

MINUTES OF THE MEETING
EDUCATION AND CULTURAL RESOURCES COMMITTEE
50TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES

The twelfth meeting of the Education and Cultural Resources Committee was called to order by the Chariman Jack Sands, on February 9, 1987, at 1:00 p.m. in Room 312-D of the State Capitol.

ROLL CALL: All members were present with the exception of Reps. Eudaily and Swysgood who were excused.

CONSIDERATION OF HOUSE BILL NO. 576:

REP. EARL LORY, House District No. 59, carried the bill for Rep. Eudaily who was in the hospital. He stated that HB # 576 would change the voted levy so that there would be a base levy for five years, and the voters would only vote on the proposed additional levy. He said that Rep. Eudaily felt it would be much more informative to the people if they only had to voted on the additional levy and not on the total levy from the previous year.

PROPOSERS:

BOB ANDERSON, representing the Montana School Board Association, stated the MSBA had passed a resolution from which the bill was written. They then had asked Rep. Eudaily to carry it. He noted the problem he saw with the levy proposal was as it went to the voters it was very confusing that they were adding onto the levy from the previous year.

KAY MC KENNA, Superintendent of Schools, Lewis and Clark County, and representing the School Administrators of Montana legislative committee, rose in support of the bill.

BOB STOCKTON, representing OPI, stated he was in agreement with the legislation because of the reasons stated.

OPPOSERS: None.

QUESTIONS FROM THE COMMITTEE: None.

REP. LORY closed.

CONSIDERATION OF HOUSE BILL NO. 295:

REP. PAUL PISTORIA, House District No. 36, sponsor of the bill, handed out a packet of information to the committee members which he would be referring to during his testimony. He stated the purpose of the bill was to put a cap of

\$6 million dollars on the school reserves for all the school districts in Montana. He noted he did not address the 35% level because it would interfere with small school districts and they would never reach a \$6 million dollar level. He then referred to an advertisement he had placed in the Great Falls Tribune in March of 1986 regarding the reserve in that school district. See EXHIBIT # 1.

REP. PISTORIA then addressed EXHIBIT # 2, the Governor's Executive Budget on page 4 which states "School districts have cash reserves amounting to \$123.1 million. With average cash reserves that amount to over 26% of their total budgets, if school districts choose not to reduce expenditures, they should be able to absorb that reduction without increased mill levies, a reduction in services, or reducing teacher salaries".

He then referred to EXHIBIT # 3, an article in the Montana Standard in Butte on October 1, 1986 regarding the issue of school reserves.

REP. PISTORIA explained EXHIBIT # 4, another article in the Great Falls Tribune on May 1986 stating he was in agreement with the Governor's plan regarding the school districts reserve funds. He noted there were 9 letters from various county treasurers around Montana showing that the school reserves invested is nearly \$200 million instead of the \$123.1 million as quoted by the OPI.

PROPOSERS: There were none.

OPPOSERS:

BOB STOCKTON, OPI, stated he did not oppose Rep. Pistoria's bill but he did want to put some records straight. He said he had tried to explain to Rep. Pistoria the difference between reserves and cash balances, and that is where the bone of contention lies. He further stated that the bill addressed only the general fund of the school districts and there are 17 other funds that the school districts operate out of.

Mr. Stockton pointed out that most county treasurers do not know what school reserves are, because a reserve, as defined by law, is a mechanism of budgeting, it is not a separate fund that is set aside.

KAY MC KENNA, Superintendent of Schools, Lewis and Clark County and also representing School Administrators of Montana legislative committee. She spoke in opposition to HB # 295.

Education and Cultural
Resources Committee
February 9, 1987
Page Three

She noted that she does 12 budgets every year in Lewis and Clark County and the highest reserve that one of the school districts had was 17%.

QUESTIONS FROM THE COMMITTEE:

A question and answer period followed regarding whether the retirement fund was included in those school funds - it was noted it wasn't, and whether \$6 million was an adequate amount in reserve for a school district.

REP. PISTORIA closed saying he thought everyone should have some reserves, schools, businesses or the state. But he thought the legislature did wrong in giving the education system too much power, and he wasn't against education if they didn't have those reserves. He asked the committee to consider passing the bill to help all of the people in the State of Montana.

CONSIDERATION OF HOUSE BILL NO. 483:

REP. DOROTHY BRADLEY, House District No. 79, sponsor of the bill, handed out a flyer which described what the implications of being in the National Register of Historic Places means. See EXHIBIT # 5. She noted she was carrying the bill at the request of the Montana Historical Society, and it contains three brief amendments to the law on antiquities. 1) Changes the antiquities definition to clarify that you don't need a permit for exploration or field activities. 2) would add a duty that goes along with the duties of the historic preservation officer. 3) To amend on page 4, line 23 through page 5; to basically reverse the system of nominating historic places for the National Register.

PROponents:

ROBERT ARCHIBALD, representing the Montana Historical Society, urged the committee's support of HB # 483. A copy of his testimony is attached as EXHIBIT # 6. He then read a letter from John S. Fitzpatrick, Manager of Administration for Pegasus Gold Corporation, Montana Tunnels Mining Incorporation. See EXHIBIT # 7. He also submitted a pamphlet produced by the Pegasus Gold Corporation. See EXHIBIT # 8.

MARCIA ELKINS, long-range planning and subdivision administrator for the Bozeman City-County Planning Office. She urged the committee's support for HB # 483. She stated Bozeman feels that a nomination to the National Register is an important part of our overall economic development, and

Education and Cultural
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February 9, 1987
Page Four

they would appreciate any assistance they could get in completing the process.

QUESTIONS FROM THE COMMITTEE:

REP. MERCER questioned: if a person failed to respond to a letter requesting that their property be listed on the National Register, and it was then listed, would that listing limit the owners right to do whatever they wanted to do with their property. REP. BRADLEY replied it wouldn't, that there were no preventative requirements or provisions in the bill. He then asked what significance the listing would have. Marcella Sherfy, Historic Preservation Program Manager in the the Montana Historical Society stated that register listing is primarily a form of recognition that allows communities to build additional programs.

REP. BRADLEY simply stated she closed.

EXECUTIVE SESSION:

REP. HARRINGTON moved to reconsider the committee's action on HB # 39. CHAIRMAN SANDS called for discussion on the motion.

REP. GLASER said he had been reading a book about the equal protection of the constitution, specifically the 14th amendment. He noted he had copies of the equal education portion of a book that was compiled to assist people in learning about the 1972 Montana Constitution. See EXHIBIT # 8. He stated it was his understanding that a statewide levy would be unconstitutional.

REP. HARRINGTON stated he had some serious concerns with the governance of the bill. He said the vo-tech centers are a very important program that are being treated like a step-child that nobody wants. Most of the local school districts don't want them nor does the OPI.

REP. THOMAS inquired where the bill stood at the present time. CHAIRMAN SANDS explained that the bill received a DO NOT PASS AS AMENDED recommendation from the committee, and the amendments would still be included on the bill.

REP. WILLIAMS stated he was in support of the motion to reconsider the action on HB # 39 and had an amendment he would like to offer. CHAIRMAN SANDS stated he also had an amendment to propose.

Education and Cultural
Resources Committee
February 9, 1987
Page Five

REP. DAILY stated he did not believe the vo-tech centers should go under the board of regents but he had some amendments to propose. If the amendments were accepted, he could support the bill.

CHAIRMAN SANDS called for further discussion on the motion to reconsider the action on HB # 39. The question was called; the motion CARRIED with Reps. Phillips, Thomas and Glaser voting no.

REP. THOMAS moved DO NOT PASS AS AMENDED on HB # 39. REP. WILLIAMS made a substitute motion that HB # 39 DO PASS and also moved the amendments.

REP. WILLIAMS moved to change the 4½ county mill levy to 1½ statewide mill levy. CHAIRMAN SANDS called for discussion. A discussion was held on whether the bill would pass with a 1½ statewide mill levy. The question was called on REP. WILLIAMS amendment, the motion CARRIED with 13 favorable and 2 opposing votes. (Roll call vote # 1). REP. WILLIAMS then moved DO PASS AS AMENDED on HB # 39.

REP. DAILY offered amendments to the bill, 1) A requirement that the board of regents advertise for the positions of director at the five centers; 2) To give the employees at the centers two years to transfer to another position within the school district where the center is located; 3) to give the board of regents power to select the center directors.

A discussion was held concerning whether the amendments were necessary. REP. HARRINGTON stated he had a serious problem with amendment No. 1, that it points directly to the removal of the existing directors and the bill spells out that the directors serve at the pleasure of the board of regents. He made a motion to segregate the amendments.

CHAIRMAN SANDS stated the amendments would be segregated. That No. 1 and No. 3 would be considered together. The question was called on REP. DAILY'S amendments No. 1 and No. 3. The motion FAILED with 6 favorable and 13 opposing votes. (Roll call vote #2). The question was then called on amendment No. 2, the motion CARRIED, with REP. SANDS voting no.

REP. DAILY said he had one further amendment he would like to propose which would not allow the transfer of equipment from one vo-tech center to another for a period of four years without the consent of the board of trustees of the school district where the transferring vo-tech was located.

Education and Cultural
Resources Committee
February 9, 1987
Page Six

A discussion was held on the amendment. The question was called, the motion FAILED with 4 favorable and 12 opposing votes. (Roll call vote # 3).

REP. WILLIAMS moved HB # 39 DO PASS AS AMENDED. CHAIRMAN SANDS submitted an amendment which would turn the funding of the vo-tech back to status quo for a two year transitional period. REP. WILLIAMS asked: since the committee had approved a 1½ mill statewide levy why this amendment was necessary. CHAIRMAN SANDS responded it would be an alternative method of funding. REP. WILLIAMS stated if the amendment is adopted they might as well forget the bill and leave the vo-techs under the OPI, because it will jeopardize the position of the board of regents who will be trying to manage the centers based on the school district levy. The question was called; the motion FAILED with 6 favorable and 11 opposing votes. (Roll call vote # 4).

The question was called on REP. WILLIAMS motion to DO PASS AS AMENDED; the motion CARRIED with 13 favorable and 4 opposing votes.

ACTION ON HOUSE BILL NO. 83:

REP. KENNERLY moved that HB # 83 DO PASS: he then moved the amendments. A discussion followed concerning whether there was discrimination on the basis of race by allowing a person who lived on a reservation to get a job, whereas a person who lived where there wasn't an Indian reservation would be prohibited from getting a job.

REP. LORY said he supported the amendment because of the fact that the Indian population is so interrelated that they have had to contend with the nepotism problem for 12 years.

A discussion was held on the nepotism problem in smaller school districts. The question was called on the amendment; the motion CARRIED with 11 favorable and 5 opposing votes.

REP. WILLIAMS then noted in the first discussion on the bill there was mention of amending a third class school district to read unanimous approval rather than a two-thirds vote of the trustees because there are only three members on the school board. CHAIRMAN SANDS agreed that would be an important amendment to offer. REP. WILLIAMS moved the amendment. The question was called on the amendment; the motion CARRIED unanimously. The question was then called on REP. KENNERLY'S motion that HB # 83 DO PASS AS AMENDED.

Education and Cultural
Resources Committee
February 9, 1987
Page Seven

The motion CARRIED with 9 favorable and 7 opposing votes.
(Roll call vote # 7).

ACTION ON HOUSE BILL NO. 483:

A DO PASS motion was made, the question was called for;
the motion CARRIED unanimously.

ADJOURNMENT:

There being no further business to come before the committee
the meeting was adjourned at 2:57 p.m.



REP. JACK SANDS, CHAIRMAN

DAILY ROLL CALL

EDUCATION AND CULTURAL RESOURCES COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date FEBRUARY 9, 1987

NAME	PRESENT	ABSENT	EXCUSED
REP. JACK SANDS, CHAIRMAN	X		
REP. RICHARD NELSON, VICE CHRMN.	X		
REP. FRITZ DAILY	X		
REP. RALPH EUDAILY	X		
REP. WILLIAM GLASER			X
REP. DAN HARRINGTON	X		
REP. NANCY KEENAN	X		
REP. ROLAND KENNERLY	X		
REP. EARL LORY	X		
REP. JOHN MERCER	X		
REP. GERALD NISBET	X		
REP. JOHN PHILLIPS	X		
REP. TED SCHYE	X		
REP. BARRY STANG	X		
REP. TONIA STRATFORD	X		
REP. CHARLES SWYSGOOD			X
REP. FRED THOMAS	X		
REP. MEL WILLIAMS	X		

STANDING COMMITTEE REPORT

FEBRUARY 9, 19 87

Mr. Speaker: We, the committee on EDUCATION AND CULTURAL RESOURCES

report House Bill 39

do pass
 do not pass

be concurred in
 be not concurred in

as amended
 statement of intent attached

REP. JACK SANDS,

Chairman

TRANSFERRING GOVERNANCE OF VO-TECHS TO BOARD OF REGENTS

1. Page 4, line 2.
Following: "requirements."
Insert: "(1)"

2. Page 4, line 3.
Strike: "1985"
Insert: "1984"

3. Page 4, lines 4 and 5.
Following: "Act,"
Strike: the remainder of line 4 through "seq.," on line 5
Insert: "as may be amended,"

4. Page 4, line 9.
Following: line 9
Insert: "(2) The board of regents shall contract with the superintendent of public instruction for the administration and supervision of K-12 vocational education programs, services, and activities allowed by the 1984 federal Carl D. Perkins Vocational Education Act, as may be amended, and in concert with the state plan for vocational education required by the federal act. The board of regents may contract with other agencies for the administration and supervision of other vocational education programs, services, and activities that receive funding allowed by the 1984 federal Carl D. Perkins Vocational Education Act, as may be amended."

5. Page 5, line 12.
Strike: "prior to"
Insert: "during the period from July 1, 1987 to"
Following: "impaired"
Insert: ", and they may, at any time prior to July 1, 1989, exercise any right they have under a collective bargaining agreement to transfer to another position within the school district"


FIRST

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6. Page 5, line 17.

Following: "center"

Insert: "or the board of regents"

7. Page 30, lines 19 and 20.

Following: line 13

Strike: line 19 through "located" on line 20

8. Page 30, line 21.

Strike: "3"

Insert: "2 1/2"

9. Page 30, line 22.

Following: "county"

Insert: "to raise the amount appropriated by the legislature"

10. Page 30, line 24.

Following: "system."

Insert: "The tax is to be effective for the taxable year
beginning on or after January 1, 1988."

7041a/L:JEA\WP:jj



STATE PUB. CO.
Helena, Mont.

REP. JACK SANDS,

Chairman.

STANDING COMMITTEE REPORT

FEBRUARY 9,

19 87

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 statement of intent attached

REP. JACK SANDS,

Chairman

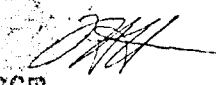
STATEMENT OF INTENT

HOUSE Bill No. 39

Section 1 of the bill requires the board of regents to adopt rules implementing the board's powers and duties. The legislature intends these rules to encompass the full range of board powers and duties and intends that the board begin the process of adopting rules prior to the July 1, 1987, effective date for implementation of the act.

The board should study the office of public instruction's postsecondary vocational-technical education rules, which are superseded by this act, since these rules may give the board guidance.

6353b/c:Jeanne\WP:jj


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reading copy (_____)
color

STANDING COMMITTEE REPORT

FEBRUARY 9, 19 87

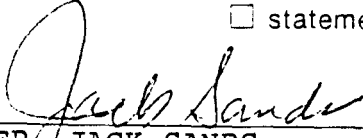
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Insert: "during the period from July 1, 1987 to"

Following: "impaired"

Insert: ", and they may, at any time prior to July 1, 1989, exercise any right they have under a collective bargaining agreement to transfer to another position within the school district"

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Insert: "or the board of regents"

7. Page 30, lines 19 and 20.

Following: line 18

Strike: line 19 through "located" on line 20

8. Page 30, line 21.

Strike: "3"

Insert: ~~3~~ "1/2"

9. Page 30, line 22.

Following: "county"

Insert: "to raise the amount appropriated by the legislature"

10. Page 30, line 24.

Following: "system."

Insert: "The tax is to be effective for the taxable year
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7041a/L:JEA\WP:jj

STANDING COMMITTEE REPORT

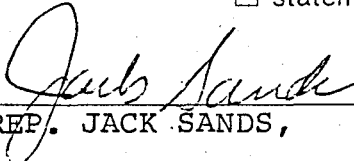
PAGE 3 OF 3

FEBRUARY 9, 19 87

Mr. Speaker: We, the committee on EDUCATION AND CULTURAL RESOURCESreport HOUSE BILL NO. 39
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Chairman

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The board should study the office of public instruction's postsecondary vocational-technical education rules, which are superseded by this act, since these rules may give the board guidance.

6353b/c:Jeanne\WP:jj

ROLL CALL VOTE

EDUCATION AND CULTURAL RESOURCES

COMMITTEE

DATE FEB. 9, 1987

BILL NO. HB # 39

NUMBER 1

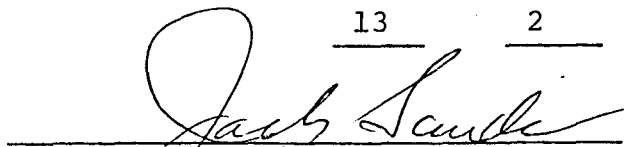
NAME	AYE	NAY
REP. JACK SANDS, CHAIRMAN	X	
REP. RICHARD NELSON, VICE CHAIRMAN	X	
REP. FRITZ DAILY	X	
REP. RALPH EUDAILY		
REP. WILLIAM GLASER	X	
REP. DAN HARRINGTON	X	
REP. NANCY KEENAN		
REP. ROLAND KENNERLY	X	
REP. EARL LORY	X	
REP. JOHN MERCER		X
REP. GERALD NISBET	X	
REP. JOHN PHILLIPS	X	
REP. TED SCHYE	X	
REP. BARRY STANG	X	
REP. TONIA STRATFORD	X	
REP. CHARLES SWYSGOOD		
REP. FRED THOMAS		X
REP. MEL WILLIAMS	X	

TALLY

13

2


Secretary


Chairman

MOTION: REP. WILLIAMS motion to amend HB # 39 to change
4½ county wide mill levy to 1½ statewide mill levy. The
motion CARRIED with 13 favorable and 2 opposing votes

ROLL CALL VOTE

EDUCATION AND CULTURAL RESOURCES

COMMITTEE

DATE FEB. 9, 1987

BILL NO. HB # 39

NUMBER 2

NAME	AYE	NAY
REP. JACK SANDS, CHAIRMAN		X
REP. RICHARD NELSON, VICE CHAIRMAN		X
REP. FRITZ DAILY	X	
REP. RALPH EUDAILY		
REP. WILLIAM GLASER	X	
REP. DAN HARRINGTON		X
REP. NANCY KEENAN	X	
REP. ROLAND KENNERLY		X
REP. EARL LORY		X
REP. JOHN MERCER	X	
REP. GERALD NISBET	X	
REP. JOHN PHILLIPS		X
REP. TED SCHYE		X
REP. BARRY STANG		X
REP. TONIA STRATFORD	X	
REP. CHARLES SWYSGOOD		
REP. FRED THOMAS		X
REP. MEL WILLIAMS		X

TALLY

6

10

Secretary

Jack Sands

Chairman

MOTION: REP. DAILY moved amendments- # 1 A requirement that
the board of regents advertise for the positions of
director at the five vo-tech centers; # 3 to give the
board of regents power to select the center directors
The motion FAILED with 6 favorable and 10 opposing votes.

ROLL CALL VOTE

EDUCATION AND CULTURAL RESOURCES

COMMITTEE

DATE FEB. 9, 1987

BILL NO. HB # 39

NUMBER 3

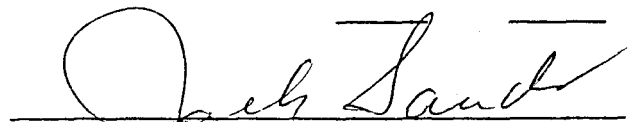
NAME	AYE	NAY
REP. JACK SANDS, CHAIRMAN		✓
REP. RICHARD NELSON, VICE CHAIRMAN		✓
REP. FRITZ DAILY	✓	
REP. RALPH FUDAILY		
REP. WILLIAM GLASER		✓
REP. DAN HARRINGTON	✓	
REP. NANCY KEENAN	✓	
REP. ROLAND KENNERLY		✓
REP. EARL LORY		✓
REP. JOHN MERCER		✓
REP. GERALD NISBET	✓	
REP. JOHN PHILLIPS		✓
REP. TED SCHYE		✓
REP. BARRY STANG		✓
REP. TONIA STRATFORD		✓
REP. CHARLES SWYSGOOD		
REP. FRED THOMAS		✓
REP. MEL WILLIAMS		✓

TALLY

4

12


Secretary


Chairman

MOTION: REP. DAILY moved an amendment that would not allow
the transfer of equipment from one vo-tech center to another
for a period of four years without the consent of the board
of trustees of the school district where the transferring vo-tech
was located. The motion FAILED with 4 favorable and 12 opposing
votes.

ROLL CALL VOTE

EDUCATION AND CULTURAL RESOURCES

COMMITTEE

DATE FEB. 9, 1987

BILL NO.

HB # 39

NUMBER

4

NAME	AYE	NAY
REP. JACK SANDS, CHAIRMAN	✓	
REP. RICHARD NELSON, VICE CHAIRMAN		✓
REP. FRITZ DAILY		✓
REP. RALPH EUDAILY		
REP. WILLIAM GLASER		✓
REP. DAN HARRINGTON	✓	
REP. NANCY KEENAN	✓ (P)	
REP. ROLAND KENNERLY		✓
REP. EARL LORY		✓
REP. JOHN MERCER	✓	
REP. GERALD NISBET		✓
REP. JOHN PHILLIPS		✓
REP. TED SCHYE		✓
REP. BARRY STANG		✓
REP. TONIA STRATFORD		✓
REP. CHARLES SWYSGOOD	✓ (P)	
REP. FRED THOMAS	✓	
REP. MEL WILLIAMS		✓

TALLY


Secretary

6 11

Chairman

MOTION: CHAIRMAN SANDS moved to amend the bill to turn the
funding of the vo-tech centers back to status quo for a two
year transitional period. The motion FAILED with 6 favorable
and 11 opposing votes.

