

MINUTES

MONTANA SENATE 51st LEGISLATURE

JOINT SELECT COMMITTEE ON EDUCATION

Call to Order: By Co-Chairman Ray Peck, on June 1, 1989, at 2:00 p.m., Room 325, Capitol

ROLL CALL

Senate Members Present: Senator Bob Brown, Senator H. W. "Swede" Hammond, Senator Dennis Nathe, Senator Richard Pinsoneault, Senator Pat Regan, Senator Fred Van Valkenburg

House Members Present: Representative John Cobb, Representative Paula Darko, Representative Jerry L. Driscoll, Representative Ralph S. Eudaily, Representative Bob Gilbert, Representative William E. Glaser, Representative Susan M. Good, Representative Larry Hal Grinde, Representative Dan W. Harrington, Representative Mike Kadas, Representative Ray Peck, Representative Ted E. Schye

Members Excused: None

Members Absent: None

Staff Present: Dave Cogley, Andrea Merrill

Announcements/Discussion:

Chairman Peck announced that the Joint Committee would hear the Governor's proposal, presented by Ken Nordtvedt, first, and then allow questions from the committee. He indicated they would then hear Wayne Phillips' proposal, and would follow the same procedure in terms of questions.

HEARING ON GOVERNOR'S PROPOSAL

Presentation and Opening Statement by Sponsor:

Mr. Nordtvedt referred the committee to the copy of the Governor's proposal they each were supplied with. He reported that, after the regular session, they set out to prepare a plan for school equalization that would be similar, in many ways, to what was done in the regular session, but different in one essential concept, which is that they could meet the court mandate of equalization, with no new revenue sources, if the Legislature can not come to an agreement on the revenue source, but noted that it is a program and frame work which will naturally incorporate new revenue sources to enhance the degree of equalization, but that basic equalization, in the absence of new revenue sources, would be acceptable to the court, and would reach a level of equalization which is acceptable. He indicated that is because of the experience, in the regular session, when everything seemed to fall apart because they could not reach a consensus on the nature of a new revenue source to pump into education to replace property taxes.

He then referred to page 6 of the brown booklet which contains the Governor's proposal, and indicated there are two aspects of the present funding of schools which the court really focused on, when they declared the system unconstitutional. He noted that he emphasizes the interaction of two aspects of the present system; the first, which was discussed, and dominated the regular session, was the observation, illustrated by the top pie chart, that a very large fraction of school funding is now provided by local property tax levies, and the state share of funding, through the foundation program, has fallen to a very low level, noting it is under 60%. He pointed out that problem number one is a high reliance on local property taxes, noting that, by itself, is probably not sufficient grounds to rule that a system is unequal. He indicated that, if schools were on an equal playing field to raise those local property taxes, that may, by itself, not be a real problem with the system, but that it was also pointed out, during the court proceedings, that a very large amount of local property taxes is funded by schools with quite variable tax wealth, per student, which is a greatly varied ability to pay that 40% of local property taxes which has required so much of their school budgets. He referred the committee to the tax disparity graph on page 4, and indicated this graph illustrates a tax wealth disparity, summarized by counties, noting a true graph should have 500 and some school districts, with the tax wealth of each school

district illustrated. He pointed out that would be cumbersome, so they have shown county summaries, but the same point comes across quite clearly, that there is an average tax wealth, per student, in the state, and there is great disparities above and below the average, noting some school districts have a much easier time raising additional local revenues for their schools, and some schools have a very hard time, relatively speaking.

Mr. Nordtvedt gave some examples, noting they are extreme rather than the norm. He referred to Colstrip Elementary School, which can raise \$11, per student, per mill, relative to the state average rate of \$1, per student, per mill, and can have 11 times the revenue base, because of their high taxable value. He then referred to another school which has 9.3 times the average state tax wealth, per student. He indicated that, at the other extreme, there are schools, like Anaconda, which can only raise 40% of the state average, per mill, per student, or Stevensville, 35%, per mill, per student. He noted that, in comparing the ratio of Colstrip to Stevensville, Colstrip can raise 32 times as much money, per mill, per student, as Stevensville, to support their local levies, pointing out that is the essential reason why they can not have 40% of school budgets funded by local property taxes, according to the court.

Mr. Nordtvedt pointed out that, during the regular session, they tried to equalize by essentially making the local property tax levy portion of school funding so insignificant, by raising the state share as close to 100% as they could, so that those tax wealth disparities would become relatively irrelevant because so little of the funding would be resting on these wealth disparities. He noted that, if they do not have new revenue sources, they can not raise state schedules near 100%, and so, to reach an equalized system with no new revenue sources, they have to simultaneously deal with both problems, that they have to reduce the tax wealth disparities, as well as bring the state foundation schedules up as high as they can, and take as much of the total cost of education through the foundation program as they can. He reported that, during the regular session, in SB203, they totally ignored the tax wealth disparity issue, noting they can get away with that, if they have a lot of new revenue, but that they can not get away with that, he does not believe, if they do not have new revenue. He indicated the plan they are proposing, the Basic Equalization Plan, is the plan only if there is no new revenue, noting that, if they take new revenue, it will be changed into something called Enhanced Equalization. He indicated that, in the basic plan, they have to find a way to

reduce the tax wealth disparities, and pump some of those local property taxes flowing into education, in an unequalized manner, by diverting them into the foundation program, so they can be disbursed in an equalized manner.

Mr. Nordtvedt referred the committee to the chart on page 3, and indicated that it is the basic foundation program, and what they would propose to do with it in their special session bill. He pointed out that there are 500 or so individual school district budgets receiving funds from two sources; one is the state's support through the foundation program, which is, very roughly speaking, about \$300 million a year. He noted that is equalized, and the court finds it quite acceptable, adding that there is roughly \$200 million coming into these budgets from local property tax levies, the other main source. He indicated that \$200 million is the part which is unequalized, and needs to be equalized. He noted that, if there is no new revenue sources to replace or reduce that \$200 million, they have to divert some of that \$200 million into the foundation program, where it can be distributed in an acceptable manner.

He reported they have identified the sources of property in the tax bases of the schools which account for the great bulk of the tax wealth disparities. He indicated this property is basically not land and small business, that it is classes of property like centrally assessed property, utilities, power plants, railroads, net and gross proceeds property, and certain classes of personal property, particularly heavy industrial machinery. Mr. Nordtvedt stated that they focused on these classes of property, which are not evenly spread around the state, and which are highly localized in some school districts, and do not fall in other school districts, and indicated they propose to divert, basically, that property tax base which is highly localized, and make it a tax base for the foundation program, in part, and leave part of the tax in the local districts. He indicated that, for property like homes, land, and small business real property, they propose to leave 100% of that taxable valuable in the home districts where it is located, because it is not the origin of the problem of wealth disparity, noting there is a close association with the ownership of that property, and the parents and the taxpayers, and the school district.

Mr. Nordtvedt explained that two things are accomplished by this diversion of selected classes of property in the tax base; first, it tends to equalize the tax wealth among the school districts. He indicated that, in a rigorous measure of tax wealth disparity, this diversion roughly cuts in half

the tax wealth disparity among the 500 school districts, so that the 500 school districts are on a much more level playing field in raising the revenues for the local components of the school budgets. He stated that they believe that meets one of the main points of the court's decision. Mr. Nordtvedt went on to indicate that the second thing it does is, by diverting some of the taxes from these forms of property to the foundation program, it raises about \$60 million of revenues to the foundation program to support higher schedules, and higher schedules mean the foundation program can take a bigger fraction of total school budgets.

He reported that, in addition, they propose to change the 45 mill state-wide levy to 85 mills, which will raise another \$40 million, or so, noting that it is a built-in concept that other tax measures will be adopted to leave the overall plan revenue-neutral for the extracted industries.

Mr. Nordtvedt then stated that every additional 10 mills of property taxes put on the extracted industries in Montana is a an additional tax burden of \$4.1 million on those industries. He noted there is a limit to how much they can increase the taxes on any particular component of Montana, in the process of equalization, without having a direct and negative effect on that industry.

He then asked the committee to remember that this is not their recommended number one form of equalization, but is a form of equalization which they feel would be acceptable by the court. He indicated it would cut the tax wealth disparity in half, and would raise the state foundation program about \$100 million above where it is, without this equalization, noting that, in the base year 1988, that would translate into schedule increases of about 35%.

Mr. Nordtvedt stated that what they would really prefer is the components of basic equalization, with tax wealth disparity reduction, but a significant infusion of another revenue source, to get enhanced equalization. He then indicated he will show the results of the basic plan, again referring the committee to the charts. He pointed out they have brought the state's share of the base in 1988 from 60% up to something like 85% of the combined insurance, retirement, and general fund budget, so they have substantially increased the state's share of the total budgets of education for that base share, and, referring to the second disparity graphic, he indicated the committee can see the great reduction in the variations of district tax wealth above the norm. He noted, for the benefit of those who come from the so-called wealthy school

districts, that they will still tend to end up with about twice the taxing power of the state average, and that it is not like their favorable historic situation is totally eliminated, it is just brought back to somewhere closer to the state average.

Mr. Nordtvedt then explained that enhanced equalization basically means finding a source of revenue to pump directly into higher foundation program schedules, so they can go higher than 85%, to 90% or 95% of the spending base that they use for discussions. He then asked the committee to look at the alternatives, stating that the income taxes, in Montana, have gone up rather drastically, in the last three years, because of federal income tax law changes, and the interaction of state laws with the federal laws. He noted that it would seem to be counter-productive, when trying to get the economy going in the state, to pile up additional income tax as a new revenue source to enhance the equalization.

He then indicated that the approach to enhanced equalization, tried in the regular session, of a very high mandatory state-wide levy to replace the \$200 million in local property tax levies, would mean they would need a 185 mill mandatory state-wide levy, if they believe, as the administration does, that they have to leave the extracted industries revenue-neutral. He indicated that 185 mills is not going to probably be acceptable to a big part of Montana, but they have no way of influencing or changing that, by local decisions in their own local school systems, and it would probably stimulate the new CI-27 movement in the state. He added that, if the extracted industries are to bear their full share of the state-wide property tax levies, they would have enhanced equalization with 158 mandatory state-wide mills, noting that, in any calculation, the additional tax load on the extracted industries turns out to be over \$40 million, a year. He indicated that those who would like enhanced equalization with state-wide property tax levies should seriously analyze the impact of \$40 million in additional taxes on Montana's extracted industries, and what that would do to the state's economy.

Mr. Nordtvedt indicated that the only way to have enhanced equalization, where the state schedules get up to totally dominating school funding, and local property tax levies become a very small part of school funding, is to have revenue from a general sales tax. He stated that they have designed, and propose, a lean general sales tax to do the basic jobs in order to create enhanced equalization, and also produce a few other desirable results.

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He indicated a 3% general sales tax, with services excluded, noting that is the one distinction from the regular session, and with food and medicine excluded, would raise, in fiscal year 1992, \$206 million a year. He indicated the biggest allocation out of that sales tax that they would propose is \$120 million, per year, towards the foundation program for higher schedules, above what the basic equalization plan does. He pointed out that would probably bring then into the mid-90 percents of the state funding of basic school budgets. He noted there are other allocations for directed property tax relief for homes, income tax reform, and some money left over for higher education. He indicated that is what they recommend to fund enhanced equalization, noting that, to raise, on a permanent basis, income tax collections, or massive state-wide property tax levies, is anti-productive to the future of the Montana economy, in their view.

