04</u>  |                        |
| 31. Remainder (line 29 less line 30)  |                      | \$ <u>430,759.49</u>   |
| 32. Other County Revenue (identify)   |                      |                        |
| a. Cash Reappropriated  | \$ <u>7474.79</u>    |                        |
| b. Forest Funds   | \$ <u>311,832.43</u> |                        |
| c. Taylor Grazing   | \$ _____             |                        |
| d.  | \$ _____             |                        |
| e. Total  |                      | \$ <u>319,307.22</u>   |
| 33. Total for Basic County Equalization of All Districts' Foundation Programs (line 31 + line 32-e)   |                      | \$ <u>750,066.71</u>   |
| 34. Total Foundation Program Requirements, All Districts (Add amounts in line 2, Section A of Forms 1A and the county's portion for joint districts on line 2 of Form 15.)    |                      | \$ <u>1,154,654.47</u> |
| 35. BASIC COUNTY EQUALIZATION LEVEL. Per cent of Total Foundation Program Requirements Financed by County (line 33 x 100 divided by line 34.)                                 |                      | <u>64.96027</u> %      |

100.00  
64.96  
35.04  
31.04

COUNTY SUPT. OF SCHOOLS  
LINCOLN COUNTY

FEDERAL FOREST RESERVE DISTRIBUTION BY ANB

	ANB	ALL SCHOOL DISTRIBUTION	ELEMENTARY DISTRIBUTION ONLY
#1 Troy	376	94,752.	143,256.
#2 Rexford	20	5,040	7,620
#4 Libby	1934	487,368	736,854
#13 Eureka	440	110,880	167,640
#14 Fortine	54	13,608	20,574
#15 McCormick	28	7,056	10,668
#23 Sylvanite	16	4,032	6,096
#24 Yaak	19	4,788	7,239
#53 Trego	61	15,372	23,241
	<u>2948</u>	<u>742,896</u>	<u>1,123,188</u>
LHS	952	239,904	
THS	225	56,700	
LCHS	<u>327</u>	<u>82,404</u>	
	1504	379,008	
Grand Total	4452		

1978 Federal Forest Res. money available      \$ 1,123,516      in Lincoln County

divided by total ANB 4452 of Lincoln Co. = \$252 per student

divided by Elem.only - 2948 equals      \$381 per student

County Supt. of Schools  
Lincoln County

2-2-79

<u>DISTRICT</u>	<u>TOTAL SECTIONS LAND BY SCHOOL DISTRICT</u>	<u>PRIVATELY OWNED SECTIONS BY DISTRICT</u>	<u>% FEDERAL LAND BY DISTRICT</u>
Troy	501	82	84%
Rexford	137	32	77%
Libby	1073	436	59%
Eureka Elem	729	240	67%
Fortine	83	43	48%
McCormick	160	37	77%
Sylvanite	273	10	96%
Yaak	520	26	95%
Trego	173	71	59%
HS	1073	436	59%
THS	1454	155	89%
LCHS	1122	386	66%
TOTAL COUNTY	3649	TOTAL PRIVATE 977	PERCENT FEDERAL 73%

COUNTY SUPT. OF SCHOOLS  
LINCOLN COUNTY

FEDERAL FOREST RESERVE DISTRIBUTION BY PERCENT  
OF FEDERAL LAND OWNED IN LINCOLN COUNTY

DOLLAR AMOUNTS OF 9 MILL PERMISSIVE LEVY BY DISTRICT

	9 MILLS ELEM <u>( 1978)</u>		<u>FEDERAL GOVT. SHARE</u>
#1    Troy	\$ 20,896.704	X 84%	\$ 17,530.55
#2    Rexford	2,149.245	X 77%	1,645.92
#4    Libby	165,305.89	X 59%	97,530.48
#13	27,921.20	X 67%	18,707.20
#14	7,033.239	X 48%	3,375.95
#15	2,476.053	X 77%	1,906.56
#23	1,575.684	X 96%	1,512.66
#24	2,047.644	X 95%	1,945.26
#53	5,620.284	X 59%	3,315.97
TOTAL	\$235,025.94		\$147,470.55

