

MINUTES OF THE MEETING  
LOCAL GOVERNMENT COMMITTEE  
MONTANA STATE SENATE

January 31, 1985

The eighth meeting of the Local Government Committee was called to order at 1:00 p.m. on January 31, 1985 by Chairman Dave Fuller in Room 405 of the Capitol Building.

ROLL CALL: All members were present. Senator Crippen arrived late.

CONSIDERATION OF SENATE BILL 127: Senator Bob Brown, District #2, is the sponsor of this bill. The bill was introduced to establish a formula for allocating part of the Forest Reserve money to cities and towns for local road purposes. He explained that the bills introduced for this purpose in the past have used a formula based on population. This formula would be based on actual road mileage within cities and towns and cities would therefore get revenue in proportion to the amount of road miles within their cities. Senator Brown submitted a revenue comparison which is attached as Exhibit A to these minutes.

PROONENTS

Jack Arnold, Whitefish City Manager, spoke in favor of the bill. He stated Whitefish does not have the tax base that other resort cities have. He stated that some counties have provided funds to cities for their roads voluntarily, but they were denied any funding from Flathead County.

John Garrity, representing the Whitefish City Council, spoke in favor of the bill. He said heavy trucks are ruining their city roads.

Mike Young, Finance Director for Missoula, spoke in favor of the bill. He said this bill would give cities the opportunity to get back some of the inequity in tax subsidies.

Alec Hansen, representing the Montana League of Cities and Towns, spoke in favor of the bill. He stated that the formula used before in proposing this type of legislation would have taken a good deal of money out of the county road funds. This new proposal does not seem outrageous at all and would be very feasible.

Wayne Phillips, representing the State Auditor's Office, spoke in favor of the bill. He also proposed an amendment to have the bill reat "paid in full" by the Forest Service within thirty days after receiving the funds. The proposed amendment is attached as Exhibit B to these minutes.

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OPPONENTS

Gordon Morris, representing the Montana Association of Counties, spoke in opposition to the bill. His written testimony is attached as Exhibit C to these minutes. He also submitted a letter of opposition from the Flathead County Commissioners, which is attached as Exhibit D to these minutes.

Bob Decker, representing the Lewis and Clark County Commissioners, spoke in opposition to the bill. He said he felt the numbers used in Senator Brown's revenue comparison were incorrect. He said logging trucks in Lewis and Clark County use only County roads and that, in this case, you would be giving ten to twenty thousand dollars to a city for logging truck impact that did not occur.

Jim Campbell, Lewis and Clark County Commissioner, stated his opposition to the bill.

Tom Beck, President of Montana Association of Counties and a Powell County Commissioner, spoke in opposition to the bill. He stated that the receipt of federal funds comes down specifically for the purpose of maintaining county logging roads up to and not beyond urban areas.

Questions from the Committee were called for.

Senator Crippen asked Mr. Morris to specify where these funds are spent. Mr. Morris stated the funds are not spent within the city limits.

Senator Crippen stated the law says the funds are to be spent on public roads of the county or counties and maintains that a city road is technically within a county. Mr. Morris stated that this is not the intention of the law and there are recent court cases which uphold his position. There is a separation for the purpose of these revenues.

Senator Story stated that, in talking about the unfairness of city taxes being used for county purposes, there are also several cases where county taxes are used for city purposes.

Senator Eck asked if there were cases where the counties voluntarily share funds with the cities for these purposes. Senator Brown said there were.

Senator Hirsch asked if there were more cases where logging trucks use city roads and cause damage to the roads. Senator Brown stated there are several northwest logging towns that have this same problem.

January 31, 1985

Senator Fuller asked Senator Brown what his interpretation was of what Congress meant when they put "public roads" in the law. Senator Brown feels they mean both city and county roads because it would not have been possible for Congress to determine where cities would spring up when they wrote the law.

The hearing was closed on SB 127.