Mr. Nordtvedt pointed out that they would need caps, in this equalization bill, noting they believe they could be slightly more liberal than the caps in a bill like SB203. He indicated the reason they believe they could have more liberal caps, which could allow the locals to determine, to a great extent, how much they want to control spending, is because tax wealth disparity reductions, the diversion of the tax base from very rich school districts to the whole state school system, creates strong financial incentives for those schools who are spending much above average, because they have high wealth. He noted they would have new financial incentives to reassess their spending, and would not have to be controlled with a stringent set of caps, as they would have had in a bill like SB203. He pointed out that they will still propose caps, but will propose caps which allow slightly more local discussion in how high budgets can go, than during the regular session.

He pointed out that the levy for debt capital for schools has been left out of this because bonds issued in the past by schools were given ratings and interest rates based on the taxable value underlying that school district, and it would be breaking faith and causing problems with the whole future bonding community to change, in mid-stream, the tax base which supports bonded debt. He added that the transportation levy would be left to a mandatory levy, just as it is now, to be studied for two years, that the retirement benefits levy and the insurance levy would be combined with the general fund, and state schedules would be funded by the usual levy which is on the books, today.

Questions From Committee Members:

- Q. Chairman Peck asked Mr. Nordtvedt if the University System's \$16 million is to be in the formula, and increased on a per student basis, or if he has any specifics on that.
- A. Mr. Nordtvedt responded they have no specifics, noting it is in the same spirit of the allocation made in the Bradley/Crippen bill, during the regular session, where part of the sales tax was allocated, through an earmarked account, for the university system. He indicated that gives those who think the university systems needs more revenue sort of a first grab at earmarked revenues, pointing out that, because the university system is primarily funded from the general fund, it does not change the reality that the appropriations committees decide what the university budget ultimately is. He added that there is no specific plan, yet, on what programs for the university system would be augmented or enhanced.
- Q. Representative Eudaily asked Mr. Nordtvedt to explain his statement that the anticipated caps will be more liberal than in SB203, noting he sees 120%, and he thought that SB203 provided 130%.
- A. Mr. Nordtvedt responded that they never thought SB203, as it died, was the final version which would have been passed, after the conference committee's, and the Governor's, views were fully incorporated. He indicated that, whether a cap is 130% of schedules really is only meaningful when you also state what fraction of the spending the schedules represent. He indicated they threw out 120% of 90%, and that was the intent, noting he really should have put "X%", because they can not finally set that cap until they know the final version of the bill, and what fractions of state spending in schools for the 1990-91 year the schedules represent. He noted that the guiding philosophy of what they want the caps to do is they want the caps to allow for a reasonable inflationary growth in school budgets, for the average schools. He added that the low-spending schools, of course, would probably have more inflation ruling the cap because they are starting from a lower level, but they would want to cap schools in the middle with enough room so those budgets cover inflation, from, say, this year to next year. He noted that the caps are more liberal in that they allow a few percent growth in the

high-spending schools, who would have been frozen by the regular cap. He indicated their belief is that the great majority of the high-spending schools will have very strong financial incentive to control their spending growth, because they have lost much of the excess tax wealth.

- Q. Representative Eudaily asked if they feel the caps are necessary, and, if they have this extra money from the wealthy districts, why do they need the caps.
- A. Mr. Nordtvedt responded that the basic reason for caps is that the court decision means they not only have to reach an acceptable equalization level, but it has to be kept at a level which is acceptable in future years. He explained that this means the state has no choice but to track and follow whatever level of spending the schools determine, through their 500 set of trustees. He indicated that, if there were no caps, and the spending grew faster than inflation, as it did in much of the two previous decades before I-105, the state would be obliged to increase its foundation support faster than inflation, just to keep the system equalized. He added that, in the present economic and financial state of the state, there is no way they can increase state support over future years faster than inflation.
- Q. Representative Harrington asked Dr. Nordtvedt, if the Legislature does not accept a 3% sales tax, according to this, are schools not going to be funded at an active level.
- A. Mr. Nordtvedt responded no, but indicated that is a good question because he thinks it brings out the essential difference between the level of the state foundation support, and the function of the caps. He stated that the amount of money spent for education will basically be determined like it has, in the past, by what the school districts used to spend, up to the caps. He added that the caps allow for inflationary growth, and they will probably see a bunch of budgets go up.

He indicated, in the basic plan, if there is no new revenue, the caps will still be where they would have been, anyway, so the spending can increase, but the full burden of that spending increase will fall on higher local property taxes. He added that, if there is no new revenue, outside the property tax system, and they design caps which allow for more spending, it will come out of

property taxes. He noted that is the problem with the basic equalization plan; it retains and continues, and makes it even more obvious, the excessive dependence on property taxes to support schools. He further indicated that enhanced equalization will bring another revenue source in to take the load off the property tax system, noting that, in either case, the schools would have the same spending authority, which will be determined by the caps.

- A. Representative Harrington then asked if, in other words, what they are doing, in some of these areas, is taking away 8% of the basic mill levies.
- A. Mr. Nordtvedt responded not 8% of their total tax base, that they keep 100%, in some classes, and 8% of others will be diverted into the foundation program.
- Q. Representative Kadas asked what does the administration think is an acceptable level of equalization.
- A. Mr. Nordtvedt responded there is no realistic way to do it but that if, by some chance, they could put all schools districts totally on a level playing field, then probably there would not have been a decision going the way it had, so it highly depends on the interaction of how much they can equalize wealth disparity and how much they can raise schedules. He stated that they believe the combination of reaching about 80% of schedules, representing 80% of basic funded categories, along with cutting the wealth disparity in half, would bring the system into compliance with the concept of an equalized system. He added that it is a combination of how high they can get the schedules, and how much they can reduce the wealth disparities, for funding the rest of the budget.
- Q. Representative Kadas indicated he is trying to get it in terms of some kind of standard, and asked if they have run the unenhanced proposal against any of the PL874 standards.
- A. Mr. Nordtvedt responded yes, indicating that they believe it will meet the federal wealth test, but that it would not meet the other test, noting it is his understanding that the feds give them a choice to meet one of the tests, so his preliminary reading of the memo describing the federal 874 system was that they would meet the wealth test, but not the other.

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- Q. Representative Kadas asked Mr. Nordtvedt if he thinks that is a reasonable goal for equalization.
- A. Mr. Nordtvedt responded that they feel the Legislature should come to a consensus that a general tax, a lean general tax, devoted primarily to enhance school equalization, should occur. He added that, if that doesn't occur, they are going to be able to walk out of here, July 1, with a plan that equalizes, with the given tax base, because they are under a mandate from the court to do so. He added that is not their first choice and, in essence, is not what they ought to do, as their first choice, but that it is something they feel is acceptable, and which the court will accept as equalization, given the reality that no new revenue source was provided for schools.
- Q. Representative Kadas asked if the administration is committed to at least equalizing to the extent of the PL874 test.
- A. Mr. Nordtvedt responded that was their target.
- Q. Representative Kadas indicated Mr. Nordtvedt gave the number that 10 mills would increase taxes on resource industries \$4.1 million, and asked what taxes did they include in that number, and if that is net/gross, or if that also includes personal.
- A. Mr. Nordtvedt responded that he just meant classes one and two, all the extracted taxes, net and gross proceeds on metal mines, oil, coal and gas. He indicated that the total taxable valuable is \$410 million a year, so 10 mills will be a tax of \$4.1 million.
- Q. Representative Kadas asked Mr. Nordtvedt if, when he talks about leaving these industries revenue-neutral, he means just in relationship to net/gross proceeds, or if he means in relationship to all property taxes.
- A. Mr. Nordtvedt responded that they meant with regards to property taxes for schools. He indicated he did not look at their county property taxes, that he just looked at their school property taxes.
- Q. Representative Kadas asked if that means net and gross, and all their personal property.

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- A. Mr. Nordtvedt responded no, that they did not look at their personal property.
- Q. Representative Kadas then asked if the administration feels that is acceptable, that personal property can go on, as long as they leave the net/gross at about the same place it is at, now.
- A. Mr. Nordtvedt responded yes, and indicated that he does not want to be pinned down to the nearest dollar, or to what they find as acceptable taxes, noting they are not prepared to do that today. He stated that they neutralized the extracted industries' taxes on net and gross proceeds going to the schools, and whatever personal property owned by those industries, they are sharing, like everybody else, in whatever local mill levies result, so they are not protected, the personal properties are not.
- Q. Representative Kadas asked what mechanism do they propose for neutralizing the impact on net and gross proceeds.
- A. Mr. Nordtvedt responded that, while each of us have our favorites, he has heard of at least three different methods which people are working on, noting that it would seem to him that a modification of the severance taxes would be the best way to go. He added that is not frozen in concrete, and the administration is willing to look at anybody's reasonable concept of how to change the tax system on the extracted industries to keep them in a relatively neutral situation.
- Q. Senator Van Valkenburg noted that Mr. Nordtvedt said the basic equalization plan he is presenting is not the administration's number one recommended proposal.
- A. Mr. Nordtvedt responded that is right.
- Q. Senator Van Valkenburg asked if they are to assume the enhanced proposal, with the 3% sales tax, is the administration's number one recommended proposal.
- A. Mr. Nordtvedt responded that is right.
- Q. Senator Van Valkenburg then indicated Mr. Nordtvedt said that his theory, with respect to the formation of this proposal, was to the effect that, if they could get the school districts on as equal a tax base as possible, the law suit would not have been successful and, therefore,

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they are to assume it would not be brought, in the future, as long as there are fairly equal tax bases out there, with respect to the local portion of the funding.

- A. Mr. Nordtvedt responded with the one qualification that the local fraction of funding does not go back to becoming a very astronomical fraction, again, so that, if that fraction is kept relatively under control, and they have relatively comparable wealth in school districts, they believe there would not be grounds for a constitutionality challenge.
- Q. Senator Van Valkenburg asked Mr. Nordtvedt if there is something in the Supreme Court's decision that leads him to that conclusion, which he can point to.
- A. Mr. Nordtvedt responded sure.
- Q. Senator Van Valkenburg asked what.
- A. Mr. Nordtvedt responded in reading it, and interpreting it in the English language.
- Q. Senator Van Valkenburg indicated that his reading of it, and interpreting it in the English language, is such that spending disparities are what caused the court to say that Montana's system was unconstitutional, not ability to raise money disparities.
- A. Mr. Nordtvedt responded that they are free to disagree on that, and indicated that, on that point, he would say the court accepted the evidence that there was a high correlation between tax-level disparities, and spending disparities. He stated that there is a big fraction of difference in the spending levels, among schools, not all of them, but that a big fraction could be explained by the different tax bases of the schools and, therefore, if that cause of spending disparities is eliminated, cause and effect will probably lead to the years with spending disparities which go down. He added that the remaining spending disparities which are based on taxpayers truly having a different tendency to tax themselves to support their schools, was probably much less of a constitutional issue.
- Q. Senator Van Valkenburg then asked, if they assume he is correct in that assumption, is his proposal, with respect to the local funding portion, dependent upon the passage of voted levies.