ROLL CALL VOTE

EDUCATION AND CULTURAL RESOURCES

COMMITTEE

DATE FEB 9, 1987

BILL NO. HB # 39

NUMBER 5

NAME	AYE	NAY
REP. JACK SANDS, CHAIRMAN		✓
REP. RICHARD NELSON, VICE CHAIRMAN	✓	
REP. FRITZ DAILY		✓
REP. RALPH FUDALLY		
REP. WILLIAM GLASER	✓	
REP. DAN HARRINGTON	✓	
REP. NANCY KEENAN	✓ (P)	
REP. ROLAND KENNERLY	✓	
REP. EARL LORY	✓	
REP. JOHN MERCER		✓
REP. GERALD NISBET	✓	
REP. JOHN PHILLIPS	✓	
REP. TED SCHYE	✓	
REP. BARRY STANG	✓	
REP. TONIA STRATFORD	✓	
REP. CHARLES SWYSGOOD	✓ (P)	
REP. FRED THOMAS		✓
REP. MEL WILLIAMS	✓	

TALLY

13 4

Secretary

Jack Sands
Chairman

MOTION: REP. WILLIAMS moved that HB # 39 DO PASS AS AMENDED.

The motion CARRIED WITH 13 favorable and 4 opposing votes.

STANDING COMMITTEE REPORT

FEBRUARY 9, 19 87

Mr. Speaker: We, the committee on EDUCATION AND CULTURAL RESOURCES
report House Bill 83

do pass be concurred in as amended
 do not pass be not concurred in statement of intent attached

REP. JACK SANDS,

Chairman

1. Title, line 5.

Following: "AUTHORIZE"

Insert: "CERTAIN"

2. Title, lines 6 and 7.

Strike: "WITH" on line 6 through "RENEW" on line 7

Insert: "UNDER CERTAIN CIRCUMSTANCES; PERMITTING RENEWAL OF"

3. Page 2, line 1.

Strike: "when"

Insert: "of a district located wholly or partially within or adjacent to the exterior boundaries of an Indian reservation if:

(i) in a first-or second-class district;"

4. Page 2, line 3.

Following: "I"

Insert: "or

(ii) in a third-class district, all of the trustees approve the appointment of a person related to a trustee;"

7041b/L:JEA\WP:jj

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STANDING COMMITTEE REPORT

FEBRUARY 9, 19 87

Mr. Speaker: We, the committee on EDUCATION AND CULTURAL RESOURCES

report House Bill 83

do pass
 do not pass

be concurred in
 be not concurred in

as amended
 statement of intent attached


REP. JACK SANDS,

Chairman

1. Title, line 5.
Following: "AUTHORIZE"
Insert: "CERTAIN"

2. Title, lines 6 and 7.
Strike: "WITH" on line 6 through "RENEW" on line 7
Insert: "UNDER CERTAIN CIRCUMSTANCES; PERMITTING RENEWAL OF"

3. Page 2, line 1.
Strike: "when"
Insert: "of a district located wholly or partially within or adjacent to the exterior boundaries of an Indian reservation if:
(i) in a first-or second-class district,"

4. Page 2, line 3.
Following: "i"
Insert: "or
(ii) in a third-class district, all of the trustees approve the appointment of a person related to a trustee;"

7041b/L:JEA\WP:jj

ROLL CALL VOTE

EDUCATION AND CULTURAL RESOURCES

COMMITTEE

DATE FEB. 9, 1987

BILL NO. HB # 83

NUMBER # 6

NAME	AYE	NAY
REP. JACK SANDS, CHAIRMAN		✓
REP. RICHARD NELSON, VICE CHAIRMAN		✓
REP. FRITZ DAILY	✓	
REP. RALPH EUDAILY		
REP. WILLIAM GLASER	✓	
REP. DAN HARRINGTON	✓	
REP. NANCY KEENAN	✓ (P)	
REP. ROLAND KENNERLY	✓	
REP. EARL LORY	✓	
REP. JOHN MERCER		✓
REP. GERALD NISBET	✓	
REP. JOHN PHILLIPS	✓	
REP. TED SCHYE	✓	
REP. BARRY STANG		✓
REP. TONIA STRATFORD	✓	
REP. CHARLES SWYSGOOD		✓
REP. FRED THOMAS	✓	
REP. MEL WILLIAMS		

TALLY

11 / 5

Shirley Herrin
Secretary

Jack Sands
Chairman

MOTION: REP. KENNERLY moved to amend page 2, line 1 to read
"of a district located wholly or partially within or
adjacent to the exterior boundaries of an Indian reservation
if:" The motion CARRIED with 11 favorable and 5 opposing votes.

ROLL CALL VOTE

EDUCATION AND CULTURAL RESOURCES

COMMITTEE

DATE FEB. 9, 1987

BILL NO. HB # 83

NUMBER 7

NAME	AYE	NAY
REP. JACK SANDS, CHAIRMAN		✓
REP. RICHARD NELSON, VICE CHAIRMAN	✓	
REP. FRITZ DAILY	✓	
REP. RALPH EUDAILY		
REP. WILLIAM GLASER		✓
REP. DAN HARRINGTON	✓	
REP. NANCY KEENAN	✓ (P)	
REP. ROLAND KENNERLY	✓	
REP. EARL LORY	✓	
REP. JOHN MERCER		✓
REP. GERALD NISBET	✓	
REP. JOHN PHILLIPS		✓
REP. TED SCHYE	✓	
REP. BARRY STANG		✓
REP. TONIA STRATFORD		✓
REP. CHARLES SWYSGOOD		
REP. FRED THOMAS		✓
REP. MEL WILLIAMS	✓	

TALLY

Shirley Herrin
Secretary

Jack Sands
Chairman

9 7

MOTION: REP. KENNERLY moved that HB # 83 DO PASS AS AMENDED.

The motion CARRIED with 9 favorable and 7 opposing votes.

STANDING COMMITTEE REPORT

FEBRUARY 9, 19 87

Mr. Speaker: We, the committee on EDUCATION AND CULTURAL RESOURCES

report HOUSE BILL NO. 483

do pass
 do not pass

be concurred in
 be not concurred in

as amended
 statement of intent attached

REP. JACK SANDS,

Chairman

REVISE ANTIQUITIES LAWS

FIRST reading copy (WHITE color)

EXHIBIT # 1
DATE 2-9-87
HB # 576

LET'S NOT LET JERRY WEAST & THE SCHOOL BOARD GET AWAY WITH IT THIS TIME.

SOME OF THE ENORMOUS & NOW AVAILABLE RESERVE FUND SHOULD BE USED INSTEAD OF TAXING US TO DEATH. IT BELONGS TO US, NOT THEM.

THE AMOUNTS OF THE SCHOOL SYSTEM RESERVE FUND WAS ACCUMULATED PERIODICALLY EACH MONTH FROM APRIL, 1984 THROUGH DECEMBER, 1985 (21 MONTHS). IT IS SELF-EXPLANATORY AND RIGHT FROM THE HORSES MOUTH, THE COUNTY TREASURER'S OFFICE. IF THE FIGURES ARE NOT ACCURATE, IT ISN'T MY FAULT.



I have been after them for several years to use some of the RESERVE FUND. You must remember in March, 1984 I wanted MR. WENAAS, MR. LAMB & THE SCHOOL BOARD to use \$900,000 for the new C.M.R. Shop from the RESERVE FUND instead of, the 1 MILL LEVY each year for 3 years. It passed by only 71 votes. The C.M.R. Shop hasn't been started as yet. But, if the RESERVE FUND had been used, the C.M.R. Shop would have been built sometime ago and in use without any tax increase & it would not affect the RESERVE FUND. THIS PROVES THAT I WAS RIGHT.

IMAGINE, that same year in April, 1984, there was \$12,960,435 in the RESERVE FUND, NOT \$4,500,000 as Mr. Wenaas, Mr. Lamb & the School Board had stated. They are brainwashing the Public.

Again, this year, I have been after them to use some of the RESERVE FUND. WHY NOT? As you check below, you can see where the AVERAGE RESERVE per month for 21 months was \$11,977,168. Also NOTE, in November, 1985, there was \$15,294,172 in the Reserve & in December, 1985, the Reserve was \$12,409,314. NOTICE BELOW . . . the School Reserve is MORE than the \$10,000,000 for the whole STATE RESERVE PER YEAR. This should OPEN YOUR EYES & NOT BE ALLOWED. THIS IS SHAMEFUL & NOT FAIR.

I gave Jerry Weast a copy of the Reserve Fund Figures as shown below. I met ALONE with him a few times and had a few telephone conversations with him to try to convince him on a couple of proposals on how to use some of the RESERVE. One was to use approximately \$2,000,000 to REDUCE TAXES & HELP THE 1986-1987 BUDGET. The other proposal was to use approximately \$410,000 which he said was needed so as not to eliminate any teachers and other employees. Thus, they can maintain the same Balanced Budget for 1986-1987 without raising taxes and THIS WAS THE FAIR WAY TO GO because no lay-offs would be made and it would help maintain our Economy.

I TOLD HIM IT WOULD BE A FEATHER IN HIS HAT AND MAKE HISTORY. He acknowledged that it would. He seemed to be interested and he was considering it, and, would let me know. But, as I read the Tribune on Saturday, March 1, 1986, he mentioned a more lenient New Plan, other than using some of the Reserve. I decided to speak to all of them at their Monday, March 3, 1986 regular School Board Meeting ON WHY THEY SHOULD USE SOME OF THE RESERVE FUND.

I did speak on the using of Reserve Proposals as I stated above at their March 3rd regular meeting. During our visits, Jerry weast admitted he had considered them, but was hesitant to use the Reserve. We will never get the real reason WHY?

I strongly advocated using the Reserve. I especially dwelled on using approximately \$410,000 thereby preventing lay-offs of teachers and other employees, which isn't necessary with that much Reserve on hand. It is terrible to put these people out on the street with nothing to look forward to here. It would worsen our economy, create loss in taxes and hurt our unemployment insurance which is now in trouble financially.

WHAT IS WRONG with this proposal as long as it didn't affect the 1986-1987 Budget without any increase in taxes. NOTHING. But, they didn't LISTEN.

In the 1985 session, I introduced H.B. 630 to place a \$6,000,000 Cap on the School's Reserve and leaving the 35% so as not to hurt the smaller schools and it was defeated. Ben Lamb testified against the bill, but admitted at the Hearing, that my figures were accurate. Isn't this something, contradicting his remarks. Due to your actions, you have convinced me that we need to place a \$6,000,000 Reserve Cap. I, again will introduce the same Bill in the 1987 Session. I will never give up on this issue.

Both T.V. Stations and the Tribune were represented by their people at the meeting. But, non of the above remarks and the Reserve Figures were mentioned by them. WHY? No doubt, it depends on who you are. Our citizens deserve better treatment than that. They would do us a FAVOR by staying home. This goes on continuously. No one knows better than me.

They always give the excuse, if they use the Reserve, they would have to use Registered Warrants, especially, at the end of the year. It proves that it isn't so.

In fact, no Registered Warrants have been issued sine the School Foundation Program was adopted in 1949. THIS IS TRUE. They don't have a legitimate excuse.

Mr. Weast, I am happy that I have disturbed all of you. THE TRUTH SURE HURTS. I never talk from hearsay. I always produce the facts. If that is making Political Hay and cutting in the wrong field, well as long as I am around, I will be doing more. Maybe you do not know it, but in my boyhood, I was raised on a farm before furthering my education and could dwell on my experiences. I never was caught cutting hay on neighbors field and this was long before you were born.

Mr. Lamb, my figures are not misleading. I got them from the Horses Mouth, from the County Treasurer's office. You know if the BILLS are not paid in one month, they are picked up in the next month as in your own checking account. Just get your act together. this isn't the FIRST time that you were found to be wrong.

I WANTED TO INFORM ALL OF YOU ABOUT THE TRUTH ON THIS ISSUE.

REC'D - MON.-FEB. 10, 1986-PAUL G. PISTORIA-MADE UP FOR ME.
CASH BALANCES TAKEN FROM CASCADE COUNTY TREASURER'S RECORDS
 (All Funds)

<u>DATE</u>	<u>IC</u>	<u>ELEMENTARY 1</u>	<u>TOTAL</u>
APRIL, 1984	\$7,367,013.82	\$5,593,421.86	\$12,960,435
MAY, 1984	6,716,734.25	4,664,105.06	11,380,839
JUNE, 1984	6,958,951.53	5,085,748.37	12,044,699
JULY, 1984	4,682,930.29	4,766,328.81	9,449,259
AUGUST, 1984	4,562,423.78	4,561,308.63	9,123,732
SEPTEMBER, 1984	6,881,865.34	4,765,743.93	11,647,608
OCTOBER, 1984	5,871,500.36	2,923,244.82	8,794,745
NOVEMBER, 1984	5,449,412.78	2,870,782.48	8,320,195
DECEMBER, 1984	6,159,050.50	4,518,696.95	10,677,747

JANUARY, 1985	8,186,777.87	5,979,613.78	14,166,391
FEBRUARY, 1985	7,213,857.91	4,361,670.08	11,575,528
MARCH, 1985	6,990,365.20	8,794,975.57	15,785,340
APRIL, 1985	7,650,110.28	5,034,021.59	12,684,132
MAY, 1985	8,013,803.54	4,941,158.63	12,954,962
JUNE, 1985	8,240,758.19	6,127,863.62	14,368,621
JULY, 1985	6,052,172.12	5,673,061.85	11,725,233
AUGUST, 1985	6,371,014.46	5,963,558.35	12,334,572
SEPTEMBER, 1985	7,576,880.70	4,529,623.40	12,106,504
OCTOBER, 1985	7,654,521.89	4,051,981.48	11,706,503
NOVEMBER, 1985	9,173,168.13	6,121,004.62	15,294,172
DECEMBER, 1985	7,555,868.67	4,853,445.83	12,409,314

TOTAL-----\$251,520,536

TOTAL — \$251,520,536 — 21 MONTHS = \$11,977,168 — AVERAGE PER MONTH FOR 21 MONTHS.

SINCE YOU DO NOT INTEND TO USE SOME OF THE RESERVE, I KNOW HOW I WILL VOTE ON THE LEVIES.

ANY DONATIONS, EVEN A \$1.00 BILL WILL BE APPRECIATED TO HELP ME PAY FOR THIS AD.

IF I RECEIVE ENOUGH IN DONATIONS, I WILL DWELL ON THIS IN THE TRIBUNE IN THE NEXT AD. THE CITIZENS NEED TO KNOW.

P.S. Mr Richard Michelotti, you should start learning your department. I did not get these figures from you. I knew better than that — you should get your act together too. It's a good thing you have competent help that knows their work well.

THANK YOU.

This AD Pd. for by Paul G. Pistoria, 2421 Central Avenue, Great Falls, MT

Paul G. Pistoria
 Paul G. Pistoria
 State Representative

Rec'd - Fri - May 23, 1986 - W. 1200. 124
 Schwintgen's Press Release.

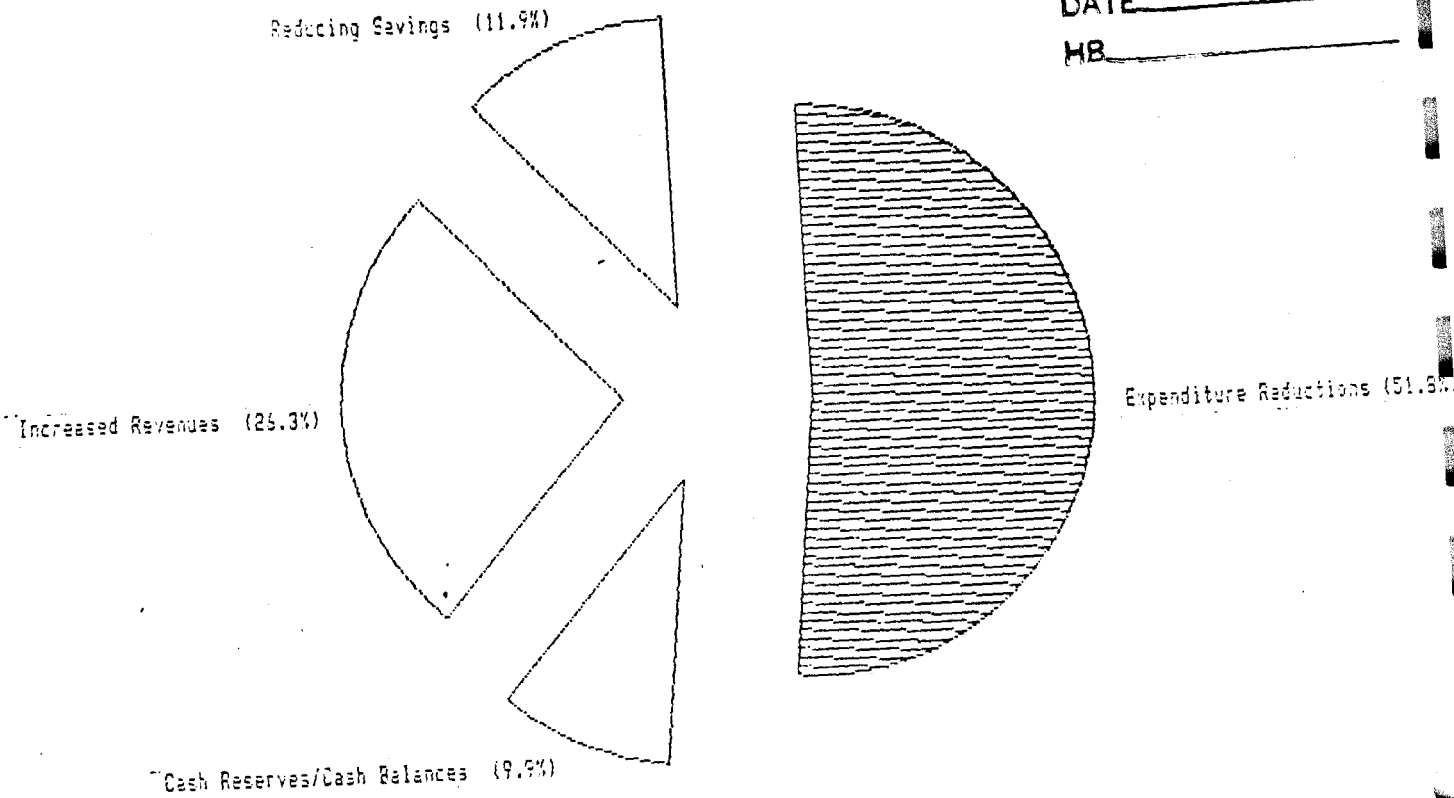
Paul G. Pistoria

GOVERNOR'S EXECUTIVE BUDGET

EXHIBIT #2

DATE _____

HB _____



GOVERNOR'S EXECUTIVE BUDGET

	Amount (in million \$)	Percent
Expenditure Reductions	48.222	51.9%
Cash Reserves/Cash Balances	9.243	9.9%
Increased Revenues	24.475	26.3%
Reducing Savings	11.106	11.9%
Total	\$93.0	

1 million of total Expenditure
 9036

(1)

GENERAL FUND SUMMARY
(MILLIONS)

	FY84 (actual)	FY85 (actual)	FY86	FY87
Beginning Fund Balance	\$ 57.141	\$ 35.097	\$ 27.545	\$ 1.035
Receipts				
Estimated Revenue	\$330.305	\$364.522	\$349.468	\$339.865
Total Receipts	\$330.305	\$364.522	\$349.468	\$339.865
Total Available	\$387.446	\$399.619	\$377.013	\$340.900
Disbursements				
Budgeted Disbursements	345.127	365.061	356.262	348.706
X Foundation Program	12.260	15.298	11.493	21.067
X Foundation Program Supplemental			X 0.000	25.034
Legislative Feed Bill			0.886	4.400
Continuing Appropriations			1.064	
Pay Plan Proposal			4.186	12.314
March Special Session Appropriations			3.692	3.889
Supplemental Requests				7.443
Emergency & Disaster			0.204	0.151
Trans Interest			2.137	1.833
Debt Service			10.270	10.342
Appropriation Cuts			-6.951	
Reversions			-6.500	-6.500
Total Disbursements	\$357.387	\$380.359	\$376.743	\$428.679
Adjustments (Prior Year)	5.038	8.285	0.765	
Ending Fund Balance	\$ 35.097	\$ 27.545	\$ 1.035	(\$ 87.779)

(2)

SUMMARY OF RECOMMENDATIONS

<u>Expenditure Reductions</u>	General Fund Savings in Millions of Dollars
1. Across-The Board Reductions	12.100
2. Maintain State Employees Pay	8.128
XX 3. Maintain School Foundation Program	11.229
XX 4. Liquor System Reductions	1.085
5. Delay the Capitol Renovation	4.950
6. Maintain SRS Benefits at FY86 Level	1.930
7. Limit GA Benefits for Able Bodied Individuals	1.100
8. Other SRS Benefit Reductions	0.326
9. Increased SRS Matching Rate	1.222
10. Close the Youth Evaluation Program	0.110
11. Close the "Lighthouse" Program at Galen	0.163
12. Close the Detention Center at Mountain View	0.102
13. Postpone New Program Startups	0.675
14. Delay New Water Development Projects	0.725
15. Delay Alternative Energy Loans and Grants	1.143
16. Cap Park Acquisition Trust for Three Years	1.761
17. Eliminate General Fund Support for Parks Div.	0.434
18. Coal Tax Lobby Effort Reduced	0.065
19. Utilize Penalty and Interest Monies in D.O.L.I.	0.364
X 20. Establish Deputy County Attorney Account	<u>0.610</u>
Total Expenditure Reductions	48.222

WHY?