CONSIDERATION OF SENATE BILL 160: Senator Dave Fuller, District #22, is the sponsor of this bill. The bill was introduced to allow transfer or revision of appropriations within or among municipal budgets for certain budget classes.

PROPOSERS

Bill Verwolf, representing the City of Helena, spoke in favor of the bill and requested the class of "capital outlay" be inserted in the bill to allow transfer or revision of appropriations from this line item. The proposed amendment is attached as Exhibit E to these minutes.

Nathan Tubergen, Finance Director for the City of Great Falls, spoke in favor of the bill. He feels this would be a good management tool. When an emergency comes up, they need to be able to have this flexibility.

Don Peoples, representing the Butte Silver Bow City Commission, stated that people need this flexibility in order to be able to manage dwindling resources.

Mike Young, Finance Director for the City of Missoula, spoke in favor of the bill. He stated cities need to be able to transfer funds among classes.

Alec Hansen, representing the Montana League of Cities and Towns, stated that this bill is supported by his association.

Greg Jackson, representing Urban Coalition, stated that he is in support of the bill.

OPPONENTS

There were no opponents to SB 160.

Questions from the Committee were called for. There were no questions from the Committee on SB 160.

January 31, 1985

CONSIDERATION OF SENATE BILL 163: Senator Ethel Harding, District #25, is the sponsor of this bill. The bill was introduced at the request of the Department of Commerce. The bill was introduced to delete the responsibility of the Department of Commerce to provide standard petition forms and sample petitions to municipalities and to place the responsibility with the Secretary of State. Senator Harding explained that the bill would merely formalize what the Secretary of State already is rightfully doing.

PROPOSERS

Don Dooley, representing the Department of Commerce, spoke in favor of the bill. He stated he was unable to find out why the responsibility was ever put under the Department of Commerce. The duties belong rightfully to the Secretary of State.

OPPONENTS

There were no opponents to SB 163.

Questions from the Committee were called for.

Senator Hirsch asked if it would be helpful to include an effective date in the bill. Senator Harding stated that it would not matter as the Secretary of State's office is already handling the duties.

The hearing was closed on SB 163.

ACTION TAKEN ON SENATE BILL 163: Senator Story moved that the Committee recommend a DO PASS on SB 163. The motion passed unanimously.

FURTHER CONSIDERATION OF SENATE BILL 170: Karen Renne explained the proposed amendment to the bill which would raise the one and one half mill levy limit to three mills. The proposed amendment is attached as Exhibit F to these minutes.

Senator Eck stated that the county commissioners need to start being trusted in making these sorts of decisions.

Senator Mohar moved the Committee adopt the amendment. The motion passed unanimously.

Senator McCallum moved the Committee recommend a DO PASS on SB 170, as amended. The motion failed, with Senators Harding, Regan, Mohar, McCallum, and Fuller voting yes and Senators Crippen, Story, Pinsoneault, Hirsch, and Eck voting no.

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FURTHER CONSIDERATION OF SENATE BILL 140: Senator McCallum moved that the amount in the bill be amended from five hundred thousand dollars to three hundred fifty thousand dollars.

Senator Pinsoneault made a substitute motion that the bill be amended to read three hundred fifty thousand dollars for class three through seven cities and five hundred thousand dollars for class one and two cities. The substitute motion passed with Senator Fuller voting no.

ACTION TAKEN ON SENATE BILL 160: Senator Pinsoneault moved that the Committee adopt the proposed amendment to SB 160 which would add the category of "capital outlay." The motion passed with Senator Harding voting no.

Senator Harding said she would not vote for the amendment to add "capital outlay" as a class because cities should have an exact amount budgeted in that line item.