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- A. Mr. Nordtvedt responded to the degree that 100% of education can not be funded at the state level, they will still have local levies. He noted that 70% of the population of Montana will find they can reach a given school budget level with lower total levies, under this plan, than under the status quo, and 30% of the population will find they need a higher percentage of the status quo total levies to reach their budgets. He further indicated that the bottom line is the whole population will find their levies much more comparable than they are right now.
- Q. Senator Van Valkenburg indicated that he understands that, but noted that, if he understands the proposal correctly, they expect the state will receive approximately \$60 million in recaptured money, as a result of levies voted by that 30%, who will have their taxes increased.
- A. Mr. Nordtvedt pointed out that Senator Van Valkenburg's comment that this \$60 million comes from that 30% is not correct, but that they expect personal income tax collections next year to be about \$260 million, and, therefore, they are counting on people working, next year, pretty much like they worked last year, so their income taxes should be equal.
- Q. Senator Van Valkenburg then asked when they will have a bill which has all the schedules, which has all the i's dotted and the t's crossed, and everything they need to know to look at this thing.
- A. Mr. Nordtvedt responded probably late next week, or early the following week. He pointed out that the pamphlet looks back to the 1988 school year, and what this plan would have meant if it had been in place that year, but that the bill will show realistic 1990-91 school budgets, and the state's schedule they could reach, in the basic plan and in the enhanced plan, for the 1990-91 real year, as well as the effects on mill levies.
- Q. Senator Van Valkenburg noted that, when the Governor's proposal was put out, it indicated the foundation program schedules would be increased by more than 40%, but that, today, Mr. Nordtvedt is saying it will be approximately 35%.

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- A. Mr. Nordtvedt responded that the 1988 base year ended up at 35%, and that how the 40% got to 35% was the combination of two factors. He indicated that, first, it was pulling out the debt capital levies from the sharing plan and, for reasons he discussed earlier, they are going to leave the debt capital levy alone until they can study that further. He went on that, secondly, some of the counties did not send the break-down of their school tax bases and that, each few days, they incorporated a few more schools, noting that some of the very resource-rich schools came in during press-time, and changed the numbers. He stated that they are trying to be as upfront with as possible, and make all the numbers as current and complete as possible.
- Q. Representative Schye pointed out that Mr. Nordtvedt did not get into the retirement and, indicating he is curious, asked Mr. Nordtvedt to go through that.
- A. Mr. Nordtvedt responded that they believe, as they did during the regular session, that retirement benefits are part of the wage costs of the schools, noting they have never received any argument implying there is any fundamental difference between wages in the school budget and the benefits paid upon those wages and that, therefore, they belong in the general fund, and should be funded by the equalization schedules; that they should not have any special treatment. He stated that it would be completely counter, stressing completely counter, to the whole essence of the Supreme Court decision for the state to reimburse them on a 100% basis, and over-subsidize high-spending schools and under-subsidize low-spending schools, and that they are totally opposed to that concept. He added that, on the other hand, to address some of the concerns of the high-spending school districts that, somehow, in this transition, they would not be able to cover their retirement costs because they are losing a mandatory levy, they have proposed a mandatory levy for excess retirement benefit costs. He noted that, if the retirement benefit costs total 1% to 10% of their schedule amount, they could have a mandatory levy; they would have to ask the voters for that excess. He noted they think that covers the problem of having to fold that into their voted levy, adding that they fundamentally believe it is not necessary, but offer that as a concession to this concern of the education community.

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- Q. Representative Schye asked if those additional mills are counted.
- A. Mr. Nordtvedt responded it is already counted in there. He added that the only difference between where it will show up, whether they have this extra levy or not, is it would have shown up as part of the vote levy and, in this case, it will show up as a lower voted levy and a little piece of mandatory levy, but that those numbers are the total school levies.
- Q. Representative Schye indicated they can talk about that a long time, and asked, in the basic proposal, does the administration's proposal do away with I-105 completely.
- A. Mr. Nordtvedt responded that, with regard to school funding, yes.
- Q. Representative Schye noted that an awful lot of school districts are going to have to raise taxes.
- A. Mr. Nordtvedt responded that I-105 will be modified, as it applies to schools.
- Q. Representative Schye asked if that is going to be in the proposal.
- A. Mr. Nordtvedt responded yes.
- Q. Representative Schye then asked if the sales tax part of it is going to have a general vote, or if it is just going to be a vote by the Legislature.
- A. Mr. Nordtvedt responded that he knows the administration's preferred approach. He then indicated many groups of private citizens, during the interim, by and large, said whatever the Legislature wants to do, why don't they do it, rather than sending it to them, beforehand, before such a tax would be implemented and, so, the administration would prefer a straight up or down vote on a sales tax. He added that, if it is to be enacted, they should have some kind of time period that it was in place, so that some of the benefits of the sales tax can be seen in the area of property tax relief, income tax relief, enhanced funding of school foundation programs, and then, at a set date in the future, there would be a state referendum on whether to keep that tax, or go back to the previous tax structure of the state.

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- Q. Representative Schye asked if that is the way it is going to be written.
- A. Mr. Nordtvedt responded that he could not say, at this point, but that is the administration's preferred route.
- Q. Senator Regan indicated that, as she listened to the presentation, she understood Mr. Nordtvedt to say the wealthier districts would be allowed to account for inflation, and would be allowed a small percentage increase, say 4%, and then, that the poor districts could spend more; that they would not bump against that cap. She asked Mr. Nordtvedt if he is making a basic assumption that the poor districts will spend more than 4%, and, therefore, ultimately close that gap. She further asked if he can justify that, on historic data, when they have consistently seen districts that, time after time after time, have turned down voted levies, noting that, therefore, she is left with the conclusion that, no matter how long this plan is in effect, they will not achieve equalization. She asked Mr. Nordtvedt to comment.
- A. Mr. Nordtvedt responded that, first of all, he senses Senator Regan's concept of equalization and his are slightly different. He indicated that his view of equalization is equalization of circumstance, not necessarily equalization of the final result. He then stated that, secondly, in looking at the levy changes experienced by schools, it is the poor, low-spending schools, poor high-spending schools, that the poor schools get the massive mill reductions to reach the same budgetary level. He added that, in fact, if they are sufficiently under-spending, when the schedules get high enough, the schedules will be higher than their present spending, so they will have a significant spending increase, with no levy whatsoever, and that they feel, because they give such substantial mill reductions to these low-spending, poor schools, that, yes, they will show a greater propensity to increase budgets than they have in the past, because it will be financially easier for them to do so. He noted that, even if they don't, they are not in a position to force them to a different choice of local control of their school.
- Q. Senator Regan asked if they are not charged, by the court, to equalize the budget. She noted there are two parts to equalization, but it seems to her that, every time she has heard the administration discuss the

problem, they focus on the raising of revenue, not on the expenditure side.

- A. Mr. Nordtvedt responded that he guesses they have a variation of viewpoint on what this court decision means.
- Q. Senator Regan noted that scenario one is the one Mr. Nordtvedt has indicated is not acceptable to the administration, and stated thank goodness for that.
- A. Mr. Nordtvedt responded that it is not their first choice, but that they believe it is an acceptable form of equalization, if the Legislature can not reach a consensus on a new revenue source, and that the court will find it acceptable.
- Q. Senator Regan indicated that where you stand on an issue depends on where you sit, and, from where she is sitting now, she finds the words "an enhanced plan" somewhat offensive, because she feels it is the minimum plan, that it provides for basic quality education. She pointed out they have to keep in mind that they have to satisfy the plaintiffs in the case, and she cannot see the first scenario, without additional revenues from whatever source, noting she is not sure she is going to say the words.
- A. Mr. Nordtvedt stated that he believes they have to satisfy the court, not the plaintiffs.
- Q. Senator Regan responded that they will be back in court and that, probably, the court will agree, but, so be it. She then asked Mr. Nordtvedt to comment. She further asked if he sees a closure and, if so, how long, noting that, as they run those numbers out, it might take several generations.
- A. Mr. Nordtvedt responded that they are not that pessimistic. He then stated that, yes, they see a closure, and that, under a sharing of the tax wealth and reducing the disparities, they feel the financial incentives are so significant, in their own right, that, almost independent of the caps, the poorer schools will tend to start spending more generously, and the rich schools, which have been spending at a very high level, will seriously reassess their future spending, just because they now will be bearing a greater portion of the costs, adding that, yes, the spending disparities will significantly reduce in a couple of years.

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- Q. Representative Darko indicated her school district is one of the plaintiff school districts, that it is a medium-spending school district, probably on the low end of the scale. She indicated they have a very high mill levy, but that, because they have several centrally assessed properties, not only are they a plaintiff school district, but they are a loser, under this proposal. She stated that they will have, in their school district, a 17 mill increase whereas, under SB203, they would have had an 87 mill reduction, and indicated she can not see, just because they have those centrally assessed properties, penalizing the already overpaid taxpayers of their county and their school district. She noted that about 95% of their county is federal property, that they do not have the money and the taxes, and asked Mr. Nordtvedt to explain how that is fair.
- A. Mr. Nordtvedt responded that she can not compare the mill levy changes of the basic plan with SB203, because SB203 had a source of revenue of about \$70 million pumped into enhancing the schedules, but did not specify where that revenue would come from. He indicated she would make a better comparison if she compared SB203 with their enhanced proposal, which would have \$100 million pumped in from another tax source. He indicated that, if Montanans find their property tax levies too high for schools, and everybody wants to come out with the same, or lower levies, it is a physical impossibility to equalize, unless there is a new revenue source, that it just can not be done.
- Q. Senator Hammond referred to the 20/80 split, and asked Mr. Nordtvedt if, down the road, he sees the situation where people who have BLM land, game preserves, state lands, etc. will be dropped from a \$9 million valuation to a \$2 million valuation, and if he sees them not voting special levies because they receive such a small portion.
- A. Mr. Nordtvedt responded that it is a mistaken view that the \$60 million comes from a few, select, super rich districts. He indicated that \$800 million worth of taxable value is accounted for in those classes that are shared, so that the money stream is coming, literally, from every school district in the state. He noted that more is coming from some districts, and less from others, but that it all goes into one common pot to be distributed back to the schools, which is how to equalize the schedules so they are not critically dependent on what

any small sect of schools chooses to spend or not to spend.

He pointed out that they have to expect the high spending districts, which are also rich districts, will probably, in the future, tend to increase their spending more slowly than they would have, under the status quo. He added that, on the other hand, they have to expect that 70% of the school population which can reach a given levy level, with lower levies, will probably tend to increase budgets a little more than they would have otherwise, noting they are contributing a big part to the pool of diverted money, as well. He indicated that, as long as they make a reasonable estimate of what schools will choose to spend, they can make a reasonable estimate of how much will be diverted to the foundation program. He noted that it is a problem not much different than trying to estimate the whole state revenue base for the next two years.

- Q. Senator Hammond asked Mr. Nordtvedt if he said there are not any districts much below the average.
- A. Mr. Nordtvedt responded no, that he quoted some to show there are many schools, now, which are way below; 35%, 40%, 45% of the state average, so they have a lot of equalization to do.
- Q. Senator Hammond indicated he meant after this has taken place, and asked if there are some that are average districts, which would be considered poor districts.
- A. Mr. Nordtvedt responded that the very rich districts, which might have eight times the average tax wealth, per student, will generally be twice the state average, so they are still a wealthy district, and will have a much easier time, compared to the average school, raising \$100 per student, or whatever they want. He added that the answer to Senator Hammond's question is no, that they do not convert rich districts into poor districts, that they convert rich districts into less rich districts.
- Q. Senator Hammond then asked if one is the average.
- A. Mr. Nordtvedt responded that, in the charts for the wealth index, one is always the state average, adding that the poor ones tend to move up towards one, and the ones above one tend to move down towards one.