Appropriate Cash Balances and Cash Flow

21. Legislative Council Code Account	0.500
22. Social Security Interest Earnings	2.000
23. Appropriate Coal Board Funds	1.630
24. Increased Interest due to Balanced Budget	4.655
25. Remove the Limit on TRANS	0.458
Total	<u>9.243</u>

Reduce the Rate of "Savings"

26. Redirect RIT Tax	4.063
27. Redirect Education Trust Coal Tax	7.043
Total	<u>11.106</u>

Increase Revenues

XX 28. Fuel Tax	X 22.763
XX 29. PSC Regulated Utility Tax	Y 1.712
Total	<u>24.475</u>

MUTUAL TO PAID

GRAND TOTAL

93.046

(3)

year, even with the pay freeze, state paychecks would nearly keep pace with inflation over the biennium.

Collective bargaining agreements are contractual obligations for the state. Employees are scheduled to receive a 1.25% increase in base pay and a 2% merit step increase on their anniversary date. If public sector unions are unwilling to renegotiate contracts, the state will honor its obligation. However, without the dollars to fund that increase, state agencies would be forced to lay off enough workers to live within the reduced funding. That would result in unemployment for approximately 600 employees.

* 3. MAINTAIN THE SCHOOL FOUNDATION PROGRAM AT FY86 LEVEL

The School Foundation Program received a 4% increase in FY86 and is scheduled for another 4% increase in FY87. Maintaining the foundation program at the FY86 level would save the general fund \$11.229 million.

NOTE

IT IS TRUE / * THEY HAVE A TOTAL OF \$123,000,000 IN RESERVE. IT IS MORE CAUSE THE RESERVE WAS GIVEN BY OPI. NOT THE CO. TREASURERS WHO HAVE IT INVESTED WHICH IS MORE.

While state government is being asked to absorb 5% reductions and a freeze in pay, school districts would receive only 2.1% less revenue than was anticipated when mill levies were set earlier this year. School districts have cash reserves amounting to \$123.1 million. With average cash reserves that amount to over 26% of their total budgets, if school districts choose not to reduce expenditures, they should be able to absorb that reduction without increased mill levies, a reduction in services, or reducing teacher salaries.

4. LIQUOR SYSTEM REDUCTIONS

The liquor proposal envisions increasing profits returned to the general fund by the Liquor Division through reductions in operating expenses. The proposal would close two liquor stores, reduce commissions paid to agency stores from the current 10 percent to 8 percent effective September 1, 1986, and revise the pricing structure for liquor to more adequately reflect costs. The increased profits returned to the general fund would be \$1.085 million.

- THIS IS WRONG NOT PART OF BUDGET - IT IS REVENUE

5. DELAY THE CAPITOL RENOVATION

By delaying the renovation project, \$4.95 million would be freed for the general fund. Any future efforts to renovate the Capitol would require new legislative authorization.

GREAT FALLS HAS APPROX 12,000,000 INSTEAD OF 6,224,453 BY OPI

6. MAINTAIN SRS BENEFITS AT THE FY86 LEVEL

Most SRS benefits would be maintained at the FY86 level providing \$1.93 million in savings in FY87. Freezing SRS benefits saves dollars without reductions in service.

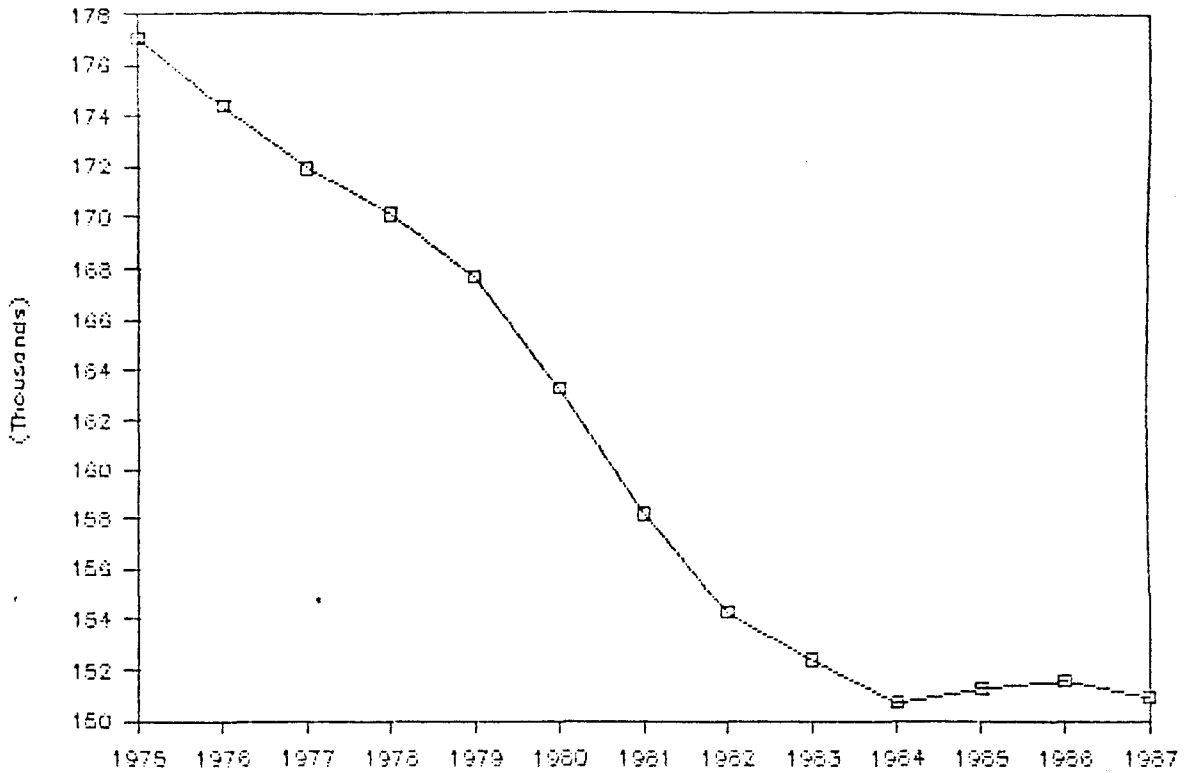
Payments to nursing homes cannot be frozen or reduced, since rates were established through court order.





K-12 ENROLLMENT - 1975 TO 1987

Montana Public Schools



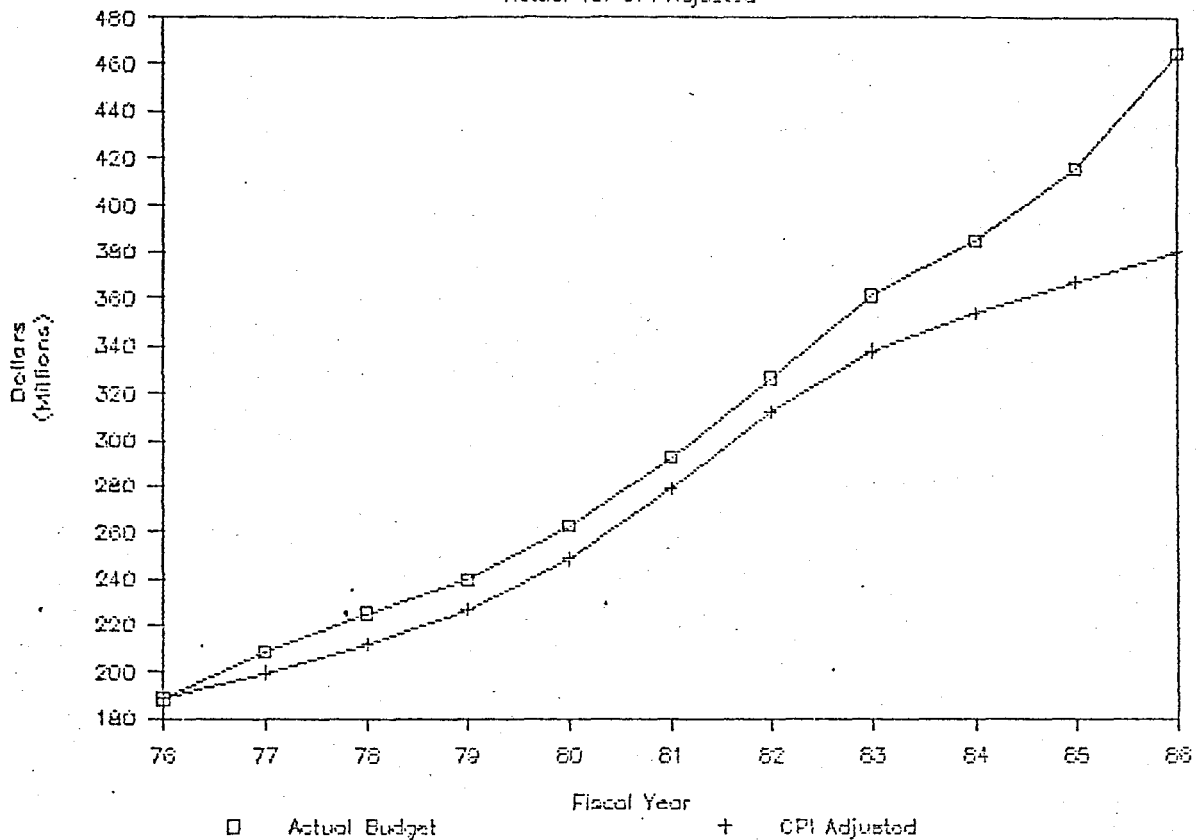
Public School Enrollments
Actual and Projected

Fiscal Year	K-12 Enrollment
1975	177,023
1976	174,451
1977	171,944
1978	170,117
1979	167,664
1980	163,276
1981	156,135
1982	154,256
1983	152,366
1984	150,711
1985	151,246
1986	151,557
1987	150,935



TOTAL SCHOOL EXPENDITURES

Actual vs. CPI Adjusted



Comparison of School Total GF Expenditures
Actual vs Indexed to CPI

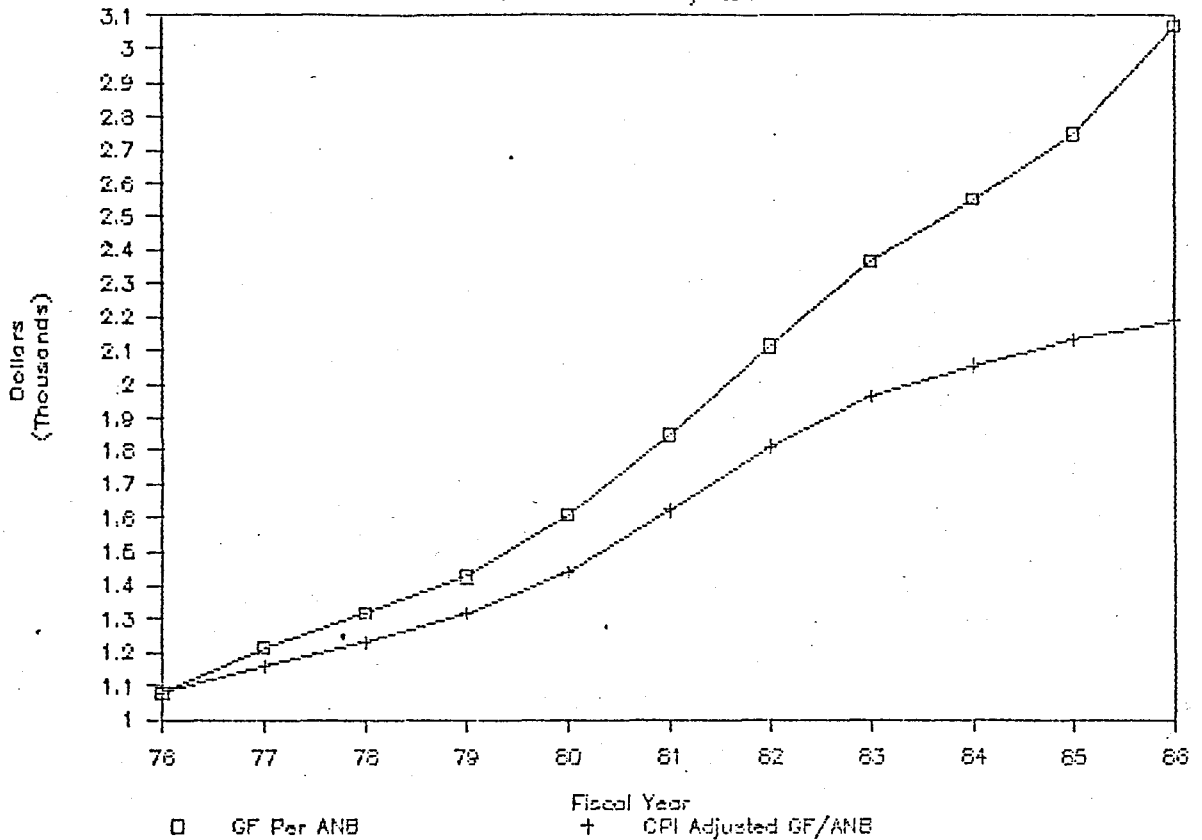
Fiscal Year	ANS	Gen Fund \$ /ANS	FY CPI	GF/ANS Indexed For Inflation (76 is base)	Actual Total Expenditures	Total Expenditures Indexed
76	174,451	\$1,081	10.0900	\$1,081	\$188,527,000	\$188,527,000
77	171,944	\$1,214	7.4550	\$1,181	\$208,689,000	\$199,670,427
78	170,117	\$1,323	6.1050	\$1,222	\$225,003,000	\$209,609,174
79	167,664	\$1,431	7.0550	\$1,319	\$239,914,900	\$221,161,410
80	163,276	\$1,603	9.4550	\$1,444	\$262,578,449	\$235,736,355
81	158,135	\$1,849	12.3900	\$1,623	\$252,274,061	\$256,683,589
82	154,256	\$2,115	11.9000	\$1,816	\$326,251,222	\$280,074,742
83	152,386	\$2,349	8.2500	\$1,966	\$360,972,724	\$299,526,923
84	150,711	\$2,552	4.6750	\$2,057	\$384,622,537	\$310,083,542
85	151,246	\$2,750	3.2050	\$2,136	\$415,980,557	\$323,024,852
86	151,557	\$3,063	2.45	\$2,198	\$464,991,083	\$331,619,455
					\$3,369,844,533	\$2,855,737,967

(6)



General Fund Expenditures Per ANB

Actual vs. CPI Adjusted



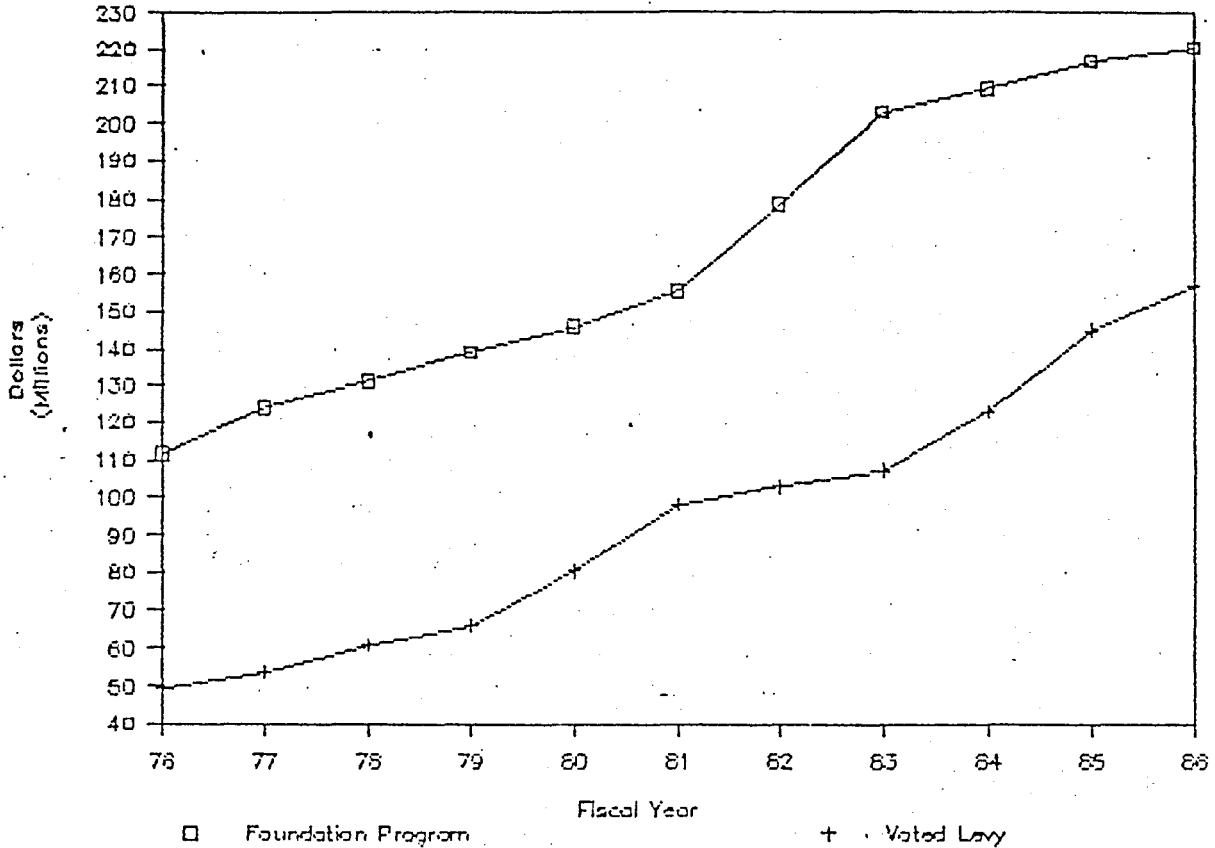
Comparison of School Total GF Expenditures Actual vs Indexed to CPI

Fiscal Year	ANB	Gen Fund \$ / ANB	FY CPI	GF/ANB Indexed For Inflation (76 is base)	Actual Total Expenditures	Total Expenditures Indexed
76	174,451	\$1,031	10.0900	\$1,031	\$188,527,000	\$188,527,000
77	171,944	\$1,214	7.4550	\$1,161	\$208,699,000	\$199,670,427
78	170,117	\$1,323	6.1050	\$1,232	\$225,003,000	\$209,609,174
79	167,664	\$1,431	7.0550	\$1,319	\$239,914,900	\$221,161,410
80	163,276	\$1,608	9.4550	\$1,444	\$262,598,449	\$235,736,855
81	153,185	\$1,843	12.3900	\$1,623	\$292,294,061	\$256,683,589
82	154,256	\$2,115	11.9000	\$1,816	\$326,251,222	\$280,074,742
83	152,386	\$2,369	8.2500	\$1,966	\$360,972,724	\$299,526,923
84	150,711	\$2,552	4.6750	\$2,057	\$384,622,537	\$310,083,542
85	151,246	\$2,750	3.8050	\$2,136	\$415,980,557	\$323,024,952
86	151,557	\$3,063	2.45	\$2,188	\$464,991,083	\$331,619,455
					\$3,367,944,533	\$2,855,737,969



Foundation vs Voted Levy

FISCAL 1978-1986

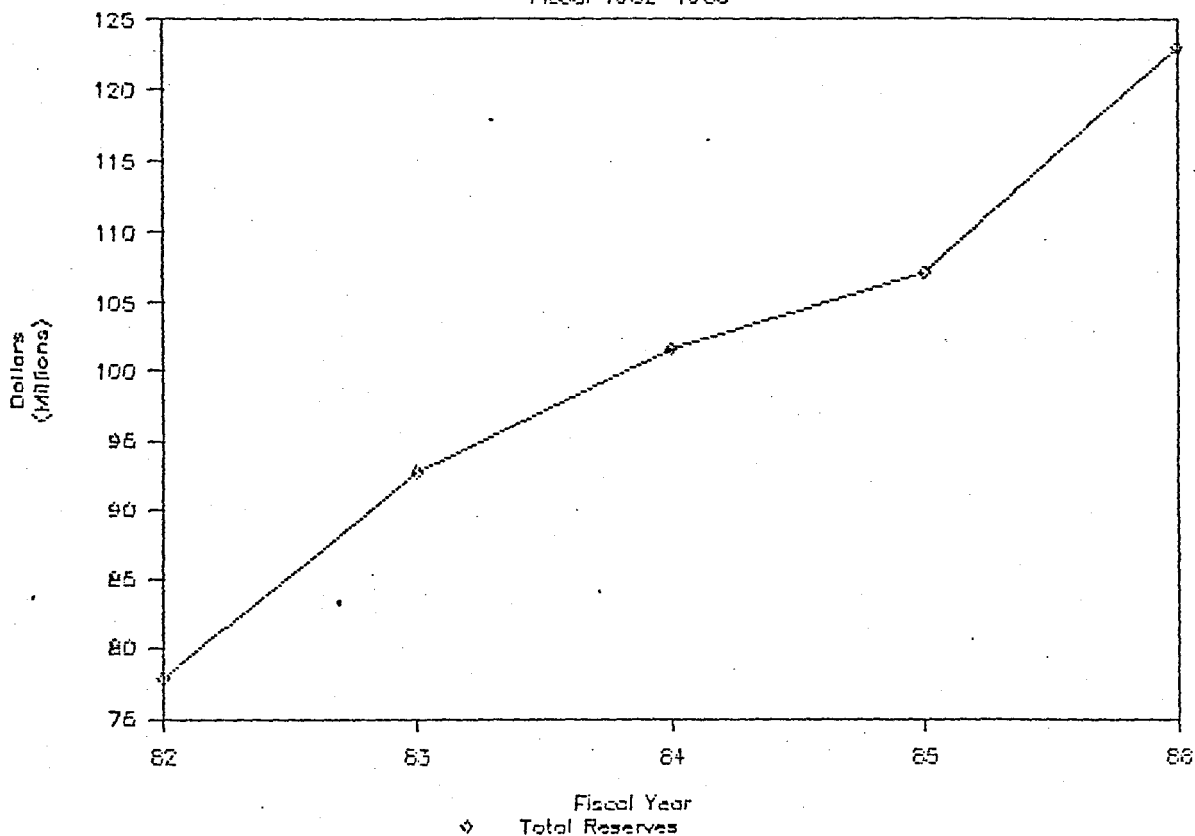


fiscal year	foundation amount	Percentage Change	voted levy	Percentage Change
76	\$111,543,000	13.93	\$49,153,000	18.966
77	\$124,068,000	11.22	\$53,652,000	9.15
78	\$131,422,000	5.93	\$60,790,000	13.30
79	\$139,150,300	5.89	\$56,021,000	3.61
80	\$145,921,700	4.79	\$80,357,000	21.76
81	\$155,337,000	6.56	\$98,084,000	22.01
82	\$173,333,000	14.96	\$102,933,000	4.95
83	\$202,936,000	13.63	\$107,269,000	4.23
84	\$209,409,000	3.15	\$122,925,000	14.57
85	\$215,768,000	3.51	\$144,937,684	17.95
86	\$220,456,556	1.70	\$156,363,038	8.17



SCHOOL DISTRICT RESERVES

Fiscal 1982-1988



SCHOOL DISTRICTS' GENERAL FUND RESERVES

HISTORICAL PERSPECTIVE

	District Reserves	Cash Reapprop	Total GF Reserves	Total School GF Budget	Reserves As A % of Total GF
82	\$63,145,076	\$14,696,460	\$77,841,556	\$326,251,222	23.86%
83	\$75,527,044	\$17,172,253	\$92,699,302	\$360,972,724	25.68%
84	\$82,074,357	\$19,560,246	\$101,654,603	\$384,622,537	26.43%
85	\$86,847,129	\$20,333,245	\$107,180,374	\$415,930,557	25.77%
86	\$93,147,694	\$24,896,462	\$123,044,156	\$464,991,034	26.46%

Date Created: May 21, 1986

Rec'd 7/12/86 - 11/15/86 251700
From Thomas Crosser - Budget office
Total Schs
State Reserve
Paul G. Ast

Purpose: To show the foundation amount, 4% reduction, district reserves and cash reappropriated balances for school year 1985-86 for every school district in the state.