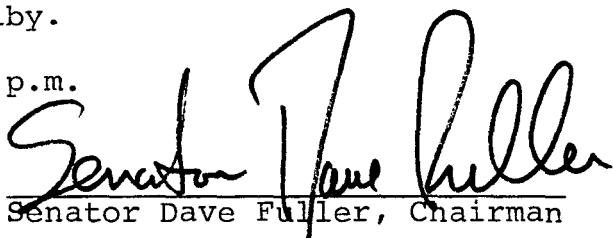
Senator Story made a motion to reconsider their vote to adopt the amendment based on Senator Harding's comments. The motion failed with Senators Story, McCallum, Crippen, and Harding voting to support the motion to reconsider and Senators Fuller, Mohar, Pinsoneault, Regan, Hirsch, and Eck voting no. The original motion was therefore adopted noting the votes to be reversed.

Senator McCallum moved the Committee recommend a DO PASS as amended on SB 160. The motion passed with Senators Story and Crippen voting no.

FURTHER CONSIDERATION OF SENATE BILL 88: Karen Renne researched into how much of the money in the police retirement fund was stated contributed. She stated approximately forty four percent of the funds were from state money. Her memo is attached as Exhibit G to these minutes.

Senator Regan asked that an amendment be prepared for the state to be able to reclaim its' portion of the funds and letting the City of Shelby retain its' portion. Karen stated an amendment would be prepared so that this bill will apply to cities other than just Shelby.

The meeting adjourned at 2:40 p.m.

  
Senator Dave Fuller, Chairman

## ROLL CALL

## LOCAL GOVERNMENT

## COMMITTEE

49th  
~~48th~~ LEGISLATIVE SESSION -- 1985

Date 01-31-85

SENATE  
SEAT

Each day attach to minutes.

# STANDING COMMITTEE REPORT

January 31

85

19

MR. PRESIDENT

## LOCAL GOVERNMENT

We, your committee on SENATE BILL No. 163  
having had under consideration.....

FIRST reading copy ( WHITE )  
color

## DELETE DEPARTMENT OF COMMERCE SAMPLE PETITIONS FOR MUNICIPALITIES

Respectfully report as follows: That..... SENATE BILL No. 163

DO PASS

DO NOT PASS

..... Senator Dave Fuller

Chairman.

# STANDING COMMITTEE REPORT

February 1

85\*

19.....

MR. PRESIDENT

## LOCAL GOVERNMENT

We, your committee on.....  
having had under consideration.....

## SENATE BILL

No. 160

FIRST

reading copy ( WHITE )  
color

## MUNICIPAL BUDGET REVISION; BUDGET CLASSES

## SENATE BILL

160

Respectfully report as follows: That.....

No.....

be amended as follows:

1. Page 1, line 14.  
Following: "wages"  
Strike: "and of"  
Insert: " , "
2. Page 1, line 15.  
Following "support"  
Insert: " , and capital outlay

AND AS AMENDED

DO PASS

XSG:K61XSS

..... Senator Dave Fuller

Chairman.



LOCAL GOVERNMENT COMMITTEE  
JANUARY 31, 1985  
EXHIBIT B

S. Local Government  
Room 405      Hearing 1/31      1:00-3:00 p.m.

Proposed Amendment

SB 127

p. 1, line 19; following receiving, insert:

full payment of the

LOCAL GOVERNMENT COMMITTEE  
JANUARY 31, 1985  
EXHIBIT C

1802 11th Avenue  
Helena, Montana 59601  
(406) 442-5209

**MONTANA  
ASSOCIATION OF  
COUNTIES**

SENATE BILL 127

FOREST RESERVE MONEY

SENATE LOCAL GOVERNMENT COMMITTEE

JANUARY 31, 1985

By statute, States receive from the Department of Agriculture 25 percent of the gross receipts from National Forest lands generated from the sale of products or use of recreation facilities. (The National Forest System consists of the National Forests, the National Grasslands, and Land Utilization Projects administered under Title II of the Bankhead-Jones Farm Tenant Act of 1937.)

These funds are distributed to the counties in which the National Forest System lands are located. This receipt-sharing procedure is intended to compensate the counties for the immunity from property taxation of those lands.