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- Q. Senator Hammond asked if that is based on per student.
- A. Mr. Nordtvedt responded per student, per schedule allowed, and they are comparing the ability of two different schools to raise money, to go to a fixed percent over their schedule amount, and put everybody on the same basis.
- Q. Representative Kadas asked if the \$60 million from the 80/20 split is based on the assumption that each district will try to get the same number of dollars they got in fiscal year 1988.
- A. Mr. Nordtvedt responded that calculation was based on their reproducing their same budgets.
- Q. Representative Kadas then asked Mr. Nordtvedt if he has a breakdown of the \$60 million, how much comes from net proceeds, how much from gross proceeds, and how much from each class.
- A. Mr. Nordtvedt responded yes, that they have it broken down by all 500 school districts. He indicated that, because they have frozen revenue from the extracted industries, the net and gross proceeds tax, not a great big fraction of this diversion is coming from the net and gross proceeds, that it is a reasonable amount, but the centrally assessed property is the dominant part of the whole process.
- Q. Representative Kadas asked if the mandatory levy in the retirement proposal is also treated as an 80/20 split.
- A. Mr. Nordtvedt responded it is split, that everything is split, except the debt capital levy. He indicated the idea of the split is to reduce the wealth disparity, and generate revenue for the foundation schedules.
- Q. Representative Kadas asked if Mr. Nordtvedt has given any thought to basing it on the 80/20 split.
- A. Mr. Nordtvedt responded yes.
- Q. Representative Kadas asked Mr. Nordtvedt to give his thoughts on that.
- A. Mr. Nordtvedt responded it is logical to make the transition less painful to those who are in a less advantageous position.

- Q. Representative Kadas indicated that, in the regular session, he proposed a power equalization bill, and he does not see that as being all that different from what they are proposing. He asked if Mr. Nordtvedt opposes these power equalization bills, and indicated he would like to hear Mr. Nordtvedt's rationale for why that is no good, and this is.
- A. Mr. Nordtvedt responded that the fundamental reason is the real rich school districts basically have the situation where the taxpayers, voters more specifically, can export their tax by a captive industry or facility. He cited the extreme example that, if Colstrip makes the decision to add a \$30,000 a year teacher to their program, the taxpayers and voters only have to decide whether they are going to spend \$3,000 more for that teacher, because the power plants will pay \$27,000 for that, under the present system; that they have a situation where the very rich districts can export most of their taxes. He noted that power equalization will create another set of taxpayers who can export part of their taxes because the state will subsidize their levy with money raised from the rest of the state. He pointed out that, if they are going to take away those captive taxpayers from the rich districts, the logical place to put it is in the foundation program, to raise revenues to be shared on an equalized basis, not to give it as a subsidy to other taxpayers, who then become people who can export their taxes, and the money they want to raise. He noted that, in some sense, they keep the good part of power equalization, and reject the bad part of power equalization.
- Q. Representative Kadas asked if the cap, scheduled for 4% of the previous year's budget, is just for fiscal year 1991, or if it is 4% each year.
- A. Mr. Nordtvedt responded that each legislature would re-determine that, in light of the financial position, inflation rates. He added that it is not a sacred, fixed number, but that the concept is it would be a percentage growth from the previous budget. He noted that, as an alternative way to compute caps, schools which would be frozen by a set of caps, based on schedules, would have a choice to use either cap which is most advantageous to their situation.

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- Q. Representative Kadas asked if they would write, in the bill, 4% of the previous year's budget, and it would not say 4% over the 1990 budget.
- A. Mr. Nordtvedt responded that, because they only have to write it for the 1990-91 school year, since the next legislature will re-write the caps for the next 2 years, they would write the budget for the 1990-91 school year could not exceed 104% of the budget for the 1989-90 school year, knowing that each succeeding legislature will make that cap more liberal.

He noted that, if inflation increased to 10% by 1991, the Legislature might want to change that 104% to 109% or 110%, to reflect high inflation, or they might want to change it to 101%, if inflation ended, totally and completely, so that changes, each time the Legislature resets schedules or resets caps. He added it is the same with the percent of schedules, that there is nothing sacred about that percentage of the caps, either; the Legislature would reset that, each two years, depending on inflation and fiscal position of the state. Mr. Nordtvedt noted the percentage is not sacred, that he should have put X%, because they can not set that number until they really know, and set schedules, that the percentage depends on the level of the schedules.

- Q. Representative Kadas asked if, in Mr. Nordtvedt's opinion, it is the administration's point of view that the cap should be a certain percentage of 1988 expenditures.
- A. Mr. Nordtvedt responded no. He indicated they want to get the best data showing what spending levels are, currently, this coming school year, to know what the reality is, at the last possible moment, in order to decide what reasonable caps would be for 1990-91. He noted that he thinks the 1988 base year is blown way out of proportion as setting things, that the only reason everybody got locked into talking about the 1988 base year is they needed a common set of numbers, a common vocabulary, so people could communicate with each other. He added there is going to be a three year history for 1990-91, and they want 1990-91 to be based on the most up to date figures of what is actually happening.

Testimony:

Madalyn Quinlan, Associate Fiscal Analyst, Office of the
Legislative Fiscal Analyst

Ms. Quinlan stated they had hoped to have available, today, an analysis of the Governor's funding proposal, but that is not available because there are some questions and concerns yet to be addressed to this proposal. She indicated she has provided the committee with is a list of the questions which need to be addressed, before they provide a district-by-district analysis to the Legislature. Ms. Quinlan's written testimony is attached as Exhibit 2.

Questions From Committee Members:

- Q. Representative Kadas asked Ms. Quinlan how she determined the \$25 million on the non-tax revenue disbursements, and asked her to explain how they got the \$25 million, noting he is not following.
- A. Ms. Quinlan responded that, when a district sets its budget, it first calculates how much it will get in the schedule amount from the state, and that the next step is to look at available non-tax revenue sources, before setting a mill levy. She indicated her understanding of this proposal is that those non-tax revenue sources will remain available to the district, and only to the district, so the district uses those first, and then determines the local levy, after that. She indicated the executive proposal, from what she has seen so far, calculates the schedule amount, and then looks at the rest as needed to be raised only by property taxes. She noted that, in making that assumption, they will have a much higher level of recapture than if they assume the non-tax revenues, which have been available in the past, will continue to be available in the future.
- Q. Representative Kadas asked if they will have a higher level of recapture because they will have higher level of property taxes being used to pay for things.
- A. Ms. Quinlan responded that is correct.
- Q. Representative Kadas then asked, if they offset some of that property tax with non-tax revenues, if they will not have to levy as many mills.

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- A. Ms. Quinlan responded that is correct.
- Q. Senator Pinsoneault indicated he does not recollect what Mr. Nordtvedt said about 874 monies, noting he was always of the impression it was an all or none proposition, that, in other words, DOE had to give approval of their equalization program before 874 monies were equalized. He asked if he is wrong.
- A. Ms. Quinlan responded he is correct on that, and added that the state has to apply, on an annual basis, to equalize those funds. She indicated that, if they equalize those funds in 1991, they would still have to apply, again, in 1992, to prove that it passes either the wealth neutrality or the expenditure disparity test set by the federal government.

Chairman Peck announced that several committee members have indicated they have further questions for Mr. Nordtvedt. He then recognized Senator Van Valkenburg.

- Q. Senator Van Valkenburg stated that, during the regular session, it was his understanding the administration supported an increase in mandatory levies, across the board, to 85 mills, to apply to all property taxpayers. He indicated that, if he understands this proposal correctly, they are saying the administration supports an increase in mandatory levies to 85 mills, to property tax owners, except that there should be a credit so that the extractive industries don't go up a dime. He asked if that is right.
- A. Mr. Nordtvedt responded no. He reported that, in January, before the court decision, their original proposal was to eliminate retirement levies, to be replaced by a mandatory 22 or 23 mill state-wide levy, or whatever it would take to raise the money in the retirement accounts. He pointed out that they proposed, in that original executive budget, to compensate the extracted industries for the few million dollars hit 22 mills would inflict on them, and that they never changed that position from January. He added they did not believe the extracted industries should find higher net taxes coming out of rearranging the school finance, so that 22 mills plus 55, or 77 mills, they have said already they should have some compensation, and they never changed that when they went to 85 mills, later.

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- Q. Senator Van Valkenburg indicated that he misunderstood the administration's position, during the regular session, and that, all along, the administration was in favor of a tax-neutral situation for the extracted industries.
- A. Mr. Nordtvedt responded that they certainly put that down in black and white, in January. He indicated that, as the months progressed, the court decision came along, and they started talking about all kinds of things. He noted that he can not swear that different people, individually, may have taken a different stance, informally, or verbally on that, but that all of his involvement, which goes back to January, was that they decided they should make some compensation in severance tax rates for the industry. Mr. Nordtvedt pointed out that, in the Governor's State of the State address, it is in there, too.
- Q. Senator Van Valkenburg asked if credits for the extractive industries will reduce the expected revenue to fund the budget, adopted in the regular session, and signed by the Governor.
- A. Mr. Nordtvedt responded no, because the computer print-outs indicate no new revenue from the extracted industries. He noted the program sums up all the present property taxes being paid by the extracted industries, at both the state mill levy and the local levy level, and assumes that same total amount of dollars, net, is available to the foundation program, and it already takes into account that some compensation mechanism has been funded.
- Q. Senator Van Valkenburg asked if any loss to the general fund, or other earmarked funds, from these credits will really only be shifted to other sources of revenue for the foundation program, and will not affect the general fund.
- A. Mr. Nordtvedt responded that the bottom line sum of foundation fund and general fund will be neutral, that they take that already into account. He indicated the money may show up in a different place than it would have, otherwise, noting it will probably show up in the foundation program, rather than the general fund, but that, one way or the other, there will be no surprising new fiscal note which has to be written in order to come

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up with the compensation mechanism, that they have already accounted for it in the analysis.

- Q. Senator Van Valkenburg asked, following up on Senator Hammond's, Representative Kadas' and Representative Darko's questions about the voted levy portion of this equalization program, to the extent that their fears may be realized, and voted levies do not produce as much money as the administration hopes, will the general fund have to pick that up in the form of a supplemental, in the succeeding legislative session, and will there be a shortfall in the state general fund.
- A. Mr. Nordtvedt responded yes. He indicated that is similar to a worry he has many nights that, because of income tax burdens, people will stop working, and they will not get the income tax collections they are projecting. He added that, if they are surprised by voter behavior, on voted levies, and, if they are grossly surprised in the willingness to support schools, in light of generations of behavior in supporting voter levies with very high property tax levies, yes, they will have mis-estimated revenues, and have supplementals. He pointed out that, on the other hand, if they mis-estimate the behavior on the down side, they will end up with a surplus in the foundation account because they underestimated the levies they will vote to support. Mr. Nordtvedt indicated that, because 70% of the schools in the state, the population of the state, will be able to fund a given school with lower school levies, they also have to try to figure out how this easing of the burden will make them more willing to support schools, than they are now. He added that, yes, they can mis-estimate that. He further indicated that, if they do not think they understand how voters will respond to a new school system of funding, they just make a conservative estimate of what they will be willing to support, noting that is just like when they have a major tax source, which they do not understand, they tend to be conservative in estimating the revenues available from it.
- Q. Senator Van Valkenburg pointed out that they have decades of experience, in Montana, in estimating personal income tax revenue and, if they expect to get \$60 million of recapture as a result of voted levies, and that does not materialize, but those numbers are put into the schedules, it is virtually impossible to take it back, once it has been given.

A. Mr. Nordtvedt responded sure.

Chairman Peck indicated he would like to depart from the announced schedule, and recognize a representative from the plaintiff schools districts, who has another engagement. Chairman Peck then asked Mr. Pat Melby to make his presentation.