Local Taxpayers Share    \$ 87,555.39

6 MILL  
PERMISSIVE (HS)

LHS	110,217.258	X 59%	65,028.18
THS	28,482.642	X 89%	25,349.55
LCHS	<u>17,997.39</u>	X 66%	<u>11,878.28</u>
total	156,697.290		102,256.01

Local Taxpayers Share    54,441.28

COUNTY SUPT. OF SCHOOLS  
LINCOLN COUNTY

FEDERAL FOREST RESERVE DISTRIBUTION BY PERCENT  
OF FEDERAL LAND OWNED IN LINCOLN COUNTY

DOLLAR AMOUNTS OF SPECIAL VOTED DISTRICT LEVIES

	<u>VOTED 1978</u>	<u>% FED. OWNED LAND</u>	<u>FEDERAL GOVT. SHARE</u>
Troy	\$ 73,918.00	X 84%	\$ 62,091.12
Rexford	6,348.29	X 77%	4,888.18
Libby	571,181.96	X 59%	336,997.36
Eureka Elem	17,498.00	X 67%	11,723.66
Fortine	3,509.90	X 48%	1,684.75
McCormick	0	X 77%	0
Sylvanite	4,950.60	X 96%	4,752.58
Yaak	2,027.00	X 95%	1,925.65
Trego	13,679.02	X 59%	8,070.62
	<hr/>		<hr/>
TOTAL	\$ 693,112.77		\$432,133.92
			Local Taxpayers share 260,978.85
IHS	338,406.00	X 59%	199,659.54
THS	47,164.00	X 89%	41,975.96
LCHS	23,000.00	X 66%	15,180.00
	<hr/>		<hr/>
	408,570.00		256,815.50
			Local Taxpayers share 151,754.50

COUNTY SUPT. OF SCHOOLS  
LINCOLN COUNTY

2-2-79

FEDERAL FOREST RESERVE DISTRIBUTION BY PERCENT  
OF FEDERAL LAND OWNED IN LINCOLN COUNTY

STATE DEFICIENCY LEVY

	<u>MILLS</u>		<u>VALUATION</u>		<u>TOTAL LEVY</u>		<u>% FED. LAND</u>		<u>FED. GOVT. SHARE</u>
ELEM..	2.000	X	\$ 26,116.215	=	\$ 52,232.43	X	73%	=	\$ 38,129.67
HS	1.200	X	\$ 26,116.215	=	\$ 31,339.46	X	73%	=	\$ 22,877.81

# Frenchtown Public Schools, District No. 40

Frenchtown, Montana 59834

ROBERT M. BANKS  
823-5762  
SUPERINTENDENT

PHILIP M. BAERLOCHER  
823-4461  
ELEMENTARY PRINCIPAL

ARTHUR O. HIGHTOWER  
823-4414  
HIGH SCHOOL PRINCIPAL


## TESTIMONY IN FAVOR OF SENATE BILL #273

Frenchtown School District would like to go on record as favoring Senate Bill No. 273; an act requiring tuition payment for high school students attending a high school in a district outside their resident district.

At the present time, high school students can attend any high school in their county that they wish to attend, without payment of tuition. This practice, under, law, is a holdover from the county high school concept, when all high schools were under the control of the county in which they were located.

A number of years ago, the legislature made it possible to form more than one high school district within a county. At present, there is more than one high school district in a county with it's own district lines and tax base.

It is our contention, that to allow a student from one high school district to attend school in another district without paying tuition, is unfair to the receiving district. The law presently being adhered to, works a hardship on the receiving district in respect to overcrowding facilities available, and it is also a fact that the parents of students from out of the district do not contribute to the tax base of the receiving district, in supplying the revenue necessary for the educational and building programs of the district. We believe that each high school district should have the authority to waive tuition payment at their discretion on students outside the district, within the same county, which this bill does, under Section No. 20-50312, Sub Section 2-C. Senate Bill No. 273, is necessary to correct the laws of Montana to conform to the intent of the legislature in forming separate high school districts. We are in favor of, and encouraging considerable consideration of Senate Bill No. 273.