In 1819, the Supreme Court ruled that the States do not have the power to tax Federal property. The States had endeavored to impose this power on the rationale that the existence of Federal property placed burdens on the States and their local jurisdictions to provide services to the Federal Government as well as to the public using the Federally-owned property. It was not until the turn of the century that several pieces of Federal legislation were passed that provided compensation to States for Federal property tax immunity. This Federal legislation is of three types: (1) tax equivalency payments designed to compensate for property tax losses incurred by States and counties due to Federal ownership, (2) receipt-sharing programs, allowing local governments to share a percentage of revenues derived from the sale of products from Federal lands, and (3) authorization of States to impose severance taxes on the buyer for a portion of the value of products purchased from Federal lands.

The Act of May 23, 1908, as amended (16 U.S.C. 500) requires payment to States of "25 percentum of all moneys received during any fiscal year from each national forest" to be used as prescribed by the State legislature for the benefit of public schools and public roads in the counties where the National Forest lands are located. This authority applies to that National Forest System land reserved from the public domain, mostly in the Western United States.

**MACo**

Permanent improvements.

Total for salaries and general expenses, Forest Service, three million two hundred and ninety-six thousand two hundred dollars.

Payment for schools and roads increased.

And there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of six hundred thousand dollars, to be expended as the Secretary of Agriculture may direct, for the construction and maintenance of roads, trails, bridges, fire lanes, telephone lines, cabins, fences, and other permanent improvements necessary for the proper and economical administration, protection, and development of the National Forests.

Total for Forest Service, three million eight hundred and ninety-six thousand two hundred dollars.

Proviso. Proportion between States.

That hereafter twenty-five per centum of all money received from each forest reserve during any fiscal year, including the year ending June thirtieth, nineteen hundred and eight, shall be paid at the end thereof by the Secretary of the Treasury to the State or Territory in which said reserve is situated, to be expended as the State or Territorial legislature may prescribe for the benefit of the public schools and public roads of the county or counties in which the forest reserve is situated: *Provided*, That when any forest reserve is in more than one State or Territory or county the distributive share to each from the proceeds of said reserve shall be proportional to its area therein.

Bureau of Chemistry.

#### BUREAU OF CHEMISTRY.

Salaries.

**SALARIES, BUREAU OF CHEMISTRY:** One Chemist, who shall be Chief of Bureau, five thousand dollars; one chief clerk, one thousand eight hundred dollars; two clerks, class four; four clerks, class three; six clerks, class two; one property clerk, one thousand six hundred dollars; nine clerks, class one; eight clerks, at one thousand dollars each; one assistant property custodian, nine hundred dollars; ten clerks, at nine hundred dollars each; one engineer, one thousand two hundred dollars; two messengers, at eight hundred and forty dollars each; one skilled mechanic, nine hundred dollars; three skilled laborers, at seven hundred and twenty dollars each; one skilled laborer, six hundred dollars; one fireman, six hundred dollars; three messengers or laborers, at six hundred dollars each; three messengers or laborers, at four hundred and eighty dollars each; two messengers or laborers, at four hundred and twenty dollars each; in all, sixty-six thousand seven hundred and twenty dollars.

Laboratory expenses.

**LABORATORY, DEPARTMENT OF AGRICULTURE:** General expenses, Bureau of Chemistry: Chemical apparatus, chemicals, and supplies, repairs to engine and apparatus, gas and electric current, official traveling and other expenses, telegraph and telephone service, express and freight charges, labor and expert work and all necessary expenses in conducting investigations in this Bureau in the city of Washington and elsewhere, and in collating, digesting, reporting, and illustrating the results of such investigations; for the rent of buildings in the city of Washington and elsewhere; to continue collaboration with other Departments of the Government desiring chemical investigations and whose heads request the Secretary of Agriculture for such assistance, and for other miscellaneous work; to demonstrate and illustrate the methods for the making of denatured alcohol on a scale suitable for utilization by the farmer, or associations of farmers; to enable the Secretary of Agriculture to investigate the character of the chemical and physical tests which are applied to American food products in foreign countries, and to inspect before shipment, when desired by the shippers or owners of these food products, American food products intended for countries where chemical and physical tests are required before said food products are allowed to be sold in the countries men-

Denatured alcohol.