Testimony:

Pat Melby, Attorney

Mr. Melby thanked Chairman Peck and Chairman Hammond for giving him the opportunity to be a part of the schedule. He distributed copies of a letter delivered to Governor Stephens, yesterday, a copy of which is attached as Exhibit 3, and indicated it expressed, generally, some of their concerns about this proposal. He stated that, after hearing Mr. Nordtvedt today, his concerns have multiplied, dramatically, to the point where he does not know where to start.

Mr. Melby stated that he is getting darn tired of doing this, and he is sure the committee is, too. He indicated it seems the procedure they have been following is Mr. Nordtvedt has an opportunity to present their plan, and he is forced to get up here and criticize. He stated it kind of makes him angry, because he lives in this town, that Steve Brown, who represents 874 schools, lives in this town, Bruce Moerer, an attorney for the School Boards Association, lives here, that Bob Anderson lives here, and the Office of Public Instruction people live here, yet, since before the end of the regular session, they have asked for meetings with the Governor's office, and the Governor's staff, to work on school funding together, so they are not continually forced into the position of having to stand up in front of this committee to criticize the plan the Governor has put forward. He indicated he does not think it is fair to the Governor, he does not think it is fair to them, and he does not think it is fair to the Legislature. Mr. Melby stated that he wants to state right now that they are willing to work with the Governor's office to try to resolve this very complicated and important issue, but it does not help if they are willing to work, and are not asked for input.

He indicated that he, too, has read the Supreme Court decision, numerous times and, he might add, the English language version. He stated that he shares Senator Van

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Valkenburg's concern that the proposal they have seen, whether it is the "enhanced" version, or plan A, does not meet the equalization used by the Supreme Court. He indicated he disagrees, very strongly, with the administration, when the suggestion is made that equalization is measured on circumstance, and not on the final result, and that is not what the Supreme Court said. He stated that equalization is not measured by the state's share of state-wide spending, noting that is what they continually hear, that they are going to equalize at 85%, they are going to equalize at 90%, that they are going to equalize somewhere between 90% and 100%. He stated that is not how to measure equalization, equalization is not measured by the property wealth between the districts, that the Supreme Court says equalization is measured by the differences in spending, per pupil, among the various districts.

Mr. Melby stated that the other thing the Supreme Court said is that equalization is measured, on the other side, by the differences in taxpayer burden, in how much taxes individual taxpayers have to pay. He added that he also, as a footnote, would say that he does not think there is any way this program is going to comply with the 874 test of the federal government, but that he would be anxious to see the legislative fiscal analyst's analysis of that.

He indicated the net effect of this proposal is to reduce the amount of money in this state that is, right now, being spent in elementary and secondary schools. He pointed out that the main fallacy of this proposal, noting that Senator Van Valkenburg hit on this, Senator Hammond hit on this, and others hit on this, is that it takes a giant leap of faith, and makes the assumption that the voters, in every school district, are going to vote the same level of funding they have in the past, even though a substantial amount of the money that they would raise by that levy is going to go to the state. He added that the 85 mills is probably going to be in excess of what some of them are paying, now, that for every mill they vote, locally, they are going to lose upwards to 50% to 60% of that to the state,, and it just is not going to happen.

Mr. Melby stated he also thinks it is an extremely inequitable treatment of taxpayers, that they are asking agricultural, residential, and small business taxpayers to carry the burden of financing public education in this state. He pointed out that public education is for all citizens, not just farmers, not just small businessmen, not just homeowners; it is for all citizens, while they provide a tax break to the resource

industry. He indicated that maybe there is a rationale for that, and maybe there is some room for some kind of a rebate for those industries, some kind of a limit.

He pointed out that Representative Eudaily had a good question about caps. He stated that frankly, especially in what would be termed a high-wealth district, they do not have to worry about caps, that they are never going to have an opportunity to go beyond a cap, anyway, because they are going to be unable to raise the voted levy they need to even get back to current levels. He noted that he thinks Representative Harrington really hit on the message that he got, listening to Dr. Nordtvedt yesterday, and listening to him again today, a message which was sent to the educational community, and maybe to the people of the state. He noted that message is, support this 3% sales tax, or school funding is going to be slashed. He indicated that he also agrees with Senator Regan, and finds the use of the word "enhanced", for a plan that will not even get back to current levels, an offensive term.

Mr. Melby noted that maybe he has been rather harsh, but indicated he thinks it is important for the Legislature to understand the gravity of the situation. He reported that Senator Mazurek asked if there is any way to avoid this train wreck, because he can see it coming. Mr. Melby stated that he hopes there is. He added that the Governor has indicated, at least in his statements on this plan, that he is flexible, that he is willing to work with people, and that he wants the Governor and the Legislature to know that they, in the educational community, are also flexible, and willing to work; that they just need to be asked.

Questions from the Committee:

- Q. Representative Cobb asked Mr. Melby what his plan is, then.
- A. Mr. Melby responded that they have had a plan, since before the last legislative session, which provides for quality education, for equalized school funding, and provides for a mechanism to insure, not one that the legislature has to address every session, but a built-in mechanism to insure the plan does not get out of whack again.
- Q. Representative Cobb asked if that is in SB203, as it finished up.

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- A. Mr. Melby responded that SB203 has some components of what they would like to see, as a basis, that it is a good start, and there are some additional things in it that they would like to see. He indicated that, first of all, they can not foresee any reason why the school foundation program, schools, should not be funded at any amount less than what is being spent now, and that they have asked for a bill to be drafted, based on SB203, which will provide for funding of the foundation program at the fiscal year 1988 levels. He noted that, unlike Dr. Nordtvedt, they feel that at least fiscal 1988 levels is a place to start, is a basis on which to build a foundation program. He added that they feel retirement should be a separate fund, and should be reimbursed at actual cost, and they believe that the portion of 874 funds which is payment in lieu of taxes should at least be included in the base. He indicated they are not suggesting that 874 funds be equalized, only that, in determining the level of funding, they should at least be in the base.

Mr. Melby indicated that they very much like the idea, which was put forth by the Governor, about funding transportation at a higher level than the scheduled cost of transportation, the allowable cost of transportation. He noted that was included in SB203, they support it, it was Governor Stephen's idea, and was a good idea. He added the bill is being drafted, incorporating that plan, and that has been their plan, all along, the educational community's plan.

- Q. Representative Grinde asked Mr. Melby, regarding the plan they had before the session, if he is speaking of consensus points.
- A. Mr. Melby responded that he is speaking of the consensus points, yes, which they had available in the summer of 1988.
- Q. Representative Grinde asked how many consensus points there were.
- A. Mr. Melby responded that he believes there were approximately 20 consensus points.
- Q. Representative Grinde asked, out of these 20 consensus points, has the educational community ever wavered on one of them, or given any percentage, at all.

- A. Mr. Melby responded that he is sure they have. He indicated he and Representative Grinde could sit down some time, with those consensus points, and go through them, noting he does not have the original 20 here, but they have wavered on them.
- Q. Representative Grinde asked if Mr. Melby can give him an example of where they have wavered on any one of these consensus points.
- A. Mr. Melby responded that, like he said, he does not have them with him.
- Q. Representative Grinde indicated they had these before the session, and that all he heard, during the regular session, was that education wanted these consensus points. He indicated that Mr. Melby can not sit here and tell him that he does not know whether they have wavered from these, or not.
- A. Mr. Melby responded that, on the most important ones, they have not wavered because they do not think it is unreasonable to ask that elementary and secondary schools be funded at current levels, at what they are funded, now. He added that they do not think there is anything unreasonable to request that school funding, school spending in this state, not be cut by a plan.
- Q. Representative Grinde indicated he admires the educational community for sticking to their guns, and wanting these consensus points, but that Mr. Melby just made the statement that the Governor has not worked with them, that they are willing to give, and work together, but yet they have not wavered once, in the regular session, and he does not see them doing that, now.
- A. Mr. Melby responded that, on any negotiations that he has ever been involved in, you don't usually negotiate with yourself, that you wait until you have a party sitting on the other side of the table, working with you.
- Q. Representative Grinde asked if they have ever negotiated, or gone away from these consensus points.
- A. Mr. Melby responded that they have never had an opportunity to negotiate with the Governor's office.

Chairman Peck reminded the committee that the purpose of the questions, at this point, are to understand what the

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Governor's proposal is, not to debate the proposal. He noted they are running out of time, and, if the committee members really do not understand the plan, these are the questions they should be asking. He then asked that they try to avoid the debate, or the confrontation, which seems to come up from time to time.

- Q. Representative Harrington addressed Dr. Nordtvedt, as a follow-up to Senator Van Valkenburg's question about the extraction industries, and indicated he has a problem, that he does not understand. He asked Mr. Nordtvedt if they are going to hold them to a level, in other words to a point system, but will no longer increase the tax.
- A. Mr. Nordtvedt responded the gross tax, not the others. He indicated they wanted to freeze the taxes, per unit of production, so that, if production increases, there would be more tax revenue from the increased production, but that they would like the given tax burden on a ton of coal, a cubic yard of copper, or a barrel of oil, the per tax on the unit of production, to remain about the same before and after.
- Q. Representative Harrington asked, regarding freezing that level, if a reduction occurs, in the county, if there should be some reduction, are they going to freeze them at that level, or the level they are at presently.
- A. Mr. Nordtvedt responded they would take their present tax burden as a base.
- Q. Representative Harrington indicated that, in Silver Bow County, they have two school districts, elementary and secondary school districts, and that they have a problem with the fact that, under the Governor's proposal, they will be about \$3 million short, over their present budget.
- A. Mr. Nordtvedt responded that makes absolutely no sense at all because, if the caps allow them to spend more money than they are spending this year, by some kind of inflationary growth, they would have access to more money from the state than the localities, that they will have access to state amounts, 35%, 40% higher schedules. He added that they will have the same access to voted levies, so there is no way that they, or anyone else, can say available money is being taken away from the school districts.

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- Q. Representative Harrington asked if, to get back to that level of spending, noting he does not know if the caps will allow them to do it or not, they would have to run over 120 mills, under the administration's plan, which would reduce their basic mill levy to begin with, and they would have to run probably over 120 mills to reach that level. He again stated that he does not know if the caps would allow them to do that, to reach that level, with much less, as far as the actual mill levy is concerned.
- A. Mr. Nordtvedt responded that, one, they are going to get 35% or 40% higher guaranteed schedule amounts from the state, so the amount of money they would have to raise locally is, of course, bound to be less. He indicated that, secondly, whatever they are spending this year, the caps are going to allow them to spend more next year so.
- Q. Representative Driscoll indicated that, during the regular session, in order to get to 90% of 1988 spending levels, they talked about \$470 million of state money. He then referred to the chart on page 6 of Mr. Nordtvedt's handout, and indicated his question is 85% of what.
- A. Mr. Nordtvedt responded the funds that is referring to are old general fund plus insurance, plus retirement.
- Q. Representative Driscoll stated that is still only \$377 million, which is not 85% of current spending levels.
- A. Mr. Nordtvedt responded that they can check the numbers, but pointed out that it does not have special education in it, that it does not have transportation, and does not have debt capital. He indicated the \$377 million is the new state schedules in that base 1988 year, which is the plan, with no new revenue.
- Q. Representative Driscoll indicated Mr. Nordtvedt said \$120 million for property tax relief, and asked how much of that goes to residential housing, and if they are going to exclude the first \$15,000.
- A. Mr. Nordtvedt responded that the \$120 million in sales tax revenue, which would go into the foundation program to fund higher schedules, to the degree that it reduces local property tax levies, noting there is no guarantee how much of that would end up as lower property tax levies, and how much would show up as higher spending,

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is shared by all the taxpayers, in the tax base, so that, in addition to that \$120 million for the foundation program, they are proposing an allocation of \$25 million for homestead tax relief which specifically targets reduction of taxes on residences, by exempting the first \$15,000 of taxable value.