Data Sources: Foundation program, and ANB from OPI report A022. District reserves and cash reappropriated from OPI report SC 158-2.

Assumptions: The OPI report AD 22 was run on 1/15/86. I've assumed that the foundation allotments did not change since that time since the ANB are reported for the school year on OCT 1 for each year.

Notes: Although the balances shown were available in the 1985-86 school year, it does not mean that they are available now. From historical data, it would appear that the reserves have increased each year. By definition, district reserves are to be used to pay bills from Sept 1 to Nov 1. Theoretically, these funds are exhausted on Nov 1. The cash reappropriated can vary from year to year depending upon property tax collections, and anomalies such as protested tax payments, PL 874 funds that were unanticipated, etc.

2. The foundation allocation shown includes 80% of the approved budget for special education. The totals of the columns are as follows:

	1986 Foundation Allocation	1986 Maximum SF Budget Without Vote	4% Scheduled Foundation Increase	June 30, 1985 District Reserves	FY 1986 Cash Reapprop
State Totals	<u>\$245,917,488</u>	<u>\$307,989,578</u>	<u>\$12,319,543</u>	<u>\$98,148,101</u>	<u>\$26,322,364</u>
Reconciliation to our revenue estimates		\$25,041,840 (special ed costs included in foundation allocation)			
		\$281,946,738 foundation net of special ed			
4% of net foundation savings		\$11,277,870			
TJ's estimate of foundation savings		\$11,228,000			
Difference		\$49,870			

⑩

①

County and School Name	ANS	1986 Foundation Allocation	4% Scheduled Foundation Increase	June 30, 1985 District Reserves	FY 1986 Cash Reapprop
Broadwater County					
Townsend E	444	\$609,093	\$24,364	\$245,241	\$0
Crow Creek E	11	\$17,302	\$692	\$12,470	\$3,359
Toston E	25	\$38,006	\$1,520	\$0	\$0
Broadwater Cty H	214	\$408,227	\$16,329	\$71,324	\$0
Carbon County					
Red Lodge E	313	\$433,161	\$17,326	\$247,978	\$0
Red Lodge High	142	\$310,540	\$12,422	\$212,677	\$20,998
Bridger E	199	\$320,913	\$12,837	\$79,812	\$0
Bridger High	99	\$244,383	\$9,775	\$45,234	\$0
Joliet E	227	\$334,242	\$13,370	\$139,977	\$0
Joliet H	100	\$223,955	\$8,958	\$118,360	\$0
Jackson E	12	\$17,969	\$719	\$7,817	\$0
Luther E	13	\$18,636	\$745	\$12,595	\$1,881
Roberts E	94	\$164,644	\$6,586	\$88,863	\$6,745
Roberts High	41	\$141,827	\$5,673	\$78,695	\$5,850
Boyd E	16	\$27,506	\$1,100	\$10,721	\$0
Fronberg E	137	\$220,982	\$8,339	\$115,580	\$2,374
Fronberg H	85	\$216,719	\$8,669	\$87,713	\$0
Edgar E	15	\$26,838	\$1,074	\$22,668	\$11,500
Belfry E	118	\$209,005	\$8,360	\$195,591	\$29,241
Belfry High	36	\$128,268	\$5,131	\$142,764	\$0
Carter County					
Hammond, Hawks Home E	10	\$31,934	\$1,277	\$14,065	\$12,207
Johnston E	5	\$15,967	\$639	\$5,709	\$8,340
Albion E	8	\$15,967	\$639	\$6,926	\$1,457
Pine Hill, Plainview E	18	\$31,934	\$1,277	\$13,839	\$1,477
Ekalaka E	119	\$210,953	\$8,438	\$150,996	\$50,821
Ridge E	10	\$16,634	\$665	\$9,120	\$5,192
Alzada E	14	\$26,171	\$1,047	\$10,656	\$0
Carter HS	83	\$215,051	\$8,602	\$107,311	\$52,537
Cascade County					
Great Falls E	8215	\$11,593,331	\$463,933	\$3,753,288	\$597,656
Great Falls H	3836	\$6,700,569	\$268,023	\$2,471,165	\$738,217
Cascade E	292	\$314,950	\$12,598	\$95,376	\$19,500
Cascade HS	153	\$358,149	\$14,326	\$149,257	\$35,500
Centerville E	195	\$343,387	\$13,735	\$87,245	\$17,390
Centerville H	86	\$217,491	\$8,700	\$104,156	\$3,000
Selt E	216	\$249,967	\$13,999	\$211,626	\$18,893
Selt H	129	\$292,115	\$11,685	\$206,313	\$16,152
Simms E	133	\$249,072	\$9,963	\$104,996	\$15,000
Simms H	204	\$410,967	\$16,439	\$92,095	\$2,707
Vaugh E	165	\$285,360	\$11,402	\$103,053	\$25,051
Ula E	66	\$118,091	\$4,724	\$57,707	\$10,000
Deep Creek E	8	\$17,484	\$699	\$7,649	\$1,643
Sun River E	120	\$216,350	\$8,554	\$67,480	\$0

H-3,753,288
 H-2,471,165
 Total 6,224,453
 NOW ON
 TREASURY
 SHOWS 12,000
 INVESTED
 TRUE




County and School Name ANB 1986 Foundation Allocation 1986 Maximum GF Budget Without Vote 4% Scheduled June 30, 1985 Foundation Increase District Reserves FY 1986 Cash Reapprop

Yellowstone County

Wed. May 28 1986
256-2704 Jerry Thom
Yellowstone Co. Treas \$1,308,000
invested in Reser

County and School Name	ANB	1986 Foundation Allocation	1986 Maximum GF Budget Without Vote	4% Scheduled June 30, 1985 Foundation Increase	District Reserves	FY 1986 Cash Reapprop
Billings E	10693	\$15,377,747	\$19,222,184	\$768,887	\$5,058,365	\$342,299
Billings H	5176	\$9,139,032	\$11,423,790	\$456,952	\$2,979,836	\$627,151
Lockwood Elea	1203	\$1,732,125	\$2,165,156	\$86,606	\$659,646	\$0
Blue Creek E	59	\$104,072	\$130,090	\$5,204	\$39,427	\$14,557
Canyon Creek E	228	\$332,257	\$415,359	\$16,614	\$71,067	\$0
Laurel E	1308	\$1,793,144	\$2,241,430	\$89,657	\$394,647	\$0
Laurel HS	522	\$879,325	\$1,099,781	\$43,991	\$411,116	\$0
Elder Grove E	123	\$175,857	\$219,821	\$8,793	\$34,705	\$0
Custer Elea	72	\$151,441	\$189,301	\$7,572	\$73,162	\$19,387
Custer HS	46	\$154,367	\$192,951	\$7,718	\$68,000	\$2,340
Morin E	36	\$42,603	\$53,254	\$2,130	\$26,642	\$3,354
Broadview E	95	\$166,347	\$207,934	\$8,317	\$23,749	\$0
Broadview H	35	\$125,429	\$156,786	\$6,271	\$32,945	\$0
Elysian E	54	\$82,566	\$103,333	\$4,133	\$64,558	\$6,003
Huntley Project Elea	497	\$785,027	\$981,284	\$39,251	\$159,149	\$0
Huntley Project HS	219	\$402,813	\$503,516	\$20,141	\$123,343	\$0
Shepherd Elea	396	\$556,493	\$695,616	\$27,325	\$50,073	\$6,305
Shepherd HS	226	\$449,188	\$561,485	\$22,459	\$13,122	\$0
Pioneer E	74	\$164,139	\$205,174	\$8,207	\$48,191	\$0
Independent E	130	\$134,612	\$230,755	\$9,231	\$34,282	\$0
Yellowstone B & G Ran. E	NA	\$29,722	\$37,153	\$1,486	\$48,853	\$80,703

E-5,058.3
H-2,979.8
X 8,038.20
Total for
OP 1-
Yellowstone
Co. Treas
shows
\$1,308,000
invest
IT IS TRU

(12)

Opinion and comment

Explanations needed

A member of a committee that worked for passage of the mill levy in July warned the school board Monday that passage of an \$8.6 million bond issue to renovate Butte High remains "iffy."

Dick Cromer told the board it still has to do some fence-mending with the public. Cromer did not question the need to repair the high school, and he said he doubted that many people would. But, he said he believes that many voters are going to turn thumbs down on the bond issue in November.

The reason, others suggested, is lingering unhappiness among voters over the announcement, right after the third, successful mill levy vote, that the Butte school district had \$1.3 million in reserves, not the \$250,000 stated before the election.

Trustee Bob Moody said he believed the issue of the \$1.3 has been explained. The money, he said, was left over because the district spent less than budgeted last year and received more revenue than expected. The district didn't know about it, he said, because it was overlooked.

* It's the "overlooking" that hasn't been adequately explained.

* The issue of school reserves was of statewide importance earlier this year. Gov. Ted Schwinden asked the special legislative session in June to pass Senate Bill 9 to reduce state School Foundation funding to local districts to relieve the mounting state deficit. Generally, Schwinden said, local school districts had sufficient reserves to take up the slack for one year.

* The outcry against the proposal was immediate. School districts cried that they didn't have enough reserves. Claims were made that some districts, including Butte's, had little or no reserves.

* In June, Rep. Paul Pistoria of Great Falls testified before both the House and Senate Education Committees that reserve figures being used by opponents of the Schwinden proposal were drastically low.

* How did he know? All one had to do, Pistoria said, was pick up the telephone and call county treasurers. In his testimony, Pistoria said the correct reserve figures around the state sometimes were far larger than what the education

lobby was claiming.

* Pistoria is known as an outspoken man who sometimes swings wide of the mark. Perhaps that's why his comments didn't receive more attention at the time.

* But, the thrust of Pistoria's claim was seconded in a letter to the Standard in August from State Rep. Francis Bardanouve. Bardanouve wrote that Butte's legislators "must be very chagrined and embarrassed that they were so brazenly deceived by their school officials during the session. Butte school officials were strongly opposed to the administration's bill on local revenue sharing. I was carrying this bill and strong testimony was made against it by Butte school officials."

* A few days after Bardanouve's letter appeared, a clerk in the Butte-Silver Bow Treasurer's office told a Standard reporter that, yes, a phone call would have been enough to find out what the reserves were.

The belated "discovery" of Butte's reserves might be wholly unconnected to any possible political machinations at the state level.

Whatever the facts regarding that, we don't think the Butte incident has been explained by saying the money was "overlooked."

Furthermore, reports so far indicate that Business Manager Tom Stetzner knew of the actual figure at least four days before the election, and informed some trustees about it. Yet, no word reached the public until after the election.

Stetzner has since gone on administrative leave, and there has been no explanation for that. A meeting between Stetzner and the board recently was closed to press and public. No explanation why, beyond the argument of "demands of privacy."

An "evaluation" session between Superintendent Jeff Satterly and the board also was closed, and there has been no word what that was all about or what happened during the meeting.

Cromer is right. The board needs to do some fence-mending with the public.

The board could begin that fence-mending by explaining a little better some of the things that have been going on.

NOTE

The Committee did not believe me.
NOTE
I WAS RIGHT
Paul P.
Pistoria

NOTE

Paul - -

Thu. Oct. 2, 19

Thanks for The tape.

Jeff Gibson

editorial Page

mountain Standard - Butte, mt.

by Jeff Gibson

REPORT: SCHOOL SPENDING SOARS BEYOND ENROLLMENT

by BOB ANEZ, Associated Press Writer

A report by the Legislative Fiscal Analyst paints a picture of soaring spending by Montana's public schools at a time when enrollments have been falling.

Presented to the education subcommittee of the Legislative Finance Committee, the report also suggests that the state is within 2 percent of providing sufficient funds for a basic education as required in the state Constitution.

According to the document, Montana schools have increased their spending from \$186.4 million in 1975 to \$475.3 million a decade later. While that 155 percent increase was under way, enrollment dropped 14 percent.

Twice Inflation Rate

As a result, schools spent nearly three times the amount of money per student in 1985 than they did in 1975. That increase was nearly twice the inflation rate during the period.

Between the 1984 and 1985 school years, enrollment remained nearly static but spending jumped by about \$18 million, or 8 percent - more than double the rate of inflation.

Although teacher and administrator salaries make up 80 percent of school budgets, they increased an average of only 6.2 percent. Benefits jumped 15 percent in that one year, while spending on services, supplies and materials climbed an average of 10.5 percent.

The subcommittee, formed to determine what constitutes the constitutionally mandated basic education and its costs, was told in the report that the state comes within \$4 million of covering

that expense.

Based on the subcommittee's conclusion that a basic education is defined by state accreditation standards, Legislative Fiscal Analyst Judy Rippingale studied the accreditation requirements for teacher numbers.

She concluded that elementary schools have 48 more teachers than mandated and high schools are 77 percent beyond the number needed to maintain the standard of one teacher for every 30 students.

If the staffing pattern of teachers is indicative of other school spending, an estimated 37 percent of school funding is not needed to meet accreditation requirements, Rippingale said.

Based on that theory, Montana schools in 1985 needed only \$249 million to provide a basic education and received \$254 million from the state foundation program. If the state were to assume the total expense of maintaining school buildings, its funding would have come up \$4 million short.

"Therefore, if teacher numbers are reflective of all costs," Rippingale said, "The state is paying for basic education regardless of the individual district's willingness or ability to supplement the state support."

She acknowledged that the study is based on the arguable assumption that the excess teacher numbers reflect total school spending. Also, she said, the report may indicate a need to review state accreditation standards - such as the student-teacher ratio - to find out if they need updating.

MONTANA TAX OFFICERS...

(cont. from page 1)
Denton; Earl Moritz, Lewistown; F. Jack Anderson, Billings; Harold Warfield, Bozeman; David W. Robinson, Great Falls; Dennis Lopach, Helena; Conrad F. Lundgren, Kalispell; Dick Irvin, Shelby; John F. Kavanagh, Shelby; David L. Harris, Fort Worth; Tom Mather, Great Falls; Harry Newlon, Bozeman; Chase T. Hibbard, Helena; A. C. Grande, Martinsdale; George Ruff, Helena and Duane Buttler, Milltown.
Elected to the Montana Tax Foundation

MONTANA'S TORT SYSTEM

(continued from page 3)
with respect to their best won't know until a jury tells reasonable investor continue dollars in Montana?

The sad fact is that our Montana a very sorry place to pay the price every day. Spiral sation rates, expensive insur it at all), high taxes, and pri consumers reflect all these unne

What are we going to do took the first step when they 30 at the November general el back to our Legislature the powe ability laws, to take a hard l trines with which liberals o have saddled us.

The Initiative, however, is by the trial lawyers, who seem bloated fees will be returned t el. But, the public has spok told our legislators that l change.

The next step is for those our disastrous liability syst and communicate with their leg business, government officials are all being victimized by a trol. We can fix this mess, but a lot of thoughtful effort by a

The Montana Taxpayers Associa ly involved in the effort Liability Coalition from the beg bers gathered thousands of sig initiative drive to qualify the lot. As the Coalition begins 1987 Legislature, our efforts co

You can continue to help yourself to do your part, i about what's happened to your S to your legislators about liabi fore they leave for Helena. will let you know about specifi again contact your legislat turn things around and make Mon to live and do business.

FOR H.B. 295

EXHIBIT #1
DATE HB

EXHIBIT #4
DATE 2-9-87
HB #295

Governor's plan pleases Pistoria

Tribune Capitol Bureau

HELENA — Rep. Paul Pistoria was all smiles Friday as Gov. Ted Schwinden suggested that school districts could tap their \$123 million worth of reserves if they were unwilling to cut their budgets.

"This was one of the happiest days of my life because they (school districts) have been tying this money up," the Democratic legislator from Great Falls said.

SCHWINDEN MENTIONED the reserves as a possible funding source when he proposed Friday that the Legislature cancel the previously approved 4 percent increase in the school foundation program schedules due to take effect July 1.

Pistoria has been embroiled in a controversy over reserves with the Great Falls School District. He has charged that the school district was misusing taxpayers' money by putting too much in reserve, a charge

denied by district officials.

PISTORIA CLAIMED he was the one who gave Schwinden the idea of looking into the reserve issue.

But Schwinden's budget director, Dave Hunter, said that his office had already been investigating the reserves situation on its own anyway.

Pistoria showed up in Helena for Schwinden's press conference and asked the governor two questions.

DURING ONE OF his questions, Pistoria used the occasion to praise his own efforts at going after the reserves in Great Falls and to blast the Tribune, which had called his charges a "scattergun salvo".

The Tribune can say what it wants, Pistoria said, but "it's bearing out that I've been right."

He accused the school district officials of "telling us a bunch of lies."

From Reading the 9 attached letters from the County Treasurer in the State showing the School Reserves invested it is near \$1 200,000,000 INVESTED. Instead of the \$123,000,000 invested as quoted by the OPI. Terrible. Why this difference? Not telling our citizens the TRUTH.

Paul Pistoria
State Representative



The Big Sky Country

MONTANA STATE HOUSE OF REPRESENTATIVES

REPRESENTATIVE PAUL G. PISTORIA
HOUSE DISTRICT ~~22~~ 36

HOME ADDRESS:
2421 CENTRAL AVE.
GREAT FALLS, MONTANA 59401

November 30, 1986

COMMITTEES:

VICE CHR. LOCAL GOVERNMENT
STATE ADMINISTRATION

For some time, I have been curious about the amount of tax dollars the School Districts have invested in their Reserve Fund. It is due to my explanation and facts as shown below.

The School Districts in our State and the Office of Public Instruction (OPI) by Ed Argenbright are quoting a much lower School District Reserve figure than what is actually invested by the few County Treasurers that I contacted.

(1) For the Great Falls School District, they show Elementary \$3,753,288 - High School \$2,471,165, Total = \$6,224,453 invested. The Cascade County Treasurer shows invested \$11,977,168 average per month in a 21 month period. Also, it shows a high of \$15,294,172 for November 1985.

See enclosed Cascade County Treasurer's fact sheet.

(2) For the Billings School District, they show Elementary \$5,058,365 plus High School \$3,979,836 - Total = \$8,038,201 invested. The Yellowstone County Treasurer shows invested \$17,500,000 average per month in a 7 month period. Also, it shows a high of \$22,200,000 for April 1986.

Therefore, I am interested and would appreciate receiving the amount of School District Reserve money invested in only the main School District in your County by your County Treasurer's Office each month from October 1985 through October 1986 or, through the last month that you have audited.

You may make up a report as shown in the enclosed fact sheets of either the Great Falls School District or the Billings School District. Probably, it is simpler by using the Yellowstone County Treasurer's fact sheet for Billings School District. I am sure you understand what I want and will leave it up to you.

Thank you.

Sincerely yours,

Paul G. Pistoria

Paul G. Pistoria
State Representative, District #36
2421 Central Avenue
Great Falls, Montana, 59401

Rec'd. Mon. Dec. 15, 1986 - Paul H. Pistoria made up for me.