Investigating food products for export.

quired under authority of sections 513 to 517 and 521 of this title," are from a provision of Act Mar. 4, 1917, which reads. "Hereafter, all moneys received on account of permits for hunting, fishing, or camping, on lands acquired under authority of said Act [Act Mar. 1, 1911, ch. 186, 36 Stat. 961] or any Amendment or 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 provision which required the Secretary of Agriculture to make an annual report to Congress of the amounts refunded under this section.

#### CROSS REFERENCES

Deposit in "Oregon and California land-grant fund" of proceeds of sale of timber added to Siskiyou National Forest, see section 487 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 508b, 527, 670e of this title.

#### § 500. Payment and evaluation of receipts to State or Territory 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 or Territory in which such national forest is situated, to be expended as the State or Territorial 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 Territory 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 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, 1908, ch. 192, 35 Stat. 260; Mar. 1, 1911, ch. 186, § 13, 36 Stat. 963; June 30, 1914, ch. 131, 38 Stat. 441; Sept. 21, 1944, ch. 412, title

II, § 212, 58 Stat. 737; Apr. 24, 1950, ch. 97, § 17(b), 64 Stat. 87; Oct. 22, 1976, Pub. L. 94-588, § 16, 90 Stat. 2961.)

#### REFERENCES IN TEXT

The Act of June 9, 1930, referred to in text, is act June 9, 1930, ch. 416, 46 Stat. 527, as amended, popularly known as the Knutson-Vandenberg Act, which is classified generally to sections 576, 576a, and 576b of this title. For complete classification of this Act to the Code, see Short Title note set out under section 576 of this title and Tables.

The Act of May 23, 1908, referred to in text, is act May 23, 1908, ch. 192, 35 Stat. 251, as amended. A portion of that act appearing at 35 Stat. 260 is classified to this section. For complete classification of this Act to the Code, see Tables.

#### CODIFICATION

"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. 1, 1907, ch. 2907, 34 Stat. 1269, which provided that forest reserves shall hereafter be known as national forests.

Section is a combination of acts May 23, 1908, as amended, and Mar. 1, 1911, as amended.

#### AMENDMENTS

1976—Pub. L. 94-588 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.

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

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

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

#### SAVINGS PROVISIONS

Provisions of Federal Land Policy and Management Act of 1976, Pub. L. 94-579, Oct. 21, 1976, 90 Stat. 2743, not to be construed as affecting the distribution of livestock grazing revenues to local governments under this section, see section 701(j) of Pub. L. 94-579, set out as a note under section 1701 of Title 43, Public Lands.

#### SIMILAR PROVISIONS

Provisions similar to this section were contained in the following prior appropriation acts:

June 28, 1944, ch. 296, § 1, 58 Stat. 444.

July 12, 1943, ch. 215, § 1, 57 Stat. 412.

July 22, 1942, ch. 516, § 1, 56 Stat. 680.

July 1, 1941, ch. 267, § 1, 55 Stat. 423.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 90d, 253, 160p-2, 472a, 499, 508b, 577g-1, 580k, 1606a, 1683 of this title; title 31 section 6903.

# NEWS from the Forest Service

U.S. Department of Agriculture • Forest Service • Northern Region • Federal Building • Missoula, Montana 59807 • (406) 329-3768

RI:1934

120684

National Forest Receipts Yield  
\$225 Million to States

HERE  
10/17/84  
FILE ✓✓✓✓  
DRAFT

FOR IMMEDIATE RELEASE

WASHINGTON, DC (Nov. 30)--Forty-one states and Puerto Rico will receive more than \$225 million as their share of National Forest receipts for fiscal 1984, Secretary of Agriculture John R. Block announced today.