  
ROBERT M. BANKS,  
Superintendent

- Act of August 7, 1947 (61 Stat. 915; 30 U.S.C. 355)

All receipts derived from leases issued under the authority of this Act shall be paid into the same funds or accounts in the Treasury and shall be distributed in the same manner as prescribed for other receipts from the lands affected by the lease, the intention of this provision being that this Act shall not affect the distribution of receipts pursuant to legislation applicable to such lands: *Provided, however,* That receipts from leases or permits for minerals in lands set apart for Indian use, including lands the jurisdiction of which has been transferred to the Department of the Interior by the Executive order for Indian use, shall be deposited in a special fund in the Treasury until final disposition thereof by the Congress.

## From Forfeitures, Judgments, Compromises, or Settlements

- Act of June 20, 1950 (72 Stat. 217; 16 U.S.C. 573c)

Any moneys received by the United States with respect to lands under the administration of the Forest Service (1) as a result of the forfeiture of a bond or deposit by a permittee or timber purchaser for failure to complete performance of improvement, protection, or rehabilitation work required under the permit or timber sale contract or (2) as a result of a judgment, compromise, or settlement of any claim, involving present or potential damage to lands or improvements, shall be covered into the Treasury and are hereby appropriated and made available until expended to cover the cost to the United States of any improvement, protection, or rehabilitation work on lands under the administration of the Forest Service rendered necessary by the action which led to the forfeiture, judgment, compromise, or settlement: *Provided,* That any portion of the moneys so received in excess of the amount expended in performing the work necessitated by the action which led to their receipt shall be transferred to miscellaneous receipts.

## Payments to States and Counties

### National Forest Receipts

- Acts of May 23, 1908 and March 1, 1911 (35 Stat. 260 and 36 Stat. 863, as amended; 16 U.S.C. 500)

Twenty-five per centum of all moneys received during any fiscal year from each national forest shall be paid at the end

thereof by the Secretary of the Treasury to the State or Territory in which said national forest is situated, to be expended as the State legislature may prescribe for the benefit of the public schools and public roads of the county or counties in which the national forest is situated: *Provided,* That when any national forest is in more than one State or Territory or county the distributive share to each from the proceeds of said forest shall be proportional to its area therein. In sales of logs, ties, poles, posts, cordwood, pulpwood, and other forest products the amounts made available for schools and roads by this Act shall be based upon the stumpage value of the timber. Beginning October 1, 1976, the term 'moneys received' shall include all collections under the Act of June 9, 1930, and all amounts earned or allowed any purchaser of national forest timber and other forest products within such State as purchaser credits, for the construction of roads on the National Forest Transportation System within such national forests or parts thereof in connection with any Forest Service timber sales contract. The Secretary of Agriculture shall, from time to time as he goes through his process of developing the budget revenue estimates, make available to the States his current projections of revenues and payments estimated to be made under the Act of May 23, 1908, as amended, or any other special Acts making payments in lieu of taxes, for their use for local budget planning purposes.

NOTE.—See Payments in Lieu of Taxes Act in Major Acts Section for additional provisions.

## National Grassland and Other Title III Lands Receipts

- Act of July 22, 1937 (50 Stat. 526; 7 U.S.C. 1012)

As soon as practicable after the end of each calendar year, the Secretary shall pay to the county in which any land acquired under the authority of Title III, Blankhead-Jones Farm Tenant Act, is held by the Secretary, 25 per centum of the net revenue received by the Secretary from the use of the land during such year. In case the land is situated in more than one county, the amount to be paid shall be divided equitably among the respective counties. Payments to the counties under this section shall be made on the condition that they are used for school or road purposes, or both. This section shall not be construed to apply to amounts received from the sale of land.

estimated to be made under the Act of May 23, 1908, as amended, or any other special Acts making payments in lieu of taxes, for their use for local budget planning purposes.