- Q. Representative Driscoll asked if that is market value.
- A. Mr. Nordtvedt responded that, hopefully, assessed value and market value are the same thing, if the appraisal system is working right, noting that they know it is not exactly the same, but is close to it. He indicated that the first \$15,000 of assessed value will be taken off of the tax rolls, adding that it is very similar to the Halligan amendment of the regular session, and that there is another \$35 million of income tax proposals.
- Q. Representative Eudaily indicated to Dr. Nordtvedt that, during the special session, they were pretty insistent on putting transportation in, to the tune of about \$15 million. He asked if that is going to change, now.
- A. Mr. Nordtvedt responded that, in the enhanced plan, if they can find a new revenue source, they can do something with transportation. He indicated he hopes the committee realizes the difficulty of trying to solve the equalization chore, on the given revenue base of the state, working totally within the given property tax system. He pointed out that, to get those schedules for the general fund as high as they possibly could, they left transportation entirely alone because, one, they do not fully know how to equalize transportation and, two, in the basic plan, there is not a bunch of new money around, like they were talking about in the regular session, where they were pumping in \$70 million, or \$100 million, depending on who wanted to pump in money. He added that, in the basic plan, they do not have the luxury of new money to equalize everything under the sun, so they equalize what is most important, first. He further added that, in the enhanced plan, with a new revenue source, they could go back to doing something like they did in the regular session, and make contributions toward equalizing transportation.
- Q. Representative Eudaily noted that, although it is a small amount, there is a motor vehicle fee of \$8 million. He asked, if the schools are going to be the winners by \$8 million, who are the losers.

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- A. Mr. Nordtvedt responded that the \$8 million, primarily, is transferred from support of local school levies to support of foundation levies. He explained that, as they increase the 55 mills to 85 mills, the state will automatically, by existing law, take a bigger share of the \$40 million worth of revenues from vehicles, which is where the \$8 million comes from, primarily. He indicated that, if they break it down to different parts of the state, in those parts of the state in which the net school levy, state plus local, goes down, city and county governments are slight winners in that they will get a slightly bigger share of the vehicle tax and, where the total school levy will tend to go up, state plus local, city and county governments lose a little bit of the vehicle tax, noting that it is a mixed bag. He further added that part of the state, city and county governments get a little more of the vehicle tax, and other parts of the state get a little less, because of the way the present law is written in allocating the vehicle tax.
- Q. Senator Brown asked Mr. Nordtvedt to clarify how the proposal treats funding of special education.
- A. Mr. Nordtvedt responded outside of the foundation schedule system, and they propose to continue the same way they did in this session, to try to have the state fully fund special education, but, hopefully, eventually, with some kind of control over differences in cost. He indicated that, basically, the fundamental concept is that special education is a unique program which should be fully funded by the state.
- Q. Senator Brown asked if it would not be part of the equalization plan.
- A. Mr. Nordtvedt responded no that, since it is supposed to be 100% state funded, it is not part of the equalization equations, and is already equalized, in some sense, by that.
- Q. Representative Glaser discussed, in particular, the school districts of Great Falls, Butte, Billings and Colstrip, and the allocations in those districts. He asked why they have chosen the 81% level.
- A. Mr. Nordtvedt responded they have to start with what class of property they are going to share between the local property base for the schools, and the foundation

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schedules, and then they end up with a resulting schedule increase. He indicated that he knows of no way to get to 87% schedules, without changing the allocations, or increasing the 85 mill state-wide levy, or coming up with a new revenue source to pump directly into the schedules.

- Q. Representative Glaser asked Mr. Nordtvedt about the data base being used.
- A. Mr. Nordtvedt responded that they will be meeting with OPI and LFA tomorrow at 11:00 to, hopefully, agree on the common data base for analysis of this, or anybody else's, ideas of equalization.
- Q. Representative Glaser stated, if they do not have numbers which everybody can agree on, when they start arguing about whose numbers are right, then they will never get this thing accomplished.
- A. Mr. Nordtvedt responded that he agrees entirely.
- Q. Representative Kadas asked Mr. Nordtvedt if the amount for special education is counted as part of the foundation payment, and, therefore, to cap the figure on top of that amount, or is that not.
- A. Mr. Nordtvedt responded that, if they fully fund it at the state level, and essentially manage and determine the budget for special education, it is not an appropriate thing to be mixed with the caps. He added that it is such an unusual general fund budgetary item, it is not appropriate to be within the cap system.
- Q. Representative Kadas asked if they are going to continue funding it on the same basis that it is funded, now.
- A. Mr. Nordtvedt responded that, because it has to be fully funded by the state, he thinks Mr. Shackelford's ideas are very sound, that they have to establish some kind of state schedule or guidelines for reimbursement for these services. He indicated that it is, fiscally, totally irresponsible to have one agency have full control of the spending levels, but give the responsibility to another agency to fund 100% of budget, therefore, the concept of this as a total state responsibility makes sense, but imparts some kind of state management of costs.

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- Q. Representative Kadas asked if they are changing the method in which those dollars are allocated from what OPI currently does.
- A. Mr. Nordtvedt responded that they do not have a definite proposal, at this time, that he is just giving Representative Kadas the philosophy that they must govern this, long term; that they can not give blank checks to programs which they say they are going to ultimately 100% fund.
- Q. Senator Pinsoneault noted that Mr. Nordtvedt, in earlier comments, as far as a sales tax is concerned, indicated he preferred the Legislature vote it up or down. He then indicated that, supposing some sort of sales tax, or something like it, is voted up by the legislator, it takes from 12 to 18 months before they realize what that revenue source is going to generate, and asked Mr. Nordtvedt what do they do in the meantime?
- A. Mr. Nordtvedt responded they are talking about the 1990-91 school year, that the last few payments of that would end in the winter and spring of 1991. He indicated that a sales tax which went into effect 12 or 16 months from now would have to have a special allocation for that transient year, before they get into the next full fiscal year of 1992. He added that they could probably enhance equalization for the 1990-91 school year, from a partial year of sales tax revenues, late in this biennium. He further stated that timing is such that, in effect, they are talking about, not this coming school year, the one after, is such that you could pump \$120 million, basically, into that 1990-91 school year, and then schedule full, annualized collections in the next biennium.
- Q. Senator Regan noted that a good general always has a fall-back position and, knowing, politically, the general feelings, asked Mr. Nordtvedt where are you? She indicated they can not, in any way, go back to Robin Hood, taking from the wealthy and giving to the poor districts, and saying there are no additional dollars. She stated that we do not have quality education, that we have, in essence, ruined our educational system, in her mind. She further asked Mr. Nordtvedt what if, what is the fall-back position, or what does he advise.
- A. Mr. Nordtvedt responded the fall-back position is, one, to meet the equalization mandate of the court, and they believe the basic plan does that. He further indicated

to use the present tax base, if there is not a new tax base source for the state, and continue to fund schools on the taxes available, presently. He noted that I-105 has basically, by statute, frozen their ability to increase budgets, but that, if I-105 were relaxed, and the people were willing to continue to support their school budgets as they have historically, on the present tax base, they will have to live with that until the pressure builds up, so that there is a consensus in the state for a new tax resource to fund schools. He then indicated that, as long as they allow the schools to increase their budgets, to deal with inflation, and they have done that, historically, there is not the crisis that Senator Regan is implying there is. He added that they do not see a crisis out there, today, except possibly for the one induced by I-105, which has essentially frozen budgets, or near frozen them, for a couple of years. Mr. Nordtvedt stated that, either Montanans reach a consensus on a new tax source, or they don't, that they are trying to meet the court's ruling for both scenarios, because they can not predict, for sure, which way the Legislature will go.

- Q. Senator Regan indicated she heard Mr. Nordtvedt say "reach a consensus on a new tax source", that this is the first time she has not heard, directly, that one particular tax source, and noted there will be some give, that there will be some negotiations, should the Legislature come up with an either/or package. She indicated, that is, supposing the Legislature were to say, okay, the Governor wants a 3%, there it is, but, in case that doesn't fly, there is alternative, over here, and asked if that is acceptable.
- A. Mr. Nordtvedt responded as long as the Legislature realizes there is another alternative, which is the present tax base of the state, noting that may be the most acceptable route to the people of Montana, or to the Legislature. He stated there is no absolute necessity that for a new, increased tax resource, that it is desirable, so they can take the burden off the property taxes to fund schools, but they are getting by now and, with the relaxation of I-105, they could continue the excellent school system, and meet the court mandate for equalization, adding that must be made an option.
- Q. Senator Regan indicated they are getting by, now, true, but, if they equalize, they have disturbed and upset at least half the school districts, who will be become

exporters of part of their tax base, and will be violently, she believes, some of them, affected. She asked Mr. Nordtvedt if he feels that does not, in any way, impact the school programs.

Chairman Peck suggested to Mr. Nordtvedt that he did not have to answer that question, that it is highly speculative, and will lead into argumentation, rather than give the facts.

Q. Representative Darko reported that her school district happens to be one of the school districts which will export about 80% of their wealthy tax base. She indicated they have very little privately held, privately owned property in the school district, that most of their tax base comes from a few large industries. She asked Mr. Nordtvedt if there has any accommodation made in this program for impacts that those industries have. She pointed out that one of the costs of doing business for those industries, in the local communities, is paying for the schools, and indicated they are not leaving any accommodation for, say, for instance, a pipeline which goes through a school district, and has no impact on that school district, as far as children. She noted that, if they have a mill which employs 1,000 people, it has a very drastic impact but, under this proposal, they are treated exactly the same.

A. Mr. Nordtvedt responded that the 80/20 split was supposed to recognize that part of the tax base of any facility, no matter how gigantic, belongs in the school district, where it is located. He indicated that there is nothing magic about the 80/20 split, that it is a judgement call in trying to look at the best allocation of this tax resource, under the difficult task of bringing the rich school districts and poor school districts more into line. He reiterated that it is not a magic number, and is, again, the judgement of what classes of property are really being heavily taxed and exported, for a particular school district and, by the accident of their location, are unaccessible to other parts of the state which do not have these classes of property. He noted that the court has told them to equalize, and that part of the problem they spotted, which led to the unconstitutional nature of the school system, is the great disparity in underlying tax wealth between schools. He noted that, simply put, the 80/20 split is a judgement call, that it is not a sacred number which comes from some mysterious formula.