By law, 25 percent of the revenues collected by USDA's Forest Service from the use of National Forest System lands and resources are returned to the states where the lands are located. The states are required to use the funds for schools and roads. Block said the funds are collected primarily for timber sales, grazing, recreation, and mineral activities on the 191 million acres of National Forest System land.

On October 1, USDA made an interim payment of \$158 million to the states based on estimated National Forest revenues for the year. A final payment of \$67 million, based on actual receipts collected during the year, will be paid December 3. Actual fiscal 1984 receipts from the sale and use of National Forest resources totaled \$900 million, Block said.

The payments do not include 25 percent of the 1984 National Grassland revenues. Those payments are based on calendar 1984 receipts and will be made in March 1985, he said.

The three states to receive the largest payments for the year are, in order: Oregon, \$86.5 million; California, \$44 million; and Washington, \$25 million.

(OVER)

Applicants for all U.S. Department of Agriculture programs will be given equal consideration without regard to race, color, sex, creed, or national origin.



SUMMARY OF PAYMENTS TO STATES  
FROM NATIONAL FOREST RECEIPTS FISCAL 1984

<u>STATE</u>	<u>TOTAL PAYMENT</u>
Alabama	\$ 1,893,720.41
Alaska	1,052,095.86
Arizona	5,153,109.17
Arkansas	5,782,479.65
California	44,113,495.82
Colorado	2,277,288.92
Florida	2,479,321.23
Georgia	883,355.81
Idaho	8,647,388.85
Illinois	109,126.27
Indiana	146,038.41
Kentucky	321,315.15
Louisiana	4,671,447.15
Maine	22,297.03
Michigan	1,212,582.79
Minnesota	1,578,795.92
Mississippi	6,502,017.94
Missouri	1,436,140.02
Montana	7,844,446.99
Nebraska	37,330.60
Nevada	296,103.45
New Hampshire	332,770.97
New Mexico	1,828,664.80
New York	5,523.09
North Carolina	845,739.33
North Dakota	95.52
Ohio	155,511.11
Oklahoma	775,175.17
Oregon	86,543,842.41
Pennsylvania	1,957,684.83
South Carolina	2,665,462.33
South Dakota	945,792.05
Tennessee	531,877.02
Texas	3,868,015.45
Utah	767,407.19
Vermont	119,684.12
Virginia	490,977.67
Washington	25,442,984.63
West Virginia	326,136.44
Wisconsin	728,284.73
Wyoming	851,465.62
Puerto Rico	<u>9,663.56</u>
 TOTAL	 \$225,652,655.48

LOCAL GOVERNMENT COMMITTEE  
JANUARY 31, 1985  
EXHIBIT D

Flathead County  
Board of Commissioners

800 SOUTH MAIN STREET

• KALISPELL, MONTANA 59901

• (406) 755-5300

January 30, 1985

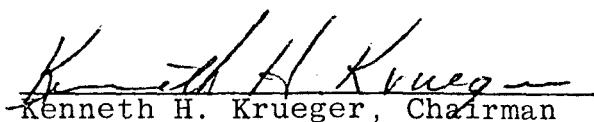
Mr. Gordon Morris  
Montana Association of Counties  
1802 Eleventh  
Helena, Montana 59601

Dear Mr. Morris:

Please convey our objections to Senate Bill #127 concerning distribution of forest reserve monies received by the State. Flathead County uses their share of the road fund allocation for improving rural county roads, especially those roads impacted by logging. The eroding of these funds will be detrimental to the county rural road maintenance program.

Truly yours,

BOARD OF COUNTY COMMISSIONERS

  
Kenneth H. Krueger, Chairman

Henry Oldenburg, Member

  
Allen A. Jacobson, Member

KHK:mg

LOCAL GOVERNMENT COMMITTEE  
JANUARY 31, 1985  
EXHIBIT E

AMENDMENTS TO SB 160

1. Page 1, line 14.  
Following: "wages"  
Strike: "and of"  
Insert: ","
2. Page 1, line 15  
Following "support"  
Insert: ", and capital outlay"

Passed by Senate Committee on Local Government, 1-31-85.