Cascade County

State of Montana

TELEPHONE: (406) 761-8700

TREASURER



Great Falls, Montana 59401

CASH BALANCES

ALL FUNDS

GREAT FALLS SCHOOL DISTRICT

<u>DATE</u>	<u>IC</u>	<u>ELEMENTARY 1</u>	<u>TOTAL</u>
JANUARY, 1986	\$8,989,065.45	\$4,960,708.94	\$13,949,774.39
FEBRUARY, 1986	\$10,145,916.95	\$7,007,924.60	\$17,153,841.55
MARCH, 1986	\$9,095,700.82	\$7,871,358.83	\$16,967,059.65
APRIL, 1986	\$8,883,695.04	\$6,498,195.11	\$15,381,890.15
* MAY, 1986	\$13,081,907.25	\$4,312,207.32	\$17,394,114.57
JUNE, 1986	\$9,259,757.16	\$6,526,224.50	\$15,785,981.66
JULY, 1986	\$7,489,565.75	\$8,264,504.59	\$15,754,070.34
AUGUST, 1986	\$7,518,976.04	\$8,311,876.03	\$15,830,852.07
SEPTEMBER, 1986	\$8,328,970.88	\$6,894,787.43	\$15,223,758.31
OCTOBER, 1986	\$7,557,789.28	\$5,294,550.00	\$12,852,339.28

The OPI - shows only

\$

6,224,453 - why
much lower?



County of Yellowstone



FINANCE

(408) 256-2777

Box 35000
Billings, MT 59107

June 9, 1986

Recd Tues - June 10, 1986

Honorable Paul Pistoria
State Representative
House District #36
2421 Central Avenue
Great Falls, Montana 59401

Dear Representative Pistoria:

Per your request, I am submitting a detailed list of Investable Funds for S.D. #2, Billings, from October 1985 through April 1986. The month ending investment balances are as follows:

October	\$12,700,000
November	13,400,000
December	18,000,000
January	17,400,000
February	17,400,000
March	21,400,000
April	22,200,000

I hope this information satisfies your needs.

Sincerely,

Jerry S. Thomas
Jerry S. Thomas
Finance Director

JST:gp

Recd Sat Dec. 27, 1986

MAY - 1986	_____	13,500,000
JUNE - 1986	_____	15,900,000
JULY - 1986	_____	17,800,000
AUG - 1986	_____	17,000,000
SEPT - 1986	_____	13,900,000
OCT - 1986	_____	9,600,000

F-R 9PI - Show #8, 038, 201 - why lower?



Visit
MONTANA
 the BIG SKY Country
 Hill County Treasurer

December 30, 1986

Paul G. Pistoria
 2421 Central Avenue
 Great Falls, Montana 59401

Dear Mr. Pistoria:

Sorry this is so late I hope you can still use it.

The following is for School District #16A, includes High School & Elementary for all funds.

October 1985	\$1,256,197.63	
November 1985	975,000.00	
December 1985	2,273,664.85	
January 1986	1,640,482.91	
February 1986	2,031,814.58	
March 1986	2,050,000.00	
April 1986	1,585,000.00	
May 1986	1,510,000.00	
June 1986	2,261,000.00	
July 1986	2,790,493.00	
August 1986	2,760,793.00	
September 1986	2,113,200.00	
October 1986	<u>1,313,500.00</u>	
Total	\$24,561,145.97	divided by 13 months \$1,889,318.92 average per month.

Sincerely,

Connie M. Anderson
 Connie M. Anderson
 Hill County Treasurer

*The OPI - shows
 # 201,177 - why
 Much lower?*

Flathead Co. Treasurer - Kalespell - Recd - Sat
Dec 27, 1986

Date	School Dist. #5 Elementary	Flathead High School	Combined Total
10/85	813,191.47	865,196.44	1,678,387.91
11/85	865,069.97	498,112.39	1,363,182.36
12/85	775,700.73	452,318.99	1,228,019.72
01/86	948,351.02	770,752.82	1,719,103.84
02/86	1,162,548.47	1,007,702.87	2,170,251.34
03/86	1,623,205.45	1,301,886.39	2,925,091.84
04/86	1,603,537.38	1,321,837.87	2,925,375.25
05/86	1,305,313.06	712,595.85	2,017,908.91
06/86	1,052,443.51	687,203.20	1,739,646.71
07/86	1,266,307.85	1,195,090.87	2,461,398.72
08/86	6,127,645.17	6,269,092.11	12,396,737.28
09/86	6,388,048.19	6,566,806.16	12,954,854.35
	23,931,362.27	21,648,595.96	45,579,958.23

OPI - Shows E - \$0
H - \$0

why much lower?
Paul G. Astor



County of Custer

Custer County Courthouse
1010 Main
MILES CITY, MONTANA 59301

December 12, 1986

Honorable Paul Pistoria
State Representative
House District #36
2421 Central Avenue
Great Falls, Montana 59401

Dear Representative Pistoria:

Following is a list of the combined investments of S. D. #1 and Custer County High School for the months ending October 1985 through October 1986:

October	1985	\$664,000.00
November	1985	-0-
December	1985	755,000.00
January	1986	635,000.00
February	1986	450,000.00
March	1986	1,075,000.00
April	1986	1,610,000.00
May	1986	785,000.00
June	1986	250,000.00
July	1986	1,580,830.00
August	1986	1,580,830.00
September	1986	890,000.00
October	1986	360,000.00

I hope the above information is what you need.

Sincerely,

Byron L. Rogge
Byron L. Rogge
Custer County Treasurer

BLR/pm

*OPS - Shows
E - \$0
H - \$0
why much lower?*

County of Rosebud
 Forsyth, Montana 59327
 [406] 356-7661



Office of
 County Treasurer
 P.O. Box 167, Forsyth

December 11, 1986

Honorable Paul G. Pistoria
 State Representative, H.D. # 36
 2421 Central Ave.
 Great Falls, Mont. 59401

In reply to your recent request for figures for School District Reserves.

First, I believe the OPI and the Treasurers are talking about 2 different things. It would appear that Treasurers are talking about the total investment for the districts while OPI is making reference to the reserves the districts can hold to use prior to tax collections or failure of taxes to be paid.

The figures below represent 6 months of the 85-86 school year and 5 mo. 86-87.

Investments E. #19

Jan. 86	4,285,769.68	Jul 86	2,556,946.66
Feb. 86	4,000,700.88	Aug. 86	2,549,745.26
Mar. 86	3,690,106.39	Sep. 86	2,206,457.89
Apr. 86	3,396,444.08	Oct. 86	1,801,083.41
May 86	3,070,489.74	Nov. 86	1,339,007.32
June 86	3,029,144.70		
Average	3,578,765.91	Average	2,090,643.11

Reserves 1985-86

General	1,382,890.25
Transp.	26,353.30
Retire.	152,737.55

Total Reserves Invested
 1,561,986.60

Reserves 86-87

General	1,407,041.96
Transp.	28,757.20
Bus Res.	69,090.89
Retire.	128,461.06
Comp. Ins.	7,189.30

Total Reserves Invested
 1,640,542.41

As you can see there is quite a difference. The Reserves are a part of the totals invested.

If we can be of further assistance please feel free to write or call.

Sincerely,

Louise M. Sims
 Louise M. Sims
 Rosebud County Treasurer

OPI - Share

*E - 78,007 } \$ 144,800
 H - 66,869 }
 why much lower?*



State of Montana
COUNTY OF GALLATIN

Bozeman

Recd - Fri - Dec. 12, 1986

Honorable Paul Pistoria
State Representative
House District #36
2421 Central Avenue
Great Falls, Montana 59401

Dear Representative Pistoria:

The following figures reflect the investments for School District #7, Bozeman, from October 1985 through October 1986. The month end investment figures are as follows:

October 1985	\$800,000.00
November 1985	1,040,000.00
December 1985	none
January 1986	1,480,000.00
February 1986	1,830,000.00
March 1986	2,872,000.00
April 1986	2,872,000.00
May 1986	2,872,000.00
June 1986	2,872,000.00
July 1986	2,872,000.00
August 1986	2,872,000.00
September 1986	1,635,000.00
October 1986	1,635,000.00

I trust that this information is what you needed.

Sincerely,

Loy R. Carroll

Loy R. Carroll
Gallatin County Treasurer

*OPI - Estimate 700,000
why lower, too?*

NORMAN E. RESLER, Commissioner

JOHN MUSTER, Commissioner

GEORGE W. WELLS, Commissioner

DIXIE VAUGHT
Clerk & Recorder

JUNE M. THAYER
Treasurer

AVERAL BRAUER
Assessor

TIMOTHY G. McGOVERN
Supt. of Schools

WINIFRED I. VAN DERHOFF
Clerk District Court

ROBERT L. FLETCHER
Attorney

HARVEY E. SHULTZ
Sheriff

C. E. ROSDAHL
Coroner

COUNTY OF SANDERS

STATE OF MONTANA

Thompson Falls, Montana 59873

<u>Schl. Dist. #2</u>	<u>Elem</u>	<u>High</u>
October 1985	117,248.00	131,819.00
November 1985	8,925.00	63,178.00
December 1985	211,562.00	170,289.00
January 1986	172,542.00	170,985.00
February 1986	265,639.00	231,490.00
March 1986	239,981.00	206,225.00
April 1986	136,612.00	126,251.00
May 1986	266,949.00	202,696.00
June 1986	253,995.00	186,477.00
July 1986	243,740.00	157,804.00
August 1986	244,226.00	155,270.00
September 1986	154,645.00	103,546.00
	<u>2,316,064.00</u>	<u>1,906,030.00</u>
	÷ by 12 months	÷ by 12 months
Average monthly investment	193,005.00	158,835.00

We hope this information will be of service to you.

Yours very truly,

June M. Thayer

June M. Thayer
Sanders County Treasurer

P.S. The above figures are also more equivalent to Schl. Dist. #1 at Plains -- the 2nd largest school in the County per buildings and student enrollment.

OPI - Shows
E - 6,864 } \$ 6,864
H - \$ 0 } why must
Law

MERLE THORSTAD
Commissioner

ORDELL C. KLINDWORTH
Commissioner

ARTHUR KLEINJAN
Commissioner

LUCILLE T. OEHMCKE
Clerk and Recorder

SHIRLEY GRUBB
Treasurer

LINDA ANDERSON
Assessor



LEONARD H. LANGEN
District Judge

KAY O'BRIEN JOHNSON
Clerk of Court District #17

DONALD A. RANSTROM
County Attorney

CHARLES E. HAY
Sheriff and Public Administrator

JOHN M. MOFFATT
Superintendent of Schools

MARVIN A. EDWARDS
Coroner

BLAINE COUNTY

Chinook, Montana 59523

Dec. 8, 1986

Honorable Paul Pistoria
State Representative
House District #36
2421 Central Avenue
Great Falls, Mt. 59401

Dear Representative Pistoria:

Below is a detailed list of Investments for School Dist. #10,
Chinook, from Oct. 1985 to Oct. 1986.

Oct. '85	101,000.00
Dec. '85	156,000.00
Jan, '86	424,000.00
Feb. '86	258,000.00
Mar. '86	250,000.00
Apr. '86	155,000.00
May '86	77,000.00
June '86	80,000.00
July '86	400,000.00
Aug. '86	264,000.00
Sept. '86	140,000.00
Oct. '86	130,000.00

These investments are for the Elementary and High Schools.

OPI - Shows

*E - \$0 } \$0
H - \$0 }*

*why so much
Lower?*

Sincerely,

*Shirley Beardsfield
Blaine County Treasurer*

EXHIBIT # 5
DATE 2-9-87
HB # 483

**SO...JUST WHAT DOES IT MEAN TO HAVE MY PROPERTY LISTED
IN THE NATIONAL REGISTER OF HISTORIC PLACES?**

If the following questions and answers leave you still wondering, please feel free to call us at the Montana State Historic Preservation Office. We are always glad to talk with you on the phone or in person about the National Register if there's something you'd like clarified. Our street address is 104 Broadway in Helena and our telephone number is (406) 444-7715. Please note: our mailing address is 225 North Roberts, Helena, MT 59620-9990.

1. What is the National Register of Historic Places?

The National Register is the official list of the Nation's historic buildings and archaeological sites that are considered to be worthy of preservation. The Register was established in 1966 to help property owners, communities and neighborhoods recognize their important historic properties, to offer realistic incentives for preservation, and to insure that Federal actions do not harm these properties without alternatives being considered. The National Register was not designed as a major regulatory program nor as just an honor roll. The Register was intended to be broad rather than exclusive, and includes many different kinds of properties important to the Nation, the State, a region, or a local community.

2. If I list my home or business in the National Register, what restrictions will be placed on my rights to modify or sell the property?

Listing in the National Register does not interfere with your right to paint, remodel, manage, sell, or even demolish your property. You may alter your building at any time, unless you use Federal funds or the Federal tax incentives to rehabilitate it, in which case the alterations are reviewed by the State Historic Preservation Office. Placing a property in the Register also does not obligate an owner to make any repairs or improvements. Moreover, the State or Federal government will not attach restrictive covenants to properties or seek to acquire them.

3. Does Register listing mean that my property must be opened to the public on a regular basis?

As the owner of a property listed in the Register, you will not be required to open your house, place of business, or historic site for public visitation. Your private property rights are in no way changed by Register listing, unless, again, you have accepted Federal funds for rehabilitation, in which case the public must be allowed to visit the property for a few days each year.

4. Can I get money to fix up my historic building if it is listed in the Register?

National Register property owners may apply for Federal grants for building rehabilitation when Congress appropriates such funds. However, for the past several years Congress has not chosen to make any Historic Preservation rehabilitation grant dollars available. If you are a Community Cultural Organization we encourage you to check with the Montana Arts Council (444-6430) to determine whether the project you are considering would qualify for Cultural and Aesthetic Grant monies appropriated biennially by the Montana legislature.

5. Is there some kind of tax credit I can get if I plan to repair my historic building?

Yes. If a property is listed in the National Register, certain Federal tax provisions may apply. The Tax Reform Act of 1986 allows you to credit **20 percent** of the rehabilitation costs against your federal tax liability for the substantial rehabilitation of income-producing properties such as commercial, farm, industrial, and residential rental buildings. Work must meet certain standards and be reviewed and approved by the State Historic Preservation Office and the National Park Service. Because tax provisions are complicated, individuals should consult their accountants for assistance in determining the tax consequences of the above provisions. For further information on the tax credits and application materials, call us at the Montana State Historic Preservation Office, (406) 444-7715.

6. So what are the benefits of listing my property in the Register; why should I consider doing so?

Most of all, Register listing provides your property recognition for its historic value and rewards you for your efforts in preserving it. Listing of a building, site or district also affords it prestige which can enhance its value and raise community awareness and pride. While National Register properties do not have to be preserved, listing does insure that preservation is taken to be an important consideration whenever a building or site's future is in question. Owners of Register properties are also able to seek advice from the Montana Historic Preservation Office on appropriate methods to maintain and rehabilitate older buildings or sites.

7. How do you decide whether something is significant enough to be listed in the National Register?

The National Register carefully evaluates the quality of significance of each property being considered for listing. To be eligible for Register designation, a property must meet one or more of the following criteria:

- A: Associated with events that have made a significant contribution to the broad patterns of our history; or
- B: Associated with the lives of persons significant in our past; or
- C: Embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- D: Have yielded, or may be likely to yield information important in prehistory or history.

In addition, properties must possess a high degree of integrity to qualify for listing in the Register -- in other words, they must be relatively unchanged in appearance from the historic period.

Generally speaking, a property must be at least 50 years old to be considered for the Register, unless it is of exceptional significance, or if it is an integral part of a historic district. Non-historic properties that are located within the boundaries of historic districts are also listed in the Register as "non-contributing" components of those historic districts.

EXHIBIT # 6
DATE 2-9-87
HB # 483

Testimony in Support of House Bill 483, An Act Revising the Law on Antiquities

Mr. Chairman and members of the House Education Committee. I am Robert Archibald, Director of the Montana Historical Society. I urge your support for House Bill 483 which amends three sections of the Montana Antiquities Act. The amendments reflect both housekeeping needs that our staff has noted and changes which will substantially improve our ability to encourage the protection of significant historic and prehistoric sites throughout the state. Let me concentrate my testimony on the two substantial issues. First, one amendment gives the State Historic Preservation Officer the ability to withhold information about historic and prehistoric sites if release of that information would likely lead to pothunting or vandalism of those sites. Obviously, we provide site information to many individuals and organizations who need it for scholarly purposes or environmental planning. However, periodically, we are asked for information about sites from the public or from the press for their general interest. We can always honor much of their request, but need the ability to insure that release of especially site locations will not invite vandalism, trespass, and other historic site destruction by bottle collectors, barnwood salvagers, or pot hunters. Second, we are again attempting to bring Montana procedures for nominating properties to the National Register of Historic Places into conformance with the procedures written by the Register staff which is part of the National Park Service. My staff and I will be glad to answer questions about the particulars of these changes. In this testimony, I want to focus your attention on the heart of the issue. Both federal and state require giving owners whose property is being considered for Register listing an opportunity to concur in or object to that listing. However, though modified somewhat in 1983, Montana's law still allows registration to be hindered by owner silence or failure to respond and, in the case of multiply owned properties, gives greater power to owners of larger land areas. We wish to make our procedures match more efficient federal procedures both because that has been asked of us and because it will make our efforts to secure recognition for significant property much easier. Most important, there is no good reason not to make the change. We will continue to pursue the same owner notification procedures. And, the listing of property in the National Register of Historic Places in no way affects or diminishes the rights of property owners nor does it impose restrictions on industry or agencies that are not required by other environmental provisions. Our Register listing restrictiveness has reflected fears that have no basis in regulation, law, or procedures. Hence, I urge your support for these three changes in our Antiquities Act. They all improve our ability to provide recognition for our remarkably rich, fragile heritage.

Thank you.

EXHIBIT #1
DATE 2-9-86
HB # 48



PEGASUS GOLD CORPORATION
Montana Tunnels Mining Inc.

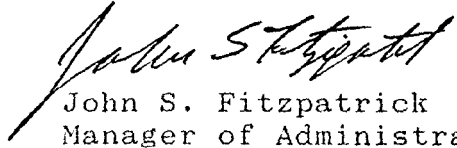
February 8, 1986

Rep. Jack Sands
Chairman
House Education and Cultural
Resources Committee
State Capital Station
Helena, Montana 59601

Dear Rep. Sands:

On behalf of the Pegasus Gold Corporation, Montana Tunnels Project, I am submitting this statement of support for HB 483, an Act to Generally Revise the Laws on Antiquities. As a company developing a major new mine in an abandoned mining district, we are particularly sensitive to state and federal requirements regulating antiquities. HB 483 revises state law to make it more similar to federal statutory requirements. We do not see it as an impediment to the state's economic development or an intrusion upon private property rights. We encourage your support of this measure.

Very truly yours,


John S. Fitzpatrick
Manager of Administration

JSF:mlh

EXHIBIT # 8
DATE 2-9-87
HB



PEGASUS GOLD CORPORATION

THE MONTANA TUNNELS PROJECT

Montana Tunnels Mining Inc.

THE MONTANA TUNNELS PROJECT

On March 3, 1986, **Pegasus Gold Corporation**, through its subsidiary, **Montana Tunnels Mining Inc.** (previously Centennial Minerals, Inc.), began construction of the Montana Tunnels Project. Montana Tunnels, an open pit gold mine and milling facility, is located near Wickes in northern Jefferson County 23 miles south of Helena. The start of construction followed over ten years of minerals exploration at the project site.

Commercial mining operations are scheduled to begin in March, 1987, following a 13-month construction period. When fully operational, the mine will produce about 106,000 ounces of gold, 1.7 million ounces of silver, 11,000 tons of lead concentrate, and 60,000 tons of zinc concentrate annually. The mine has a projected minimum life of ten years based on mineable ore reserves of over forty million tons. The orebody is a polymetallic sulphide deposit with gold, silver, lead and zinc metal present in commercial quantities. It will take approximately 40 tons of material to recover one ounce of gold.

Ore excavated in the Montana Tunnels open pit will be trucked 2,500 feet from the mine to the process plant in dump trucks with an 85 ton capacity. The ore will be emptied into a jaw crusher and broken into pieces eight inches in diameter or smaller. The crushed ore is then transported by conveyor belt to a stockpile and from there, fed into a concentrator building. Inside the concentrator building, the ore enters an autogenous grinding mill, is mixed with water, and ground into small particles by the tumbling action created as the mill rotates. When ground to ½ inch or smaller, the ore leaves the autogenous mill and enters a ball mill. There, it is ground again, this time by a cascade of steel balls, until it can be sized through a 100 mesh screen.

From the ball mill, the ore slurry is pumped to a bank of flotation cells where it is mixed with chemical reagents. The reagents bind themselves to the sulfide particles which in turn attach themselves to air bubbles allowing them to float to the top of the cell for collection as a concentrate. Waste rock flows through the flotation cell, and is fed by gravity to the tailings impoundment for disposal. Approximately 92 percent of the material entering the bulk flotation process is rejected as waste. Thus, of the 12,500 tons of ore per day entering the concentrator, approximately 1,000 tons remains as concentrate for further processing.