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- Q. Representative Cobb indicated that, in his plan, Mr. Nordtvedt sounds very negotiable, and asked what is not negotiable. He noted that Mr. Melby said he is negotiable, but is not going to tell anybody, right now. He asked Mr. Nordtvedt why don't you negotiate, adding that what he is really scared about is that everybody is going to hold their cards down, that the Legislature will kill both bills, and everybody will blame the Legislature for killing bills that nobody would tell what they're negotiating at. He then indicated to Mr. Nordtvedt that he wants to know what doesn't he want negotiated, and what does he think the Governor's position is not going to change.
- A. Mr. Nordtvedt responded that he can not think of too much which is carved in stone, but that their view of negotiations are a little broader than negotiating solely with highly interested parties, interest groups representing the so-called education community. He indicated that any negotiations which wants a change in the way the schools are funded must also have fair representation of the taxpayers of Montana and all the other interested parties of the state. He added that it can not just be negotiations with a special interest in the case, that, certainly, they are part of the negotiation process, because they have vital interest in the outcome, but they are not the sole party to be negotiated with, noting that is why the Legislature has a conduit of the wider interests of all the people of Montana, including the taxpayers, and have to be a vital part of that process of reaching a consensus.
- Q. Representative Good indicated she would like to follow-up on Representative Darko's question, noting it does not concern the arbitrarily selected numbers of 80/20, but she thinks the crux of the question was that it sounds like they are treating a pipeline and a factory the same, and the pipeline does not have a great impact on a school district, as far as students go, or a school district, but a factory, employing a lot of people would. She asked Mr. Nordtvedt to address that issue about why it sounds like they are being treated similar, noting that maybe they are, and further asked what kind of remedy does he have for that.
- A. Mr. Nordtvedt invited Representative Good to sit down with the 20 classes of property, and make her judgement as to which types of property, to what extent, belong solely in the local tax base of a school, and which

should be shared with the entire state school system and the local school districts. He stated, again, it is a judgement call for each of those many classes of property, that there is nothing even sacred about each class of property. He indicated it would be an interesting exercise for Representative Good, or anyone else, to go through. He noted that it is clear there are some obvious cases where a pipeline or a \$3 billion power plant employing 20 people to run it is totally in the tax base of a school next to that power plant, and it is completely out of the tax base of the state, but pointed out that is what tax wealth disparity is all about. He indicated that, if they are going to solve it, either they choose not to solve that problem, to let some school districts raise \$30, per student, per mill, compared to \$1, per student, per mill for the other schools of the state, either they leave that in the system, or they try to solve it. He added this was their best initial attempt to try to solve it, the wealth disparity, and the process of raising funds to get higher schedules, in the event they have no new revenue source. He noted that it is a distinct possibility they will equalize with the present tax resources, on the books today, and they have to cover that eventuality. He stated that they prefer a 3% sales tax to generate some new revenue for the state, because they believe higher income taxes, or massive state-wide property tax levies, would be destructive to the state economy.

- Q. The question was asked, overall, how does this affect agricultural property.
- A. Mr. Nordtvedt responded that, basically, they do not share land and homes for the reason that they are widely disbursed, in the hands of the taxpayers and the voters, so that a county which is land rich will tend to need fewer mills to pay for their schools, but each family unit is paying fewer mills on a greater than average amount of property and, in the land-rich school districts, the typical family unit is paying as much, or more, than the other residents of the state to support their school. He indicated that is one of the argument with leaving land, homes and small businesses, which are widely disbursed, 100% in the local tax base of the schools.

Chairman Peck indicated that he is going to try to cut this off, and asked that any other members of the Senate or House, who are in attendance, have any questions.

Q. Representative Floyd Gervais indicated he hates to keep belaboring these 874 funds, but that he sees where the administration proposes to take a portion of that money and put it into the foundation program. He noted that the legislative committee recognizes the special needs of the reservations, such as special education, alcohol and drug treatment, transportation, etc., and asked if the districts which apply for these funds are the only districts which can apply, or if the state has a way to apply for these, other than through the eligible districts. He indicated he can see that, by placing this money in the foundation program, the eligible districts will have no reason to apply, because the money is going to be there, regardless, adding that the state could lose it, in his area, which would be about \$18 million.

A. Mr. Nordtvedt responded that is why, when they propose that the Legislature re-look at the question, they have no firm position on how 874 money should be treated. He further indicated that is also why they mentioned that, probably, only a portion of it should be considered in the equalization formula, leaving a portion of it to reflect the special education needs of those communities which have it. He added that, also, they have to leave incentive for those districts to seek it, at the federal level.

Mr. Nordtvedt indicated they do not have the final answer on that, and he hopes the message in the brochure indicates that they want it to be looked at again. He again stated they do not have a firm position. He then stated that he thinks they will meet the wealth disparity test of the federal government to permit inclusion of some of the 874 money in equalization, but that, to them, it is a question to be re-looked at.

Q. Representative Gervais asked about the impact to the schools, the federal impact.

A. Mr. Nordtvedt responded that is why they want it to be looked at again, as to why it should or should not be included, or partially included, and they would hope that, if there is a hearing on the bill, and the 874 question is on the agenda, all the parties will bring their concerns to that discussion.

Q. Representative Stella Jean Hansen indicated she guesses she is a little hung-up on the extracted industries, and

why they are going to get a tax break. She asked Mr. Nordtvedt by what rationale did they arrive at the extracted resources. She indicated that, for instance, taxes in one school district in Missoula would be raised because of this, because of the timber industry, that it will hurt them just as badly as it would these extracted resources, and she does not understand the rationale.

A. Mr. Nordtvedt responded that, if some legislators feel the extracted industries will not be adversely impacted by tens of millions of dollars in additional property taxes, then he guesses that would lead to the conclusion they do not want to keep them in a revenue-neutral situation. He indicated that the risk of making the wrong judgement there is that these industries are highly mobile and can move their resources out of the state. He added that much of what they do in the legislative process is a judgement call as to what serves the state's economic interest, noting that they feel those industries probably can not take much of an additional hit in property taxes.

Q. Representative Janet Moore stated that she appreciates the simplicity of the Governor's proposal, noting that she agrees with part of it, and disagrees, of course. She asked if basic education has ever been defined.

A. Chairman Peck responded not in Montana.

Mr. Nordtvedt stated they have, on the agenda, a discussion of that, that Wayne Phillips will discuss that issue.

Q. Representative Moore asked Mr. Nordtvedt what he means by accountability in schools.

Chairman Peck indicated to Representative Moore that they are dealing only with equalization, and that accountability is separate topic.

Q. Senator Van Valkenburg asked Mr. Nordtvedt if he indicated they will be meeting, tomorrow, with the fiscal analyst to work on the issues that Ms. Quinlan raised.

A. Mr. Nordtvedt responded yes.

Q. Senator Van Valkenburg asked if he will be able to answer those tomorrow.

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- A. Mr. Nordtvedt responded that he can not predict how that meeting will go, but that he hopes so.
- Q. Senator Van Valkenburg asked, specifically, about the levels of the schedule increased they are proposing.
- A. Mr. Nordtvedt responded that, based on the schools which have reported as of this weekend, the schedule increase would have been 35%. He indicated that, of much more interest, is what will be the proposed schedule increases for the year 1990-91, which is the real year they are talking about.

Testimony:

Wayne Phillips, Governor Stephens' Office.

Mr. Phillips announced that he has extra copies of his proposal, if any of the legislators present do not have copies. A copy of the proposal is attached as Exhibit 4.

Mr. Phillips stated that one of the first things they would like to propose to the Legislature is that they seek to define a basic education. He indicated they had several routes to go, in looking for a definition, and one of them was looking at other states which have gone through the same kind of constitutional issues on funding inequalities. He reported that they eventually decided it was a much better approach to not try to impose on Montana a system that maybe had worked elsewhere, but where they would have to try to educate not only the Legislature, but also the populace about the terminology, and other issues. He noted that what they looked at was some of the material which was developed by the interim subcommittee on education, and also SB104, introduced by Senator Greg Jergeson. He indicated they have adapted those, somewhat, and present those to the committee.

He stated that, essentially, they have taken the language in the Constitution which says the state will provide a basic system of free quality public secondary and elementary education, and defined it, as follows. He indicated the first component would be the basic instruction program, which would be defined as specified by the accreditation standards as of December 31st. He stated that they believe the education which exists in Montana, now, because all schools have to be accredited, is the basic starting point for any definition, that, since every school has to be accredited, and has to meet

that underlying foundation, that they start there as a fundamental beginning point for their definition. He indicated the second is, of course, salaries and benefits for employees. He noted that it makes sense that they not only have basic instruction, but have somebody there to give it to them. He then indicated that, third, they have the resources and equipment required to provide that basic instructional program, that they can not have education without them.

Mr. Phillips indicated there are several other areas which they seek to include, after study and evaluation. He indicated that they would seek to include capital outlay, after study over the interim, and that follows through on much of the discussion heard earlier about the need to review that, even before equalization. He noted that also would be true for transportation. He stated that he thinks the biggest area of difficulty in trying to come up with a basic definition is what about extra-curricular, or co-curricular activities, and should they be included in a basic definition. He reported the Governor's stance is that they should include those in the basic definition, but the real dilemma comes in how to define those, where they draw the line, and how much they can or are willing to fund, particularly if the state is going to be carrying a larger and larger share of the school funding. Mr. Phillips indicated they would ask that an interim committee take a look at extra-curricular and co-curricular activities, and come up with a proposal for the next legislature which would seek to include those as part of the basic definition. He added that, in the interim, they would propose that the state fund extra and co-curricular activities that are now funded through the general fund.

He stated that they think the most important thing about a definition is that they have to start somewhere, and the basic proposal gives the Legislature that beginning. He indicated they would then ask that same interim committee to take a look at the definition, how did it affect education in Montana, how did it inter-relate with funding, and other aspects of it, and then come back and recommend changes. He noted that this is particularly important, as they look at Project Excellence, or what is called Project Excellence, and that is the change in accreditation standards which is due to occur over the next decade in Montana, noting that there is a lot of cost involved in those. He stated that they believe it might be the legislative intent, and the intent of the people of Montana that it should be a part of the basic definition of education and, if so, the Legislature could add those in. He further stated that they believe what they are proposing is a good place to start, that it gives the education which is being

provided in Montana at this time, and the funding at this time, and that it makes sense to start there.

Mr. Phillips indicated to the Chairman that it might be wiser, because of the time constraints, if they were to deal with questions on this area, and then move on to the new century plan.

Chairman Peck stated the chairs agrees with Mr. Phillips, and asked if any committee members have questions.

Questions from the Committee:

- Q. Representative Eudaily called Mr. Phillips attention to the reference, on page 1 of his proposal, to accreditation standards as of December 31, 1988, and then pointed out that Appendix "C" to his proposal refers to accreditation standards as of June 30th, 1989. He asked if there were any changes.
- A. Mr. Phillips responded no, and apologized for the discrepancy. He explained that they were trying to get this to a point where they could present it to people for input and that, essentially they wanted to define the date at which the current accreditation standards were, in fact, and prior to whatever is the adoption of Project Excellence.
- Q. Representative Eudaily asked Mr. Phillips which date does he mean.
- A. Mr. Phillips responded there is some debate about that, but that probably the safest date to choose would be December 31, 1988.
- Q. Representative Eudaily asked Mr. Phillips if the Governor's proposal, which Dr. Nordtvedt presented, with no new revenue, will fully fund his definition of basic education.
- A. Mr. Phillips responded that is a good question. He indicated one of the reasons why they propose a definition is to see if the funding will match it, but that he does not have an accurate answer, at this time. He noted his belief is that they get this definition out here, in these intervening weeks, and then bring people together who can help them answer that question. He added that

they would like it answered, too, that they believe it should, but that he can not answer specifically.