NAME Bill Verwoelf BILL NO. 160

ADDRESS Helena MT DATE 1-31-85

WHOM DO YOU REPRESENT City of Helena

SUPPORT X OPPOSE \_\_\_\_\_ AMEND X

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

I would like to recommend an amendment to this bill to complete the intended flexibility for municipal budget operations

Amendment. Senate Bill 160

Line 14 Insert a comma after wages

delete the word "and" following wages.

Line 15 Insert the words "and of capital outlay"  
following the word support.

LOCAL GOVERNMENT COMMITTEE  
JANUARY 31, 1985  
EXHIBIT F

PROPOSED AMENDMENTS TO SB 170 (introduced version)

1. Title, lines 5 and 6.  
Following: "AND TO" in line 5  
Strike: remainder of line 5 through "ON THE" in line 6  
Insert: "INCREASE THE MAXIMUM"
2. Title, line 7.  
Following: "7-21-3407"  
Strike: ","  
Insert: "AND"  
Following: "7-21-3410,"  
Strike: "AND"
3. Title, line 8.  
Following: line 7  
Strike: "7-21-3412"
4. Page 1, lines 21 and 22.  
Following: "sum" in line 21  
Strike: remainder of line 21 through "\$3,500~~T~~" in line 22  
Insert: "not to exceed \$3,500,"
5. Page 1, lines 23 through 25.  
Following: "fair" in line 23  
Strike: remainder of line 23 through "county" in line 25  
Insert: "and/or junior fair and for advertising the products and resources of their county"
6. Page 2, line 4.  
Following: "tax"  
Strike: "of ~~1 1/2~~ mills or less"  
Insert: "of ~~1 1/2~~ 3 mills or less"  
Following: "on"  
Strike: "each dollar of"  
Insert: "each dollar of"
7. Page 2, lines 15 through 25.  
Strike: section 3 in its entirety

requested by Senator McCallum

January 29, 1985

MEMORANDUM

TO: Senate Committee on Local Government  
FROM: Karen Renne, Researcher  
RE: SB 88, regarding local police retirement funds

1. The case of Shelby

The city of Shelby was used as an example of the problem ostensibly solved by amending 19-10-202, MCA. Here is a summary of the problem as it developed in Shelby.

Until 1980, Shelby had a police department and a local police retirement fund. Under a 1965 statute that amended the existing provisions for a local retirement fund, the state has contributed 1.5 mills annually to the city's retirement fund. This contribution continues now.

From 1965 through 1980, the city of Shelby contributed an average of \$4,563 annually to its local police retirement fund (11% of salaries), and the state contributed an average of \$3,554 annually, according to records supplied by the Shelby city clerk (partially confirmed by Renée Erdmann in the State Auditor's office). Total contributions were \$105,529 -- \$59,321 from the city and \$46,208 from the state. (Employees' contributions and interest are not included.)

In 1980 the city of Shelby contracted with Toole County for law enforcement services and thereby gave up its police retirement fund. All claims against the fund were paid, leaving a total of approximately \$141,000 (according to testimony at the committee hearing). This money apparently has not been used for any purpose, and the intent of SB 88 is to allow the city to transfer it to the city general fund to be used for "any authorized purpose."

2. Legal aspects of Shelby's case

While Shelby had a police department and its own police retirement fund, use of the fund was restricted under 19-10-202, which says that it can be used only to make payments to retired members and to make authorized investments. This statute was enacted originally in 1929, and so far as I can determine it has not been challenged.

After 1980, Shelby no longer had a police department and no longer had a police retirement fund. Thus 19-10-202 no longer applied. Instead the city came under 7-32-4120, which is reproduced below. This statute was enacted as part of the same 1965 revision of the "metropolitan police law" that required the state to contribute to police retirement funds.