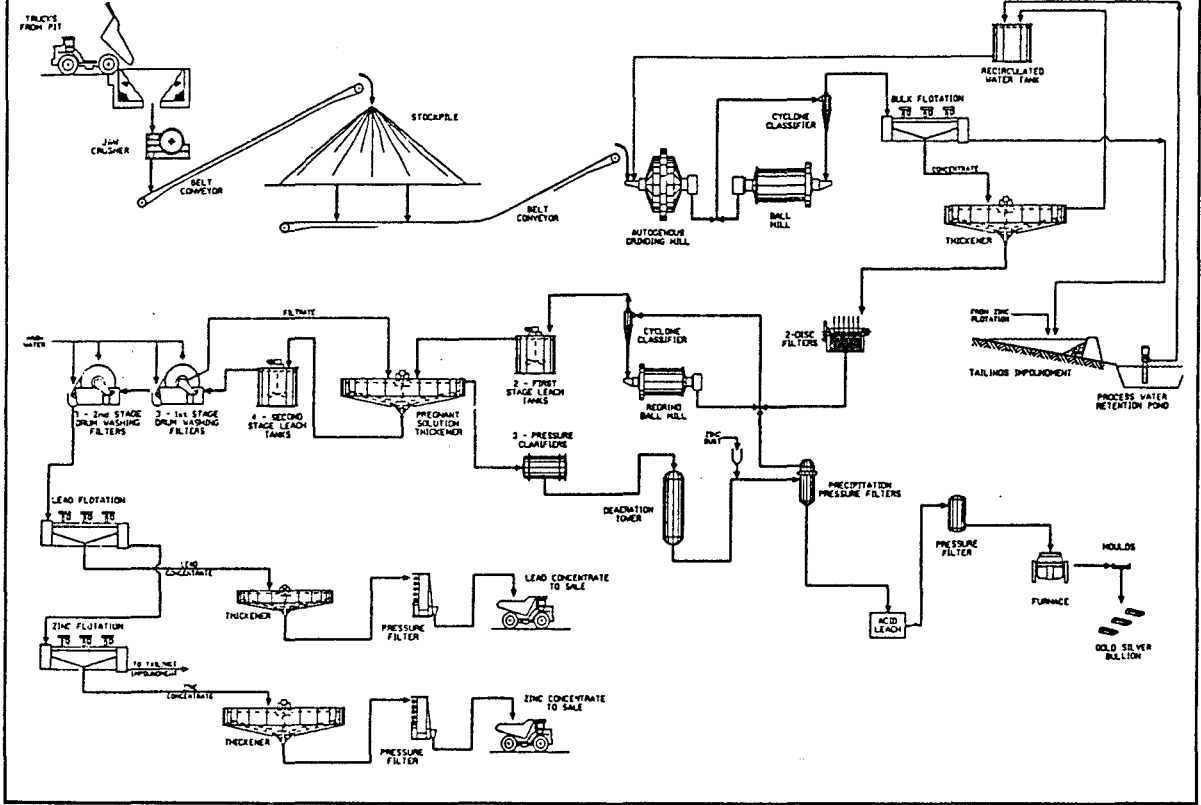
Following the bulk flotation circuit, the concentrate enters a regrind mill where it is reduced in size to 400 mesh or less. The ore's gold and silver exist as microscopic particles and the ore must be very finely ground to allow the gold and silver particles to be separated from the sulfides. After regrinding, the concentrate is mixed with a solution of sodium cyanide and water. The cyanide dissolves the gold and silver leaving behind the lead, zinc, and iron sulfides. The concentrate is then filtered with the precious metal bearing cyanide solution entering the Merrill-Crowe process.

In the Merrill-Crowe process zinc dust is added to the cyanide solution precipitating the gold and silver. The precipitate is filtered from the solution, placed in an electric induction furnace, and melted. Impurities are poured from the furnace as slag while the gold and silver are cast as 1,000 ounce bars of dore bullion. The bullion is shipped to an out-of-state refinery where the gold and silver are separated and purified.

The lead, zinc, and iron sulfides from the filters are then pumped to a second flotation circuit where a lead concentrate and a zinc concentrate are produced.

Montana Tunnels lead concentrate will be shipped to Asarco's East Helena Smelter. The zinc will be shipped to a zinc smelter.

MONTANA TUNNELS PROJECT PROCESS FLOWSHEET SCHEMATIC



Montana Tunnels is expected to employ up to 200 persons with an annual payroll of \$6.6 million. Purchases of goods and services are forecast at \$24.5 million per year and the mine is expected to increase the taxable value of Jefferson County and local school districts by up to \$4.5 million. The project's state and local tax payments are projected to range between \$1.9 and \$2.8 million per year, depending upon the value of mineral production.

DESIGN, CONSTRUCTION, AND MINING CONTRACTORS

The Montana Tunnels Project was designed by Wright Engineers Limited of Vancouver, British Columbia. Wright is a world leader in the design of mineral processing facilities and counts to its credit the Cortez Mine in Nevada; Highmount, Giant Mascot, Granduc, and Kitsault mines in Canada; and Cerro Verde Project in Peru.

Commonwealth Pacific Consultants Ltd., a subsidiary of Guy F. Atkinson Inc., of San Francisco, California, is serving as the project's construction manager. In that capacity, Commonwealth oversees the construction bidding process, quality control, materials coordination, and supervises the contractors working on-site. Commonwealth has built gold mines throughout the world, including the very successful Golden Sunlight Mine near Whitehall, Montana.

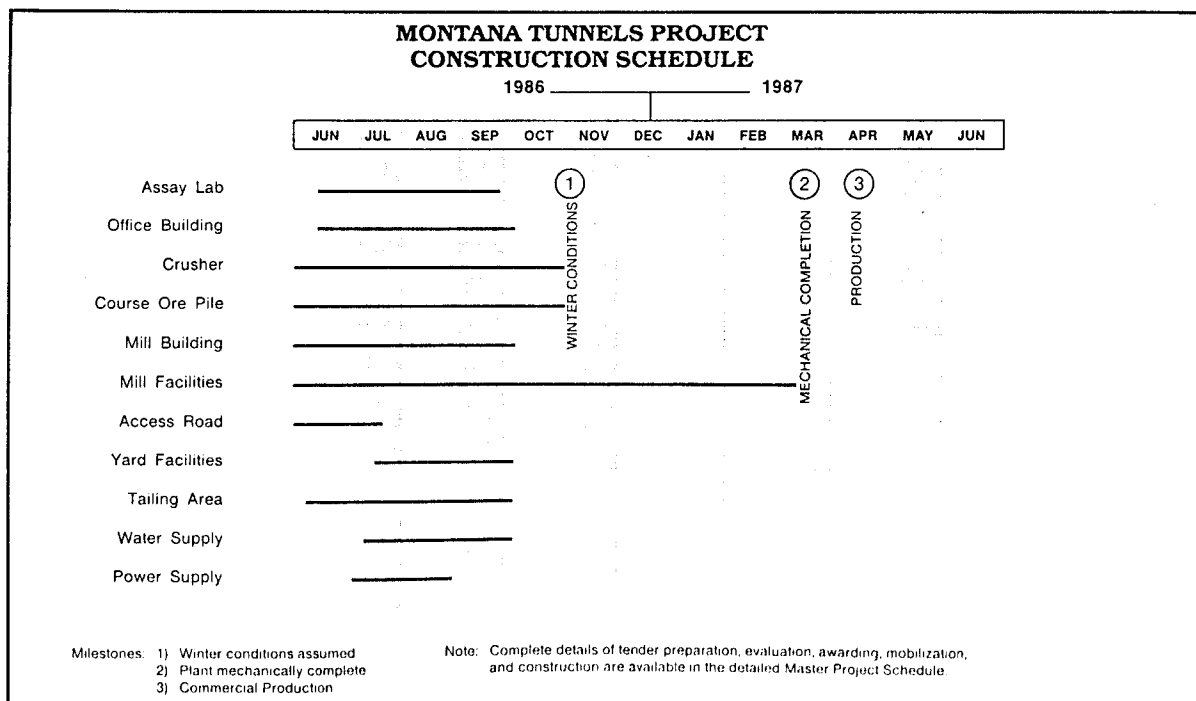
Construction of Montana Tunnels has been divided into a series of contracts which are being tendered for bid with construction companies based in Montana and surrounding states. Approximately 30 major contracts and an equal number of smaller subcontracts are expected.

Major firms retained to build Montana Tunnels include:

Smith Construction Whitehall, Montana	R. H. Grover Inc. Missoula, Montana
Garco Inc. Spokane, Washington	Williams Construction Helena, Montana
SK Construction Helena, Montana	Midland Electric Billings, Montana
Washington Construction Missoula, Montana	Arc Electric Butte, Montana
Welk Brothers Spokane, Washington	Allen Electric Helena, Montana
G&G Housing Whitehall, Montana	Duty Construction Havre, Montana
Martel Construction Bozeman, Montana	Northern Eng. & Testing Great Falls, Montana
Affco Inc. Anaconda, Montana	Hydrometrics Helena, Montana
Dix Corporation Spokane, Washington	Warren, Little & Lund Spokane, Washington

N.A. Degerstrom, Inc. of Spokane, Washington, will serve as the contractor responsible for the operation of the open pit. Although it is headquartered in Washington, Degerstrom has been a major Montana employer for several years. The company currently employs 100 workers in its contract mining operations at Pegasus Gold's Zortman-Landusky Mine in southern Phillips County, Montana.

Montana Tunnel's construction schedule is shown in the drawing below:



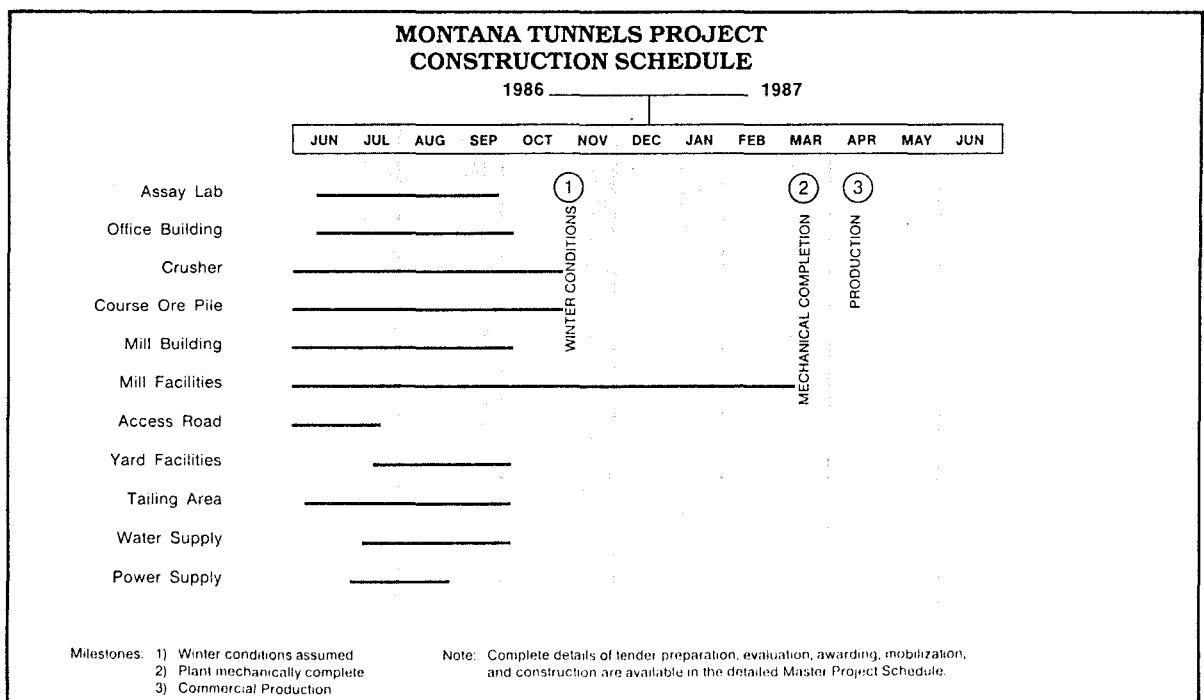
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ENVIRONMENTAL CONTROL AND PERMITTING

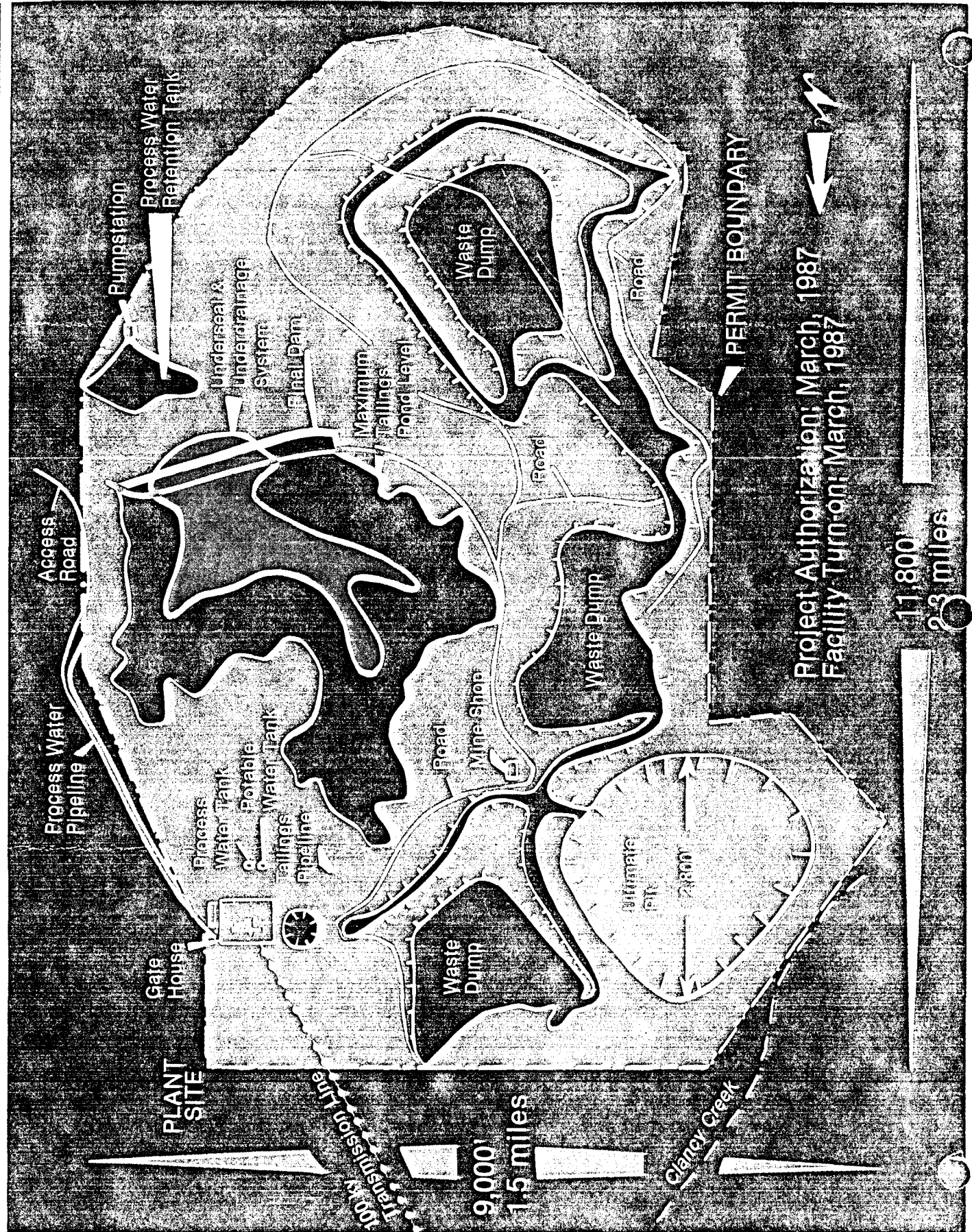
Montana Tunnels received its metal mine operating permit from the State of Montana in February, 1986. The permit was issued following two years of environmental study. The project has been designed to fully comply with all state and federal environmental statutes, and its operating plan includes provision for full-time environmental monitoring once the plant starts commercial operation. Air quality will be continuously monitored from six stations surrounding the project's perimeter. Both the tailings impoundment and process water retention pond are lined with bentonite clay to create an impermeable layer and prevent groundwater pollution. Roads used to access Montana Tunnels are sprayed with a non-toxic, bio-degradable oil made from wood residue to suppress dust. Wildlife sightings are recorded and areas where either livestock or wildlife could be endangered by the operation are fenced to prevent their accidental entry. Noxious weeds are controlled through a cooperative agreement with the Jefferson County Weed District.

Montana Tunnels also has entered into a series of agreements with local governments in central and northern Jefferson County to ensure that the project does not adversely affect the provision of governmental services. The agreements include a payment of \$231,000 to upgrade the Jefferson City-Wickes county road; \$15,000 annually for county road maintenance; \$18,000 for county law enforcement communications equipment; a total of \$7,500 in donations to the Boulder Volunteer Ambulance and Clancy Quick Response Unit; and over \$16,000 to local volunteer fire departments. In addition, local schools will receive payments on a formula basis to cover increased operating or capital costs incurred as a direct result of the mine's development.

LOCAL LABOR, LOCAL SUPPLIERS, LOCAL PARTICIPATION

Pegasus Gold Corporation is committed to a philosophy of being a responsive and responsible citizen wherever it operates. Whenever possible, it seeks to staff its operations, purchase goods and services, and participate in the civic affairs of local communities. In turn, the company has enjoyed the support and cooperation of the people of Jefferson and Lewis and Clark Counties and the State of Montana, a relationship it is pledged to continue.

MONTANA TUNNELS PROJECT PLAN



Project Authorization; March, 1987
Facility Turn-on; March, 1987

11,800'
2.3 miles

EXHIBIT #8
DATE 2-9-87
HR #
Rep Glaser

CHAPTER IV

EQUAL EDUCATIONAL OPPORTUNITY

Beyond the question of the general right to an education lies the question of the equality of that right. Courts and legislatures in recent years have established the principle that not only do all persons have the right to receive an education, but that they have the right to receive it on approximately equal terms. "Equality of educational opportunity" has become an accepted maxim and a standard for assessing state educational programs.

Despite that commitment in principle, however, a great deal of factual inequality still persists. America spends approximately twice as much educating the children of the rich as it does educating the children of the poor.¹ A substantial amount of de facto segregation still exists in the schools.² Educational facilities available to minority groups often are significantly inferior to those available to the rest of the population.³

The existence of such clear inequities in a system of such crucial importance, theoretically guaranteed to be open and free to all, raises general questions of equality as a social value. What is meant by the term "equality" in modern society? Certainly not absolute equality, because such an ideal, which would require all members of society to be absolutely identical, is clearly unattainable even if it were desirable. Neither is meant a classical laissez faire equality, under which everyone is equally free to compete, although not with equal means--a sort of majestic equality of the law, Anatole France once remarked, which forbids rich and poor alike to sleep under bridges, to beg in the streets and to steal bread. The concept of equality in contemporary society lies somewhere between these two extremes in an area defined by resolution of concrete issues of equitable treatment.

The progressive definition of equality in the modern sense began in the classical liberal utilitarianism of John Stuart Mill and Jeremy Bentham in their articulation of the principle, "every man to count for one and no man to count for more than one."⁴ At first this was defined in a moral, or at most, a political sense. But with the gradual weakening of the notion of an "invisible hand" of society which operated to maximize the common good on the basis of equal moral or political rights, this maxim was broadened to include other social and economic factors. Beyond the traditional notions of equality in the courts and in the voting booths, there arose the concept of the equal right of an individual to some minimum enjoyment of the benefits of society, such as nourishment, health care and education. The modern concept of equality thus became the product of two principles: (1) that the rules of law must be equally applied, and

EQUAL EDUCATIONAL OPPORTUNITY

(2) that laws themselves must satisfy some broader standard of equity.

Education, as a fundamental service provided by the state, as a primary means to the acquisition of property and as an essential factor to development of the individual, became a particularly crucial concern in contemporary thrusts toward social equality.

The nineteenth century effort in the United States to establish a universal, free primary and secondary education system contributed greatly to the egalitarian movement. Education involved both the demand for uniform application of the laws (for example, states constitutionally stated obligations to provide a system of free public schools) and the demand for equal access to the basic benefits of society (such as knowledge, wealth and security). In the latter respect, education was seen as the single most important social means for opening the door to the opportunities afforded by the new world. School preempted even money as the great social equalizer, because school became a prerequisite to the attainment of wealth.

With the modern acceptance of equal rights as a concept which transcends simple equality before the law and the gradual recognition of education as a fundamental right and interest of man, the question arises as to how far the state is required to go in guaranteeing equal educational rights. To be sure, equality is only one among a number of cardinal social values and one which may, if promoted far enough, come into conflict with others such as liberty and fairness.⁵ Yet it is such a basic value and education such an indispensable part of men's lives that political and judicial bodies have pressed for the realization of some substantial amount of equality in the kind of education available to all children. The modern state has accepted its responsibility to go far beyond the mere elimination of overt legal hindrances to obtaining an education and has taken positive steps to provide minimum standards of education.

Richard Wollheim suggests a distinction between "an equal right to property" and "a right to equal property."⁶ This distinction, an important one when applied to rights and private spheres of action, tends to blur when applied to a benefit provided at public expense by the state; thus, the right to an equal educational opportunity merges into the right to a substantially equal education. Recent American court decisions have adopted the principle that if substantial inequality in education can be shown, the presumption is that the state must show a compelling reason why the inequality exists, rather than that one affected must show why equality should exist. This position is discussed

EQUAL EDUCATIONAL OPPORTUNITY

at length below. Equal educational opportunity thus has come to mean in the modern context not only that everyone deserves an equal opportunity for an education but that everyone should have the opportunity for an equal (basic) education.

COURTS AND THE FOURTEENTH AMENDMENT: HAVING ONE'S CAKE AND EATING IT TOO VS. HAVING NO CAKE AT ALL

Although the meaning of equality may be set forth rather easily in abstract terms, the actual interpretation of what it means in practice must await resolution of conflicts on specific issues. The concrete determination of educational equality has occurred through a series of judicial decisions in several areas of education. Underlying them all has been the fundamental principle articulated in the Fourteenth Amendment to the U.S. Constitution:

No state shall . . . deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

The primary emphasis in these decisions has been on the "equal protection clause" of this Amendment, but some reliance has also been made on the "due process clause." The general standards which have emerged from the recent test cases have been that (1) the state's classification of citizens for the purpose of state action must be related to a valid state interest; (2) the basis of classification must not be of a "suspect" sort; (3) the state must preserve the "fundamental interests" of its citizens, and (4) the more fundamental the interest and the more suspect the classification, the more compelling must be the state's interest in preserving the classification in question. That is, the state must have overwhelming reasons to discriminate through a classification which provides unequal treatment for citizens in an area of vital human concern. In the field of education these tests have been invoked primarily against classifications by race and wealth.