(May 23, 1903, c. 192, 35 Stat. 260; Mar. 1, 1911, c. 186, § 13, 36 Stat. 963; June 30, 1914, c. 131, 38 Stat. 441; Sept. 21, 1944, c. 412, title II, § 212, 58 Stat. 737; Apr. 24, 1950, c. 97, § 17(b), 64 Stat. 87; Oct. 22, 1976, P. L. 94-583, § 16, 90 Stat. 2961.)

## HISTORY; ANCILLARY LAWS AND DIRECTIVES

### References in text:

The Act of June 9, 1930, referred to in text, is Act June 9, 1930, ch. 416, 46 Stat. 527, popularly known as the Knutson-Vandenberg Act, which is classified to 16 USCS 576, 576a, and 576b.

The Act of May 23, 1908, referred to in text, is Act May 23, 1908, ch. 192, 35 Stat. 251. A portion of that Act appearing at 35 Stat. 260 is classified to this section.

### Explanatory notes:

This section appears in the language of the compilers of the 1976 Edition of the United States Code. For status of the United States Code as evidence of the law, see 1 USCS §§ 112 and 204 and notes thereunder.

"National forest" was substituted for "forest reserve" the first, third and fourth time appearing, and for "reserve" the second time appearing, and "forest" was substituted for "reserve", on authority of Act Mar. 4, 1907, c. 2907, 34 Stat. 1269, which provided that forest reserves shall hereafter be known as national forests.

### Amendments:

1914. Act June 30, 1914, changed the per centum to be paid to each State from five to twenty-five.

1944. Act Sept. 21, 1944, added sentence relating to stumpage value of the timber.

1950. Act Apr. 24, 1950, deleted second proviso relating to limitation paid county.

1976. Act Oct. 22, 1976, added provision that beginning Oct. 1, 1976, the term "moneys received" would include all collections under the Act of June 9, 1930, and all amounts earned or allowed any purchaser of national forest timber and other forest products within such State as purchaser credits, for the construction of roads on the National Forest Transportation System within such national forests or parts thereof in connection with any Forest Service timber sales contract, and that the Secretary of Agriculture shall, from time to time as he goes through his process of developing the budget revenue estimates, make available to the States his current projections of revenues and payments estimated to be made under the Act of May 23, 1908, as amended, or any other special Acts making payments in lieu of taxes, for their use for local budget planning purposes.

extension thereof, shall be disposed of as is provided by existing law for the disposition of receipts from national forests."

The words of this section reading, "except as provided in sections 500 and 501 of this title" are intended to relate this section to the apparent exceptions contained in later law.

#### Amendments:

1928. Act May 29, 1928, deleted a provision which required the Secretary of Agriculture to make an annual report to Congress of the amounts refunded under this section.

### CROSS REFERENCES

Deposit of proceeds from sale of timber on lands added to Siskiyou National Forest, 16 USCS § 487.

Refunding accounts, 31 USCS § 725q(b)(9)(18).

Trust funds, 31 USCS § 725s(13).

This section referred to in 16 USCS §§ 508b, 527.

### INTERPRETIVE NOTES AND DECISIONS

Jurisdiction of Secretary as to refunds is exclusive only as to disputed questions of fact, and his decision upon question of law is reviewable by

Court of Claims. *Utah Power & Light Co. v. United States* (1929) 67 Ct Cl 602.