**7-32-4120. Expenditure of state payments by municipality not having police retirement system — annual report.** (1) Any city or

town not governed by the provisions of chapter 9 or 10 of Title 19 shall only expend the payment received pursuant to 19-10-305 for police training or to purchase pensions for members of its police department.

(2) The city treasurer or town clerk of such cities or towns shall, on or before April 1 of each year, report to the state auditor as to the expenditures of all funds received pursuant to 19-10-305.

History: En. Sec. 4, Ch. 261, L. 1965; R.C.M. 1947, 11-1837; amd. Sec. 36, Ch. 575, L. 1981.

**3. Conclusion**

The city of Shelby clearly is entitled to spend state contributions since 1980 (or perhaps since 1979) on police training, and according to the city clerk that is what it has been doing. (Three Attorney General opinions support this conclusion.)

Contributions made by the state before 1980, when Shelby still had its own police retirement fund, seem to be governed by 19-10-202. If the city used this money for police training, apparently it did so illegally. If not, it could be argued that some portion of the accumulated fund — perhaps the 43.8% that the state contributed — should be returned to the state.

**4. Recommendation**

Transferring an accumulated fund of this type to a city general fund, under the circumstances indicated in SB 88, seems inappropriate in view of the magnitude of the state's contribution. Under the assumption that money originally intended for retirement payments should be used for retirement purposes, the following approach seems more reasonable:

Amend 7-32-4120 to require a city that no longer has a police retirement fund and does not belong to the statewide police retirement system either to

- (a) return to the state, possibly earmarked for distribution among all retirement systems, an amount proportional to the state's original contribution. The balance could go to the agency currently providing law enforcement services for training or pensions. Or *✓*
- (b) transfer the entire balance in the fund to the agency providing law enforcement services, for training or pensions.

This approach would not require an amendment to 19-10-202. It probably would require technical advice from Larry Nachtsheim.

NAME Bob Decker BILL NO. 127  
ADDRESS City/County Bldg. DATE 1/31/85  
WHOM DO YOU REPRESENT Lewis & Clark County  
SUPPORT \_\_\_\_\_ OPPOSE X AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME JOHN GARNETT BILL NO. 127  
ADDRESS CITY HALL, P.O. BOX 158 WHITEFISH DATE 1/31/55  
WHOM DO YOU REPRESENT CITY OF WHITEFISH  
SUPPORT        OPPOSE        AMEND       

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME Eric B. Arnos BILL NO. 127  
ADDRESS CITY HALL, P.O. BOX 158 WHITEFISH DATE 1/31/85  
WHOM DO YOU REPRESENT CITY OF WHITEFISH  
SUPPORT X OPPOSE \_\_\_\_\_ AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

DATE 01-31-85

COMMITTEE ON

## LOCAL GOVERNMENT

## VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Greg Jackson	URCO	160	<input checked="" type="checkbox"/>	
NATHAN Tuberson	Great Falls	160	<input checked="" type="checkbox"/>	
Tom B. Brown	WHITEFISH	127	<input checked="" type="checkbox"/>	
John Garrett, John Lamp	" " "	127	<input checked="" type="checkbox"/>	
E. Wayne Phillips	State A.O.	127		
Mike Young	CITY OF MISSOURA	127	<input checked="" type="checkbox"/>	
		160	<input checked="" type="checkbox"/>	
G. MORRIS	HELENA, MACO	127	<input checked="" type="checkbox"/>	
Jim Campbell	Lewis & Clark County	127	<input checked="" type="checkbox"/>	
Mark McClear	Madison Co.	127		<input checked="" type="checkbox"/>
E. Wood	LCW	—	observer	
Don Justice	Dept of Commerce	163	<input checked="" type="checkbox"/>	
Bill Vengel	City of Helena	160	<input checked="" type="checkbox"/>	
Nathan Tuberson	Great Falls	127	<input checked="" type="checkbox"/>	
Don Peoples	Butte School Dist	160	<input checked="" type="checkbox"/>	