Classification by Race

The perspective of the United States Supreme Court has changed a great deal since the time when it declared the Negro race to be "a subordinate and inferior class of beings, who had been subjugated by the dominant race" and that a Negro slave was "like an ordinary piece of merchandise and property" who had none of the rights declared for all men in the Declaration of

EQUAL EDUCATIONAL OPPORTUNITY

Independence.⁷ Change came only gradually, however. In 1896 the Court upheld in Plessy v. Ferguson a statute providing for "separate but equal" railroad accommodations for white and "colored" persons.⁸ This landmark decision set the precedent in interpretation of the Fourteenth Amendment for the following sixty years. The "separate but equal" doctrine was first applied specifically to education by the U.S. Supreme Court in a case involving the closure of a Negro high school in Georgia.⁹

Although the "separate but equal" doctrine never was directly and publicly questioned by the Court until it was reversed in 1954, the Court's rulings in the preceding years began to make it increasingly costly for a state to maintain equal and separate facilities. The following list summarizes the major Supreme Court decisions which led to the transformation in 1954:¹⁰

[1938] Missouri v. Canada, 305 U.S. 337 In this case, the Court declared that a state denied equal protection of the law when it failed to provide a comparable legal education for Negroes within the state.

[1948] Sipuel v. Board of Regents, 322 U.S. 631 Oklahoma was obliged to provide legal education for a qualified Negro applicant.

[1948] Fisher v. Hurst, 333 U.S. 147 The Court required the admission of a Negro to the state law school in Oklahoma, holding that no other applicant could enroll until a law school with equal facilities should be provided for Negroes.

[1950] Sweatt v. Painter, 339 U.S. 629 A separate law school for Negroes was held to be inferior and therefore the equal protection clause required that qualified applicants must be admitted to the University of Texas.

[1950] McLaurin v. Oklahoma, 339 U.S. 637

In the latter two cases the Court weakened the "separate but equal" doctrine considerably but refused to abandon it. The McLaurin case demonstrated that the justices were unwilling to allow segregated status within a single institution to be considered "equal" education. The plaintiff, McLaurin, had classes with white students but was assigned a special "colored" seat in each classroom, was required to sit at a special table in the library and was allowed to dine only in a segregated portion of the cafeteria. This, the Court declared, amounted to an

EQUAL EDUCATIONAL OPPORTUNITY

unequal education imposed by the state and was therefore unconstitutional.¹¹

The watershed decision on segregation in education came in Brown v. Board of Education (1954).¹² In ruling that Mr. Brown's daughter could not be forced to attend a separate school solely on the basis of her color, the Supreme Court finally struck down the entire "separate but equal" doctrine. This case and the second Brown decision¹³ in the following year sent shock waves into American education which are still being felt more than fifteen years later. Two primary principles were thereby announced: (1) that classification on the basis of race in education is discriminatory and is therefore unconstitutional per se, and (2) that education has fundamental status as a right.

The Court articulated the first principle as follows:

To separate [Negroes] from others of similar age and qualifications solely because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone

We conclude that in the field of public education the doctrine of "separate but equal" has no place. Separate educational facilities are inherently unequal. Therefore, we hold that the plaintiffs and others similarly situated for whom the actions have been brought are, by reason of the segregation complained of, deprived of the equal protection of the laws guaranteed by the Fourteenth Amendment.¹⁴

The second principle was stated as follows:

We must consider public education in the light of its full development and its present place in American life throughout the Nation. Only in this way can it be determined if segregation in public schools deprives these plaintiffs of the equal protection of the laws.

Today, education is perhaps the most important function of state and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education of our democratic society. It is required in the performance of our most basic public responsibilities, even service in the armed

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forces. It is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms.¹⁵

The Brown decision began not only a transformation in education but also sponsored, as one author notes, an "egalitarian revolution in judicial doctrine that has made dominant the principles to be read into the equal protection clause."¹⁶ Brown represents a radical departure from the traditional interpretation of equal protection that "the classification must be reasonable, not arbitrary, and must rest upon some ground of difference having a fair and substantial relation to the object of the legislation, so that all persons similarly circumstanced shall be treated alike."¹⁷ In place of this test, Brown ushered in what has been termed the "new equal protection" doctrine:

[T]he court must decide (a) whether the classification results in a discrimination against a disadvantaged group; (b) whether [the classification] . . . relates to an interest that is "basic" or "fundamental" or "critical," and, assuming a sufficiently affirmative answer to these two questions [separately or] in combination, (c) whether the state's asserted justification is "compelling" enough to overcome the . . . presumptive invalidity . . . in a phrase like "strict scrutiny."¹⁸

Justice Harlan, in a dissenting opinion to Shapiro v. Thompson (1969), provides a more concise version:

[S]tatutory classifications which either are based upon certain "suspect" criteria or affect "fundamental rights" will be held to deny equal protection unless justified by a "compelling" governmental interest.¹⁹

Education, as has been seen in Brown, has been imputed the status of a "fundamental interest." Classification by race, above any other factor, has been interpreted as "suspect" or "invidious."²⁰ Thus, classification in educational matters on the basis of race is by this standard clearly unconstitutional. In addition, the Court has enumerated at least two other sorts

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of suspect classifications which, in interference with a fundamental interest, invalidate a state's action: wealth and geography. These are discussed in the following section.

A further dimension of the "new equal protection" which has evolved since Brown is a focus upon the activity or passivity of state action. The first Brown opinion declared school segregation "inherently unequal," but only the second Brown decision directed the states to provide relief. In the latter opinion, the Court began to develop the notion of a mandate for positive state action to eliminate discrimination in education. Racial discrimination was unconstitutional, the Court declared, and "[a]ll provisions of federal, state, or local law requiring or permitting such discrimination must yield to this principle" [emphasis added].²¹ With this holding, the courts began to forge a new notion of state action in countering racial discrimination; that notion has evolved in the form of two principles: (1) states must not be implicated in supporting de facto segregation, and (2) states must take positive action to eliminate both de jure and, in some instances, de facto racial segregation in the schools.

The issue involved here, Kurland notes, is

whether the command implicit in equal protection constitutes merely a ban on the creation of inequalities by the state or a command, as well, to eliminate inequalities existing without any direct contribution thereto by state action. "Equality" like "liberty" has both a positive and negative aspect [The question is] whether the state was not only required to abstain from commanding segregation but was under the affirmative duty to integrate the school system.²²

The Supreme Court for some time avoided the issue by refusing to rule on lower court decisions which, as in Bell v. School City of Gary,²³ denied the duty of the state to eliminate de facto segregation. On the other hand, the Court appeared to accept the principle that a state may take positive steps to eliminate de facto discrimination by also refusing to rule on cases in which lower courts had upheld action taken by education boards to integrate schools.²⁴

More recently, the Supreme Court has moved closer to the position that positive action to achieve integration is required of the state. In Green v. County School Board, the Court held that school boards "operating state-compelled dual systems . . . [are] clearly charged with the affirmative duty to take whatever steps might be necessary to convert to a unitary system in which racial

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discrimination would be eliminated root and branch."²⁵ In Swann v. Charlotte-Mecklenburg Board of Education (1971), the Court unanimously held that neighborhood schools were insufficient if a greater racial balance could be created by requiring students to attend a more distant school, thus giving the Court's sanction to busing.²⁶

In this case, the Court upheld a decision by a district court in which the district court judge had clearly set out the contemporary reasoning about state action:

The system of assigning pupils by "neighborhoods" with "freedom of choice" for both pupils and faculty, superimposed upon an urban population pattern where Negro residents have become concentrated almost entirely in one quadrant of a city of 270,000, is racially discriminatory. This discrimination discourages initiative and makes quality education impossible. The quality of public education should not depend on the economic or racial accident of the neighborhood in which a child's parents have chosen to live--or find they must live--nor on the color of his skin. The neighborhood school concept never prevented statutory racial segregation; it may not now be validly used to perpetuate segregation [emphasis in original].²⁷

The Court appears to have come very close to an unqualified assertion of the state's duty to take positive action to eliminate de facto as well as de jure racial discrimination which violates the equal protection guarantees of the Fourteenth Amendment. Other forms of discrimination are being tested by this principle; the results are exerting a powerful influence on the educational structure.

Classification by Wealth

A second major category of state classification which has come into question under the equal protection clause is classification by wealth. In contrast to the well-established principles of non-discrimination in racial cases, the principles involved in classification by wealth are the subject of considerable legal dispute. Such commentators as Wise and Carter, for instance, argue that decisions involving voting rights and rights of indigent defendants in criminal prosecutions have established wealth as a properly "suspect" classification for the purpose of state action.²⁸ Michelman and Brest dispute this interpretation of "wealth as an invidious category and prefer to emphasize instead the particular

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kind of interest (e.g., voting or legal defense) disturbed by the state's action.²⁹

Part of the controversy centers around the nebulous distinction between de jure and de facto wealth classifications. While it seems generally agreed that an out-and-out de jure classification by wealth which adversely affects an individual is "suspect" under the equal protection clause, the difficulty arises in determining what in fact is a wealth classification. A required payment for the enjoyment of any governmental activity may and often does pose a deterrent to the poor but not to the rich, but it would be a very sweeping change indeed to abandon all such fees. On the other hand, when certain court costs effectively deprive an indigent of his day in court, the U.S. Supreme Court has ruled such payment barriers unconstitutional.³⁰ There is a broad area of fuzziness between areas which can be clearly staked out as de jure and those which can be labelled as de facto governmental wealth classifications.

The courts have picked their way through the mine-fields of such theoretical difficulties and appear to have arrived at something like a "new equal protection" doctrine applied to wealth: Given that a state's action results in some general classification on the basis of wealth (such as costs for a government service), the more "fundamental" the individual's right or interest deprived, the more compelling must be the state's reason to preserve the classification.³¹

The primary Supreme Court cases involved in the evolution of this general position are:

1941 Edwards v. California, 314 U.S. 160

The Court reversed an earlier decision which declared persons without funds a "moral pestilence" and declared that a man could not be deprived of his freedom merely because he had no property.

1956 Griffin v. Illinois, 351 U.S. 12

A landmark case in which the Court declared it a violation of the Fourteenth Amendment for a state court to deny appeal to an indigent by not furnishing him with a free transcript. Such an act, while not discriminatory on its face, was discriminatory in its operation on the basis of wealth.

1963 Douglas v. California, 372 U.S. 353

The principle of Griffin was extended to include the right of indigents to free counsel. "In either case the evil is the

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same: discrimination against the indigent. For there can be no equal justice where the kind of an appeal a man enjoys "depends on the amount of money he has." (355)

1966 Harper v. Virginia State Board of Elections, 383 U.S. 663

In outlawing a poll tax, the Court declared:

[A] state violates the Equal Protection Clause of the Fourteenth Amendment whenever it makes the affluence of the voter or the payment of any fee an electoral standard. Voter qualifications have no relation to wealth nor to paying or not paying this or any other tax. (666)

The cumulative effect of these decisions has been to establish the principle that a man cannot be deprived of at least some of his basic rights on the basis of a lack of wealth. There is a strong analogy to questions involving education (assuming education to be a fundamental right or interest), and such analogies have been made in several important recent decisions by district and state courts. In the earliest of these, Hobson v. Hansen (1967), the District Court of the District of Columbia grouped poverty with race as a discriminatory classification when found to deprive children of an adequate education. The Court asserted a positive obligation on the part of the responsible government to rectify a situation in which both "racial minorities and the poor are denied equal educational opportunity [emphasis added]." ³² The specific problem of school district taxation and its relation to educational opportunity was addressed in Hargrave v. Kirk. ³³ In striking down a limitation on local school district taxation by the state of Florida, the District Court invoked the "new equal protection" theory. One commentator notes:

One possible interpretation of Hargrave is that a state cannot create classifications based on geography and wealth which result in unequal educational opportunities absent a compelling state interest. This rationale can be used to attack the school finance provisions of all states except Hawaii which has a single, state-wide school district. All financial schemes which rely upon local taxes have created classifications based on geography and wealth. If unequal educational opportunities can be shown to result from this classification, following Hargrave, the classification would be a denial of equal protection Hargrave, by correctly assuming that unequal education is a necessary result of a great disparity in expenditures, defines the first parameter of possible standards and provides a rationale to strike down classifications made for administrative convenience that create obviously unequal educational opportunities. ³⁴

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This case also involves a treatment of the effect of geography as a classification. Several authors have discussed the question of geographical classification, basing their evaluation primarily on reapportionment decisions stemming from Baker v. Carr,³⁵ (1962) and Reynolds v. Simms³⁶ (1964). In Reynolds the Court said: "The resulting discrimination against those . . . living in disfavored areas is easily demonstrable . . ." ³⁷ In another issue involving geographical classification, the Court struck down in Shapiro v. Thompson (1969)³⁸ a law which required an indigent to be a state resident for one year prior to claiming state public assistance benefits. However, the classification appears less significant in these cases than the importance of the rights denied (suffrage and subsistence benefits), and the classification by geography is not itself invidious in the same sense as a classification by race or wealth. Thus, in the educational opportunity cases geographical classification has been mainly seen as a de jure state action with the important secondary effect of producing a de facto oppressive classification by wealth.

The outstanding recent case in the field of equal educational opportunity is Serrano v. Priest, decided by the California Supreme Court in August, 1971. This decision represents, in one sense, the culmination of the new equal protection doctrine as applied to wealth and education. Here the suspect classification is declared to be wealth, and the fundamental interest adversely affected to be education; in the face of these two components, the state is found to have no compelling interest which requires maintenance of the classification:

We are called upon to determine whether the California public school financing system, with its substantial dependence on local property taxes and resultant wide disparities in school revenue, violates the equal protection clause of the Fourteenth Amendment. We have determined that this funding scheme invidiously discriminates against the poor because it makes the quality of a child's education a function of the wealth of his parents and neighbors. Recognizing as we must that the right to an education in our public schools is a fundamental interest which cannot be conditioned on wealth, we can discern no compelling state purpose necessitating the present method of financing. We have concluded therefore, that such a system cannot withstand constitutional challenge and must fall before the equal protection clause.³⁹

In reasoning the case in terms of the new equal protection doctrine, the California Court provides a step-by-step analysis

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of the components of the test. Under the heading "Wealth as a Suspect Classification," the Court carefully develops an argument similar to the one described above, relying on the thesis developed in Harper, Griffin and Douglas. In these cases, the Court says, classifications by wealth, although "unintentional," were found to be "classifications whose impact simply fell more heavily on the poor."⁴⁰ Moreover, the Serrano Court finds that school district classifications are not simply the source of de facto discrimination, but, to the contrary, "we find the case unusual in the extent to which governmental action is the cause of the wealth classifications."⁴¹ The opinion blames school districting in California for inter-district differences of as much as 10,000 to 1 in assessed value per unit of average daily attendance. And this, the Court holds, is clearly governmental discrimination in education on the basis of wealth.⁴²

The second leg of the argument is made by the Court under the heading "Education as a Fundamental Interest."⁴³ The Court admits that education has not specifically been designated a "fundamental interest" by the United States Supreme Court, but concludes on the basis of Brown v. Board of Education and of its own reasoning that education is indeed such a fundamental interest:

We . . . begin by examining the indispensable rôle which education plays in the modern industrial state. This rôle, we believe, has two significant aspects: first, education is a major determinant of an individual's chances for economic and social success in our competitive society; second, education is a unique influence on a child's development as a citizen and his participation in political and community life . . . Thus, education is the lifeline of both the individual and society.⁴⁴

Moreover, in comparing the right to an education with the right to vote or the right to the right of a criminal defendant, the Court concludes that, "from a larger perspective, education may have far greater social significance than a free transcript or a court-appointed lawyer," and that "education makes more meaningful the casting of a ballot."⁴⁵

The court finds that the existence of viable alternative systems of educational financing negate any compelling state interest in retaining the present system. Thus fulfilling the equal protection test's three criteria (wealth as a suspect classification, education as an adversely affected fundamental interest and the absence of a compelling state interest to require maintenance of the classification) the Court holds the financing system unconstitutional:

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The California public school financing system . . . since it deals intimately with education, obviously touches upon a fundamental interest. For the reasons we have explained in detail, this system conditions the full entitlement to such interest on wealth, classifies its recipients on the basis of their collective affluence and makes the quality of a child's education depend upon the resources of his school district and ultimately upon the pocketbook of his parents. We find that such financing system as presently constituted is not necessary to the attainment of any compelling state interest. Since it does not withstand the requisite "strict scrutiny", it denies to the plaintiffs and others similarly situated the equal protection of the laws.⁴⁶

Soon after the Serrano decision, two federal district courts ruled against similar school financing schemes in Minnesota and Texas^{46a}. Nineteen challenges to school financing systems are pending in the courts and at least twelve more are in preparation. As a result of attacks on local financing systems under the new equal protection interpretation of the Fourteenth Amendment, it seems safe to say that massive changes are under way in the traditional methods of financing education in the United States.

Two fundamental questions arise in considering alternative financing plans to meet the new equal protection requirements: (1) How can the cost burdens best be equalized? (2) What constitutes educational equality? In answer to the first question, statewide rather than local financing would appear to meet the necessary requirements of an equalized burden; this most likely would take the form of either a statewide property tax or a fully equalized foundation program--or some combination of the two. Hawaii already has such a state-based system of financing; similar plans are under study in almost all states. Alternatively, approximate equality of tax burden might be achieved by the redrawing district lines, as required in a recent District Court decision in Virginia (to achieve both greater racial and financial equality among schools in the Richmond area)⁴⁷ or by going to a nationalized financing scheme. The primary source of funds in all of these plans could remain property taxation, as it is at present, or it could be shifted to income, sales or other forms of taxation. The chapter on educational financing in this study considers the alternatives in greater detail.

The second question, "What constitutes educational equality?," raises the difficult issues of distribution and assessment of educational need. Aside from the problem of relative tax

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burdens, there remains the dilemma of determining relative needs. An important challenge to the existing school finance system in Illinois failed primarily because of the plaintiff's reliance on the rather vague concept of "educational need."⁴⁸ The district court found this concept too "nebulous" for the application of judicial standards. However, the Serrano Court, while not equating expenditure exactly with quality, placed the burden on the defendants to show that "substantial disparities" in spending do not in fact create educational disadvantages in poorer districts.⁴⁹ Moreover, a large number of possible criteria for the assessment of need and corresponding distribution mechanisms have been suggested by various analysts.⁵⁰ The problem appears to be not one of whether there are standards, but of which standards to select.

The simplest "equal" distribution plan, of course, is a uniform per student or per capita allotment for an entire state. However, this ignores the expenditure-quality relationship, varying educational needs and questions of effort. In the first case, Coleman and others⁵¹ have suggested that educational expenditures may have only a weak relationship to educational quality, and, since equal quality is what is finally desired, the state must base its equalization scheme on some basis other than expenditures. Secondly, educational needs vary (for example, schools may cost more to run in remote areas or in cities) and therefore some factor of need or cost should be taken into account in an equalizing plan. Third, the effort a family or a district is willing to give to provide an education may vary from place to place, and this, some argue, should be given recognition in the form of increased allotments for increased local tax effort. A number of plans to meet these criteria have been proposed, including "family power equalizing," vouchers, cost-pegged expenditures, classification of schools (with varying amounts to go to different kinds of schools), high minimum foundation programs and so on. A consideration of the merits and demerits of these various distribution schemes appears in the chapter on educational financing in this study.

MONTANA: STATUS AND ALTERNATIVES

Three fundamental decisions relevant to equal educational opportunity pose themselves to the Constitutional Convention: (1) the inclusion or noninclusion of a statement of principle regarding equal educational opportunity; (2) provisions on educational financing; (3) Indian education.

1. Statement of principle. The first explicit provision

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on equal educational opportunity was included in the proposed New York state constitution of 1967:

Equality of educational opportunity shall be guaranteed to all the people of the state. The Legislature shall provide necessary programs to develop the educational potential of each person.
[Art. IX, Sec. 1C]

A similar provision could be included in the Montana Constitution, either in an education article or in the Bill of Rights. The arguments against inclusion of such a provision rest primarily on desire for constitutional brevity and potential difficulties in interpretation. The major arguments for inclusion, on the other hand, are that such a provision would provide a general statement of aim for the entire educational system, including its methods of financing, and that recent court decisions on the subject of equal protection have made such a statement of principle pertinent at this time, whereas it was not before.

The present Montana Constitution has no provision dealing either with equal protection of the laws or with equal educational opportunity. However, four sections of Article XI do suggest that the state is committed to maintaining some minimal equitable standard of education:

It shall be the duty of the legislative assembly of Montana to establish and maintain a general, uniform, and thorough system of public, free, common schools [emphasis added]. [Art. XI, Sec. 1]

Ninety-five per centum (95%) of all the interest received on the school funds of the state, and ninety-five per centum (95%) of all rents received from the leasing of school lands and of all other income from the public school funds shall be apportioned annually to the several school districts of the state in proportion to the number of children and youths between the ages of six (6) and twenty-one (21) residing therein respectively, but no district shall be entitled to such distributive share that does not maintain a public free school for at least six months during the year for which such distribution is made [Art. XI, Sec. 5]

It shall be the duty of the legislative assembly to provide by taxation, or otherwise, sufficient means, in connection with the amount received from the general school fund, to maintain a public free common school

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in each organized district in the state, for at least three months in each year. [Art. XI, Sec. 6]

The public free schools of the state shall be open to all children and youth between the ages of six and twenty-one years. [Art. XI, Sec. 7]

One other section prohibits discrimination in admissions to educational institutions on the basis of religion, political party or sex, but says nothing of race or wealth; nor does it mention equality:

No religious or partisan test or qualification shall ever be required of any person as a condition of admission into any public educational institution of the state, either as a teacher or student . . . nor shall any person be debarred admission to any of the collegiate departments of the university on account of sex. [Art. XI, Sec. 9]

The Convention could (1) leave the present provisions in the Constitution unchanged; (2) condense them into a single general provision on equal educational opportunity and/or non-discrimination in education (assigning other topics in these provisions to the relevant sections); (3) modify particular parts of the existing provisions in accordance with desired changes, perhaps with respect to age, school terms and distribution schemes; or (4) strike all of the existing provisions, or all of the existing provisions with the exception of Section 1.