#### § 500. Payment and evaluation of receipts to State for schools and roads; moneys received; projections of revenues and estimated payments

On and after May 23, 1908, twenty-five per centum of all moneys received during any fiscal year from each national forest shall be paid, at the end of such year, by the Secretary of the Treasury to the State in which such national forest is situated, to be expended as the State legislature may prescribe for the benefit of the public schools and public roads of the county or counties in which such national forest is situated: *Provided*, That when any national forest is in more than one State or county the distributive share to each from the proceeds of such forest shall be proportional to its area therein. In sales of logs, ties, poles, posts, cordwood, pulpwood, and other forest products the amounts made available for schools and roads by this section shall be based upon the stumpage value of the timber. Beginning October 1, 1976, the term "moneys received" shall include all collections under the Act of June 9, 1930, and all amounts earned or allowed any purchaser of national forest timber and other forest products within such State as purchaser credits, for the construction of roads on the National Forest Transportation System within such national forests or parts thereof in connection with any Forest Service timber sales contract. The Secretary of Agriculture shall, from time to time as he goes through his process of developing the budget revenue estimates, make available to the States his current projections of revenues and payments

## 16 USCS § 500

## CONSERVATION

### Other provisions:

Limitation on effect of 1976 amendment. Provisions of Federal Land Policy and Management Act of 1976, Act Oct. 21, 1976, P. L. 94-579, 90 Stat. 2743, are not to be construed as affecting the distribution of livestock grazing revenues to local governments under this section; see section 701(j) of Act Oct. 21, 1976, set out as 43 USCS § 1701 note.

Similar provisions. Provisions similar to this section were contained in Department of Agriculture Appropriation Acts for the following years:

1944—Act June 28, 1944, c. 296, § 1, 58 Stat. 444;

1943—Act July 12, 1943, c. 215, § 1, 57 Stat. 412;

1942—Act July 22, 1942, c. 516, § 1, 56 Stat. 680;

1941—Act July 1, 1941, c. 267, § 1, 55 Stat. 423.

## CODE OF FEDERAL REGULATIONS

7 CFR Part 15

## CROSS REFERENCES

Apportionment of income of Olympic National Forest, 16 USCS § 253.

This section referred to in 16 USCS §§ 90d, 460p-2, 499, 508b, 516, 518, 521a, 577e, 577g, 577g-1, 580k, 583; 25 USCS § 564W-1; 30 USCS § 351.

## INTERPRETIVE NOTES AND DECISIONS

1. Generally
2. Tax matters
3. "Stumpage value" defined

### 1. Generally

It is competent for state legislature to authorize county commissioners to expend money for public schools and public roads, and equal division annually between two purposes is not required or contemplated. *King County v Seattle School Dist.* (1923) 263 US 361, 68 L Ed 339, 44 S Ct 127.

Grants allocated to education are for benefit of all public school districts in county and are not restricted to those only which lie in whole or in part within area of national forest. *Trinity Independent School Dist. v Walker County* (1956, Tex Civ App) 287 SW2d 717, error ref n re.

### 2. Tax matters

Even though activities of timber companies are regulated by Forest Service, this does not immunize company from state taxation unless their activities are so controlled that they become

agents of United States. *International Paper Co. v County of Siskiyou* (1974, CA9 Cal) 515 F2d 285.

Payments made by United States pursuant to 16 USCS § 500 are not in lieu of taxes and do not bar imposition of taxes upon possessory interests held by private individuals or corporations in improvements located in national forests. *United States v County of Fresno* (1975) 50 Cal App 3d 633, 123 Cal Rptr 548, affd 429 US 452, 50 L Ed 2d 683, 97 S Ct 699.

Payments made by Federal Government under provisions of 16 USCS § 500 were not in lieu of taxes. *Bartlett v Collector of Revenue* (1973, La App) 285 So 2d 346.

### 3. "Stumpage value" defined

"Stumpage value" of timber sold, within meaning of 16 USCS § 500, does not include sale area deposits collected from purchasers pursuant to Knutson-Vandenberg Act [16 USCS § 576b] to cover cost to United States of reforestation. *Alabama v United States* (1972) 198 Ct Cl 683, 461 F2d 1324, cert den 409 US 1023, 34 L Ed 2d 315, 93 S Ct 464.

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"... does not evidence intention of Congress to make payments in lieu of taxes, but rather friendly purpose to create trusts for benefit of counties in which national forests are located, in recognition of national interest in education and road building." (*School Dist v Walker County Tex*)

Civ App 1956, 287 SW2d 717