2. Educational financing. The basic means for the attainment of equal educational opportunity, other than through non-discrimination provisions, is through equitable financing schemes. The pros and cons of particular schemes are discussed later; the prior, more general question is what sort of constitutional language is required to allow creation of a more equitable financing plan than that now employed.

Under the present School Foundation Program, Montana attains a significant amount of equalization of distributed funds and some equalization of tax burdens. However, substantial differences in expenditures remain; some districts in Montana have as much as three times more to spend per pupil for elementary schools and nine times for high schools than do others.⁵² Enormous differences also exist in taxable valuation per pupil; the ratio is 120 to 1 among some districts and 13 to 1 between the richest and poorest counties.⁵³ As a result, some counties must tax their citizens more than twice as much as others for schools which still are less well supported than those in rich

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counties. One study rates Montana thirtieth among the states in the degree to which its school foundation program actually equalizes.⁵⁴ Another study finds that in Montana if educational funds were distributed equally among all classrooms, more than half of the classrooms would receive additional money.⁵⁵

Some changes in the direction of greater equalization could be accomplished in Montana without any constitutional change. Sections 1 and 6 of Article XI (cited above) clearly establish the duty of the state legislature to provide funds for local schools through taxation and other means. In addition, Article XII, Section 1a grants authority to the legislature to modify the source of taxation for schools:

The legislative assembly may levy and collect taxes upon incomes of person, firms and corporations for the purpose of replacing property taxes. These income taxes may be graduated and progressive and shall be distributed to the public schools and to the state government.

However, a constitutional change would be required if one important alternative financing plan were implemented: a statewide property tax. Article XI, Section 9 of the Montana Constitution limits the rate of a state property tax to two and one-half mills:

The rate of taxation on real and personal property for state purposes, except as hereafter provided, shall never exceed two and one-half mills on each dollar of valuation

A uniform statewide system of property taxation, however, would require a levy at a rate of at least forty mills and probably more, if it were to support schools at approximately the present level. Thus, this limitation would have to be substantially raised or eliminated altogether in order to establish the new system.

The existing constitutional provision on distribution of a portion of the school funds [Art. XI, Sec. 5] also might have to be changed or eliminated should a new distribution system be desired. Under this provision, part of the state educational funds (interest from the permanent school fund and income from school lands) must be distributed on a strict per capita basis. This is an "anti-equalizing" device under the present system of district funding which enriches poor and rich districts alike; it is a type of flat grant criticized by some educational economists.⁵⁶ Moreover, to the degree that cost-quality factors and considerations of educational need should be taken into account, such per capita distribution also fails to meet standards of equity.

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If it desired to change the existing provision with respect to concerns for equal educational opportunity, the Convention could either eliminate Article XI, Section 5 completely, modify it to contain additional factors of distribution and need or replace it with a new provision which specifies a general aim of equality in distribution.

A provision drafted by the Committee on Education of the Illinois Constitutional Convention was designed to achieve the goal of equalizing the financial burdens and benefits of education:

To meet the goals of Section 1, substantially all funds for the operational costs of the free public schools shall be appropriated by the General Assembly for the benefit of the local school districts. No local governmental unit or school district may levy taxes or appropriate funds for the purposes of such educational operation except to the extent of ten percent (10%) of the amount received by that district from the General Assembly in that year.⁵⁷

The Convention, however, chose to adopt only a general commitment to state support, omitting the 10 percent limitation on local funding. The new Illinois Constitution [Art. X, Sec. 1] provides: "The State has the primary responsibility for financing the system of public education."

3. Indian Education. The well-documented disadvantages suffered by Indians in educational matters⁵⁸ bring the topic of Indian education under the scope of a treatment of equal educational opportunity. However, in addition to educational disadvantage, other important factors, such as the federal relationship to Indian tribes and cultural integrity, complicate a discussion of Indian education. Therefore, this topic is analyzed at greater length below.

INDIAN EDUCATION: BEYOND THE MELTING POT

A report by the United States Senate has labeled Indian education a "national tragedy."⁵⁹ Detailed studies of the failures of both federal and state governments to develop even minimally successful educational programs for Indians are almost as numerous as the failures themselves.⁶⁰ One such study, the Carnegie Report, states the case baldly:

1. The education provided Indian children is a failure when measured by any reasonable set of

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criteria. The educational system has not succeeded in providing a majority of Indian children with the minimum level of competence necessary to prepare them to be productive citizens in a larger society. Additionally, very little attempt has been made to perpetuate the values and culture that might be unique to the Indian people, provide them with a sense of pride in their own heritage, or confidence that they can effectively control their own future development. It should be noted that the fault for these inadequacies in education does not lie entirely within the school; the whole system of relationships between the white majority community and the Indians is the source of the problem. While the schools, both public and Bureau of Indian Affairs supported, are in great need of improvement in curriculum, methods, teacher training, teacher turnover, and in the teacher's understanding of the unique problems of the students and their parents, any increase in money, time, and effort spent on Indian education can only relieve some of the more important symptoms of the underlying problem. These efforts will be relatively ineffective unless the basic relationships between Indians and white people can also be altered, and, specifically, unless the paternalistic relationship between the white power structure and the Indian community can be changed.

2. The crucial problem in the education of Indian children is the general relationship between white society and the Indian people. This relationship frequently demeans Indians, destroys their self-respect and self-confidence, develops or encourages apathy and a sense of alienation from the educational process, and deprives them of an opportunity to develop the ability and experience to control their own affairs through participation in effective local government.⁶¹

Such studies develop a picture of unequal educational opportunity of classic proportions: A racial minority with among the lowest average income (\$1,500 annually per family for on-reservation Indians)⁶² and the highest unemployment rate (37.3% for on-reservation Indians in 1967)⁶³ of any social group must send their children to the lowest quality schools in the country. Moreover, in addition to purely economic factors, Indian education is fraught with problems of a psychological and cultural nature. The results are enormous drop-out rates (as high as 50 percent in some areas)⁶⁴ and perpetuation of economic and cultural deprivation.

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At least part of the problem appears to result from a lack of clear governmental responsibility for Indian education. This, in turn, results from the traditional haziness of law which surrounds state-federal relationships with Indians. The early landmark case in this area was Worcester v. Georgia,⁶⁵ in which the Court ruled, in an opinion delivered by Chief Justice Marshall, that the federal government had exclusive jurisdiction over Indian tribes on Indian lands. In 1858, on the other hand, the Court ruled that the state of New York had police powers over its own citizens on Indian lands.⁶⁶ The trend, however, has been toward the primacy of federal authority in Indian affairs and the eventual holding in United States v. Forness (1942) that, without the express consent of Congress, state laws do not apply to Indians on reservations.⁶⁷

The issue is further complicated by the lack of clarity in the federal government's own claim to jurisdiction over Indians. Part of the confusion stems from the federal Constitution's grant of power to Congress "[t]o regulate Commerce with foreign nations, and among the several States, and with the Indian Tribes" [Art. I, Sec. 8], which suggests a view of Indian tribes as sovereign states, rendered subject to the power of Congress by conquest.⁶⁸ Chief Justice Marshall reinforced this view in terming the Indian tribes "domestic dependent nations" and "wards."⁶⁹ One author describes the twisted course of subsequent legal doctrine on the Indian:

The term "ward" became something of a catchword for later Supreme Court decisions, so that, in United States v. Waller [243 U.S. 452 (1917)], the Court felt free to speak indiscriminately about the power of Congress to grant the Indians varying degrees of emancipation at its pleasure. The federal courts in one breath would describe Indian tribes as sovereign nations or states, and in the next designate them wards of the Government, who had to be treated as the beneficiaries in a trustee relationship with the Government. They could not manage their own property, which they had held for thousands of years; they could not manage their own health or welfare services; they could not even provide education for their children, so that treaty after treaty contained provisions for Government schools. Thus, the Indians were separate, and quasi-equal; they were citizens as well as wards, residents as well as aliens; they could vote and serve in the armed forces, but they could not serve on local school boards because they were not part of a town or school district. They did not pay taxes on the land on which they lived, but they paid income taxes on money they earned. They seemed to straddle a fence

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along an uneasy border between two worlds. [Citations omitted].⁷⁰

Significantly, Indians did not receive formal citizenship until a Congressional Act of 1924.⁷¹ (Further discussion of the legal relationships among the nation, the states, and Indians appears in the study on the Bill of Rights in this series of reports for the Montana Constitutional Convention.)

It is not surprising, then, that the state's relationship to Indian education is ill-defined. While authority over Indians is in the first instance federal, the state has the primary authority for education of its inhabitants. More than 60 percent of all Indian children attend state schools.⁷² States receive federal support for the education of reservation Indians, but the major sources of this support ("Federal impact" aid under Public Laws 815 and 874) are not specifically directed to Indians.⁷³ In practice, states appear to have assumed a major amount of responsibility for educating Indians without ever formally accepting the task. Such de facto arrangements often have merit, but they also can lead to negligence.

Thus, one area of possible constitutional action with respect to providing equal educational opportunity for a heavily disadvantaged minority might be inclusion of a provision clarifying the state's responsibility with respect to Indian education. The New Mexico Constitution [Art. XII, Sec. 10] has such a provision covering children of Spanish descent:

Educational rights of children of Spanish descent.

Children of Spanish descent in the State of New Mexico shall never be denied the right and privilege of admission and attendance in the public schools or other public educational institutions of the State, and they shall never be classed in separate schools, but shall forever enjoy perfect equality with other children in all public schools and educational institutions of the State, and the legislature shall provide penalties for the violation of this section

There are other factors, however, which qualify the state's relationship to Indian education. The assumption of responsibility by the state for Indian education is not an unmitigated blessing for the Indian. The particular cultural and historical factors involved in Indian affairs demand that special consideration be given to cultural autonomy. Indians have been belabored for centuries with the white man's attempts to "assimilate" them into the "dominant culture." Comments made by Thomas Jefferson on the Indians sound quite as jarringly chauvinistic as the words of the Supreme Court on another racial minority (cited above in the Dred Scott decision). Jefferson said:

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[T]he Indians backward [in civilization] will yield, and be thrown further back. They will relapse into barbarism and misery . . . and we shall be obliged to drive them with the beasts of the forest into the Stony Rocky mountains.⁷⁴

In the face of the movement toward their domination and absorption by the European settlers, Indians have maintained an amazing degree of cultural integrity. One of the main vehicles for the "acculturation" of the Indian by the white civilization has been the school system, and many writers have suggested that Indian resistance to this process is responsible for the educational dilemma. One particularly articulate statement of this point is by Lloyd New, director of the Institute for American Indian Arts:

For almost five centuries the American Indian has been subjected to a process of attrition which has slowly eroded the roots of his cultural (and economic) existence. His physical ways have been completely obliterated in many areas and, presently, his spiritual existence is in extreme jeopardy.

The many and varied attempts that have been made to "help" him, and particularly "educate" him, have been largely unsuccessful.

Perhaps in part because it was assumed that the sooner the Indian was forced to abandon his ways and join the melting pot of America, the better off he would be. But he has displayed unique resistance to that idea, possibly because his psychological relationship to the land was different from that of the immigrant groups who eventually surrounded him. Failure on the part of those who have dealt with the Indian to understand the basis of his tenacious observance of his own cultural mores has resulted in the abortion of almost every attempt to assist him. Even now, various kinds of human salvage operations, such as urban relocation, employment assistance, on-the-job training, and other rehabilitation efforts are, at best, only stopgap efforts to meet his worldly needs, while failing miserably to provide the cultural and emotional substance required to put his life in balance.

The American Indian has always been devoted to a philosophy which holds that one's existence should blend into the comparatively passive rhythms of nature, as opposed to the dominant society's quest for control of nature

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through scientific manipulation of its elements. In the main, direct attempts to switch him from his philosophical position have failed, much to the consternation of those who have tried.

In the past, public apathy and disinterest permitted him to maintain a certain degree of privacy in this way of life but in recent times he has been forced into the public struggle for economic survival, due to the lack of an environment supportive of his old ways. With limited land holdings and the inevitable encroachments of the dominant society the American Indian is hard pressed in his efforts to maintain his viewpoint while adjusting to the exigencies of the modern world.

No longer in a position to make war with the opposition, the Indian, in general, has adopted a tendency to withdraw and lie quietly in the remnants of his old world, only halfheartedly picking at the offerings made to him by his multitudinous and dominating neighbors.

Poverty, poor health, unemployment, and a growing rate of alcoholism among Indian adults, and a shocking prevalence of suicide, dropouts and delinquency among Indian youth attest to the fact that there has been an overall failure to provide an educational approach sufficiently effective to promote constructive social transition.⁷⁵

The Indian has a great deal to protect in his own cultural integrity. Thus, while he may require aid in some forms from white society, he does not necessarily want the control which seems inevitably to accompany institutional support. In educational matters, this relates to the right to retain cultural autonomy and educational diversity discussed in connection with other minority groups in Chapter III. Among such groups, one writer argues,

the American Indians, by virtue of their occupation of a unique position in the history and legal scheme of the United States, have the best claim to "unique" treatment, with regard to education. The documentation of past and present physical oppression, violent coercion, enslavement, and social stigmatization is quite as lurid as that which obtains for the Negro, while the tactics used to "civilize" the Indians, under the rubric of "education," are more blatantly repugnant than those employed against other groups.⁷⁶

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The argument discussed in the previous chapter in support of educational diversity thus would hold doubly true for Indian education. The U.S. Supreme Court's holding in Priest v. Society of Sisters⁷⁷ that the state does not have the right to "standardize" its children would seem to reinforce claims for the protection of a truly distinct cultural minority. Similarly, the cultural considerations articulated in the Amish school cases have bearing on the analogous requirements for Indian cultural autonomy.

The special circumstances surrounding the Indian peoples, however, lend even greater support to claims voiced for protection against dominant social institutions. The Montana Supreme Court recognized such a right of independence in an 1881 ruling upholding the right of Indians to consent or not to consent to government-provided education. The case concerned an 1819 federal statute as it applied to a treaty with the Blackfoot Indians providing for a government school on the reservation. The Court held that Indian parents could not be compelled, by a writ of habeas corpus, to send their children to the school.

The treaty and statute daily illustrate the policy of the government towards the Indians. The purpose is to civilize and educate them. But the government does not assume to force upon the Indians an education, nor to compel them to adopt the modes of civilized life. The fundamental idea is that whatever is done in the premises must be by consent of the Indians.⁷⁸

A later federal statute, the Wheeler-Howard Indian Reorganization Act of 1934, provides another means of securing a measure of tribal autonomy. The Act allows Indian tribes to incorporate as governing bodies and business entities. The tribal council or tribal government becomes the duly constituted governing body for those tribes which do incorporate, and because the constitutions of some of the incorporating tribes expressly provide for tribal control of education, such an act of incorporation opens the door to complete tribal authority over education. Under these provisions, a tribe might choose to withdraw its consent to federal and state education laws and substitute a school system of its own choosing.⁷⁹

Although severe financial obstacles stand in the way of such developments, there are good reasons for the attempts to protect Indian cultural integrity in some manner. The history of the white man's attempts to "acculturate" the Indian through educational indoctrination has included intense efforts to absorb and mold the Indian's character. One former teacher in an Indian boarding school in the 1920's obviously recounts her difficulties with language training:

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Among all Indian tribes there is the universal and decided aversion to using the English language. Even those who have been at school and who understand and speak it well will often call for an interpreter when summoned to the agency on business or to answer charges brought against them.

In the more remote schools one of the trials of a teacher's life was to get her pupils to speak out, or to talk loudly enough when reciting, to be heard. In these places it sometimes became necessary to punish children for using their own language while at play or while engaged in outside work. If this was not done, there was no progress at all made in acquiring English, and if the children did not know English, all attempts at teaching them were useless.⁸⁰

A modern version of this attempt to impress the Indian into a single cultural mold is found in a recent report by an analyst in the Indian section of the Office of Economic Opportunity:

Well, then, why don't we put into practice some of our psychological knowledge about human beings and proceed with a plan of deliberate conditioning for specific purposes. First, we must decide as members of the dominant culture what we want of these Reservation Indians and then, secondly, we must draw our plans, and third, proceed without hesitation to shape the behaviors which in combination will give us the kind of people we want.⁸¹

Crass attempts, such as these in federal schools, to erase the distinctiveness of Indian culture often have been matched by a kind of demeaning neglect of the Indian in public schools. The Senate Report on Indian Education lists major problems of Indian participation in the public school system:

1. American Indians have little, if any, influence or control in the education of their children in the public schools.

2. Public schools educating Indians rarely include coursework which recognizes Indian history, culture or language, and often use materials and approaches which are derogatory toward Indians.

3. Many school administrators and teachers consider Indian pupils inferior to white students, and thus expect them to fail, both in school and in life.⁸²

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A report on Indian education just completed by an educational research group at the University of Montana levels similar criticisms at the treatment of Indian students in the public school system:

The handicap from which Indian children suffer most is that usually the off-reservation public school is too busy following the state adopted curriculum and meeting the needs of all students to make the adaptations necessary to meet the needs of the non-English speaking Indian child who is already behind his group in knowledge of how to study and in comprehension.⁸³

What are the alternatives to the traditional federal and state patterns of assimilative Indian education? Three of the most widely acclaimed are Indian-run demonstration schools developed recently in New Mexico, Arizona and Montana. The primary emphasis in these schools is community control and the provision of an education germane to the Indian experience. Although the highly successful Rough Rock school in Arizona is probably the best known, the newly created school on Montana's Rocky Boy's Reservation demonstrates the workability of an imaginative approach to Indian education in Montana. After several years of frustrated efforts, the Rocky Boys finally were able in 1970 to establish an independent public school district under their own control. In place of their previous submersion in a school system run by an all-white board, which Indians felt ignored some of their important needs, the tribe now has a school which they feel is more in tune with their own cultural heritage. Bert Corcoran, the Cree principal of the new school, describes the difference:

We are a community school. We serve the community. That is the basic difference from the old system. The school here is a community center. It stays open five nights a week. We have 41 adults in a basic education course. We've got a bilingual program in Cree and English that ranges from adults down to five-year-olds with teaching done by people from the reservation. This is no longer an institution. I like that because I'm not an institution man. The school is for the people. It's their school and they know it. They're no longer afraid.⁸⁴

The major remaining concern of the school is its heavy reliance on federal financial support. Under various special grants, the federal government provides more than half of the operating expenses of the school. The tribe is continuing its effort to place the school on a secure financial footing.

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The trend is toward an increasing responsibility assumed by the state for the education of Indians. In California, Idaho, Michigan, Minnesota, Nebraska, Oregon, Texas, Washington and Wisconsin, the state has taken over total responsibility for Indian education from the federal government. In view of this trend, schools such as the Rough Rock and Rocky Boy assume major significance as models for state programs--schools which provide the alternative of state assistance without state domination. Three main goals for state activity in Indian education emerge from experience with such schools and from similar conclusions arrived at in many studies of Indian education. States have the obligation to (1) provide equal educational opportunities for Indian children through adequate financial support; (2) eliminate all forms of discrimination against Indians in education, and (3) allow for the existence of schools which meet the indigenous cultural needs of Indians, by fostering educational diversity and community control.

These statements of principle could be embodied in a model constitutional provision on equal educational opportunity and Indian education.⁸⁵ Although no other state has such a provision with respect to Indians, a precedent does exist in a provision for another minority group in the New Mexico Constitution, as cited above.

The major arguments in favor of the inclusion of such a constitutional provision are:

1. A constitutional commitment to equal educational opportunity should be made in light of the fundamental character of both education and the rights of equal protection; explicit reference to the Indian people is warranted by their special legal status and long history of deprivation.
2. The confused status of federal and state authority with respect to Indian education demands constitutional clarification.
3. The historic culture of the Indian, threatened by the modern state, requires specific constitutional protection.
4. Education, as a specifically state responsibility, should have the major conditions of its provision established in the state constitution.

Major arguments against inclusion of such a provision include:

1. For the sake of brevity, the state constitution should not give specific reference to the topic of equal educational

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opportunity. Equal protection provisions of the federal Constitution extend to the state.

2. The special relationship of the Indian to the federal government (i.e., as a "ward") precludes state action in this area.

3. The principle of generality militates against the mention of particular groups in a constitution.

4. No other state has a similar provision.

EXHIBIT # 9
DATE 2-9-87
HB # 39

Amendments for HB 39

1. Page 40, line 12.

Following: line 11

Insert: "NEW SECTION. Section 27. Vocational-technical center equipment. The equipment of a vocational-technical center designated prior to [the effective date of this act] may not be transferred from the center for four years without consent of the school district board of trustees that operated the center prior to [the effective date of this act].

Renumber: subsequent sections

VISITORS' REGISTER

EDUCATION AND CULTURAL RESOURCES COMMITTEE

BILL NO. HOUSE BILL NO. 576 DATE FEBRUARY 9, 1987

SPONSOR REP. EUDAILY

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
<i>Ray McKeown</i>	<i>rep. SAM</i>	✓	
<i>Bob Anderson</i>	<i>MSBA</i>	✓	
<i>Elinor Collins</i>	<i>Mont. Assoc Co Supt</i>	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