- Q. Representative Eudaily asked Mr. Phillips, if there is any doubt about it, how are they meeting the court mandate by saying this is the definition of basic education.
- A. Mr. Phillips responded that the reason they want to take a look at this is so they can bring that match together, and go to the court and say, this is our definition, and we are funding it. He added that they will seek, in the next three weeks, to bring those two together, noting that he does not see any problem with that.
- Q. Representative Eudaily indicated that his problem is that he thought they had a plan to do what they wanted to do, and, now, Mr. Phillips is saying that may not be what they need to do.
- A. Mr. Phillips responded that they believe this does fund the current system, that the plan Dr. Nordtvedt presented is basically the system, as it exists now, and what they want to do is try to verify that, in the coming weeks.
- Q. Representative Eudaily then asked Mr. Phillips if he is saying it is his belief that the current level of spending totally funds the accreditation standards, as they were on December 31st, 1988.
- A. Mr. Phillips responded that is part of what they will look at.
- Q. Chairman Peck referred to item 5, page 1, which reads, "beginning with the 1991-92 school year, transportation to and from public schools as provided by the legislature.", and asked if that makes it a moveable portion of the definition, so that whatever the legislature does, from term to term, will establish that portion of revenue.
- A. Mr. Phillips responded yes, and indicated the issue really is how can the definition change to adapt to new situations, and can the legislature have an impact on that. He noted this is what they meant by this language, that he adopted that from language used by the interim committee, and also SB104, and that it makes sense to him that there be that flexibility.

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- Q. Representative Moore indicated she does not know how in the world they can talk about equalization of education before they get basic education defined. She asked Mr. Phillips if he is saying they are going to fund education, on the basis of current standards for basic education and, then, in the future, develop a different attitude about what basic education is.
- A. Mr. Phillips responded that he feels that is an accurate statement.
- Q. Representative Moore Mr. Phillips if that is what he thinks.
- A. Mr. Phillips responded yes, that, essentially, they seek to provide a definition that they, then, fund, which is basic education, and the plan they propose essentially does that.
- Q. Representative Darko pointed out that Mr. Phillips proposes that a basic education is accreditation standards put forth by the Board of Public Education, yet the university system demands higher than these accreditation standards for entry. She asked what is basic education, and indicated that, when they use accreditation standards from the Board Public Education, they are never going to reach the standards that the university system uses, adding that she does not see how they can use that as a basis for judging basic education.
- A. Mr. Phillips responded it may be that basic education is what they are providing. An advanced or super education is what prepares you for the university, but not everybody goes to the university, and they're looking at basic education, not necessarily something that educates somebody for college. He stated that the thing he likes about this proposal, and the thing he thinks makes it suitable is that there is flexibility there. He added that, if the legislature wanted to adopt the university standards as a basis for it, they can do that, and, if this committee, or the joint committee would choose to include that, then that would be part of it. He indicated that is part of the debate they will have to have, noting he is glad to hear that, because it's a judgement call, there's no question about that, and they would be open to the committee's recommendations, and suggestions from the educational community.

Testimony:

Mr. Phillips indicated he will go through these briefly, because people have the material, the hour is late, and he would suspect they will have other opportunities, in the next several weeks, to go into it in more detail.

He then reported that, essentially, they have broken down the new century plan into five segments, and the first would be what they call a report card. He indicated they believe that, just as students take their report cards home four times a year, the school should report to the parents and the public, only, in this instance, once a year. He pointed out that there are a number of areas they would ask to be included in the report card, things like academic performance, by grade and subject, student assessment scores, ratios of students to teachers, and students to administrators, the drop-out rate, and other things like that. He added that they believe this is a very fine tool for parents to take a look at their school, that most of this information is currently being gathered, and this would put it on one form, in one place, to be reported to OPI, to the Legislature, and the Governor, and that it would also be made available to the public for their evaluation of their own individual school.

He indicated the second part is what they are calling the new Century Incentive Program for teachers, which will reward and provide incentive for quality and excellence in teaching in Montana. He stated they believe the way to do that is dollars, that, often times, we talk about our teachers, and acknowledge their abilities and skills, but that the checkbook never seems to follow our words, and this is a way they think you can follow those words, particularly for those excellent teachers. He then pointed out that the real problem with an incentive program like this is, who does the choosing. He indicated that the problems run into in other states, who have tried incentives, noting this is not really a merit program, despite the fact that the words have been used, is that either the teacher is subject to the whims of the principal, which is not right, or the selection is subject to the whims of an organized group of teachers in the school, and that is not right. He stated that what they want to do is have input from teachers, administrators, parents, and from students, to select truly outstanding teachers, and with criteria that are clear, criteria that are used across the state.

Mr. Phillips then reported that, in order to answer those concerns about how a person is selected, and try to take it, as much as possible, away from the politics of the principal

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or the politics of the faculty, they have developed a three-step process which includes, first of all, the nomination. He indicated the individual teacher could be nominated by a majority vote of the school faculty, or the joint approval of the school principal and the superintendent, or by any three parents with children in that teacher's classroom, or who previously had the teacher, or a majority of the students of the class. He then indicated the second step would be that the nominated individual, the nominated teacher, would fill out an application, which would include their evaluation forms which have been done, in the past, and would include peer review forms done by a teacher selected by the applicant, a teacher selected by the school administrator, and a teacher selected by the school faculty. He stated they believe that gives nice rounded input from the faculty, who know best what the teacher is capable of doing, and that, also, students and parents would have a chance to have input into this. He added that there would be other criteria which people will recommend to them, over the coming weeks, which they might want to include in this.

Mr. Phillips then explained that the third step, of course, is the final selection, noting that it is important to get a cross-section to try, once again, to isolate it from the whims of arbitrariness, and that the panel, they believe, is fairly well-rounded, which would be a parent selected by the school board, the school principal or administrator, a teacher selected by the school's faculty, and a student selected by the council, or, if one does not exist, by the board of trustees. He added that those individuals who are nominated, and then ratified by the board of trustees, would receive \$2,000.

He pointed out that it is important, of course, and they will include language in their legislation, to declare that these incentive grants would not be considered salary for purposes of collective bargaining or tenure statutes, or for teacher retirement, which removes some of the problems with those particular statutes, and what they require, from year to year, for teachers. He indicated that an individual teacher would be eligible only once out of every three years, noting that one of the things he wants to mention is they are asking this as a pilot program, for a year, to see how it works, to try to work out the bugs of it, and make it a better program, through suggestions from participants.

Mr. Phillips then reported that the third proposal is what they call Montana Choice, and that it has two parts to it. He indicated that, essentially, parents would have the freedom

to choose the school their child attends, and that there is nothing more or less that he would need to say on that. He then indicated that the second part is the Learning Incentive Program, which is that high school seniors would be allowed to take up to two courses at either a college, or another high school, and the state would participate with money to help pay for it, on an average per credit hour basis. He added that the student would get credit both for high school graduation, and for eventual college credit, so it is a nice way to give a little advance opportunity for some students who can not get what they would like in their particular school.

Mr. Phillips then noted that the fourth area, which he believes the committee is very familiar with, is that they would like to propose that schools in Montana be required to use generally accepted accounting principles when reporting their expenditure and receipts. He added that this addresses the use of gap in reporting of expenditures by schools.

Mr. Phillips reported that the final area is one they are very excited about, which is alternative certification. He pointed out that, as the committee members know, there are a lot of needs in the school districts, particularly now, with schools attempting to provide more languages, and other areas, and that one of the things they run into is trying to find certified people. He explained that this would offer the opportunity for an individual not to be required to have a standard certification, noting that the board of trustees, in a local decision, would define the criteria they want. He pointed out that, if the board of trustees believes the individual has skills, for instance, in the Japanese or Spanish language, or some other language, for instance, they would be able to go into the classroom and teach that language. He noted that the only difference between what the board might decide, in hiring one person, would be that they did not have a standard certification, and they believe it opens up some opportunities for schools to provide more courses, and opens it up to some really qualified individuals, who do not happen to have that certification.

Mr. Phillips reported that, in day before yesterday's issue of U.S.A. Today, the Secretary of Education recommended a variety of issues for school reform and school accountability throughout the country, and that two of them are the Choice Program and the Alternative Certification, which they are proposing. He noted that they feel gratified they are reflecting some of the concerns throughout the United States.

Questions from the Committee:

- Q. Chairman Peck referred to the Montana Report Card for Schools Program, sub 3, teacher and administrator attendance. He indicated that he does not know how to pose the question, noting that he does not mean to be argumentative about it, but asked Mr. Phillips if he is serious.
- A. Mr. Phillips responded yes.
- Q. Chairman Peck asked Mr. Phillips if they would really report, in a public way, how many days a person was on the job, and how many days they were absent.
- A. Mr. Phillips responded that, as they mentioned, they want to maintain individual privacy, and the proposal would be to do it on a school basis. He noted that they do not aim at an individual teacher, and try to put them up to the public spotlight. He indicated that he thinks the overall attendance rates of a school would be the goal of that, so parents get some sense of it, and, if that rate is high, although one individual might drive that rate high, there might be a reason for it.
- Q. Chairman Peck asked if that would be a group number.
- A. Mr. Phillips responded yes. He indicated that it would not be right to put the spotlight on one individual, because the administration can do that in a much more appropriate way.
- Q. Representative Good indicated that it would seem to her that certain school districts, due to the particular make-up of their students, might score very low on this. She asked if there would be any allowance for that.
- A. Mr. Phillips asked if she means in terms of student assessment scores and standardized tests, and indicated that is a real good issue. He pointed out that we all understand the limits of those tests, that some people say they are biased, that some people have different things they aim towards, and some students do better than others, but the fact is that they are being used throughout the country, they are being used, now, for college entrance on a wide scale, and are required. He stated he would hope that, as they do this, they would use some common sense and, if a school has assessment scores which do not seem to relate well to other schools, they would

look at the reasons for that, and help direct resources and energy into correcting the difficulties, rather than just pointing fingers. He added that the goal of this is to help them understand what is going on, on a school-by-school basis, that, right now, all they get is a very broad, general picture, and even parents do not really understand. He stated that he thinks it would be a golden opportunity for them to have a sense of where their resources need to go.

- Q. Chairman Peck indicated he thinks that was a good question, and asked if there is anything in this plan, or if they have proposed anything in the bill, which relates to funding in terms of directed resources, or if that subject is down the road.
- A. Mr. Phillips responded no, that they do not address it, this time. He explained that, first of all, they want to get the information and, then, as they identify the problems, direct their resources. He added that he thinks it would be valuable information for the public and the Legislature.
- Q. Chairman Peck asked if they are looking at it in a carrot on a stick approach.
- A. Mr. Phillips responded that he may be a little naive, but he envisions they would use good common sense, and that, if people get the report cards, it will start them asking questions which, hopefully, will be intelligent ones, and not vindictive.
- Q. Senator Regan asked to follow-up on Representative Good's question. She pointed out that, in very large districts, there are areas where many students are very migratory, who maybe even choose a second language, and tend to congregate within an area and, hence, a school district. She indicated that those schools sometimes are assigned the very best teachers, but will obviously score lower than the norm, and asked Mr. Phillips if thought been given to basing these student assessment scores on growth, rather than on an absolute standard, which will show they growth of the student, rather than how they compare one district by another.
- A. Mr. Phillips responded that he has read some material about that approach being taken by one of the other states, and would encourage that suggestion.

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- Q. Representative Schye asked Mr. Phillips if he would look at the liability in the alternative certification program.
- A. Mr. Phillips responded that is a good suggestion, but that it is their understanding, from other states, that this has not been a problem.

ADJOURNMENT

Adjournment At: 5:40 p.m.


SENATOR S. W. "SWEDE" HAMMOND, Co-Chairman


REPRESENTATIVE RAY PECK, Co-Chairman

SWH:RP/mhu
JOINTCOM.061

Joint Select Committee
on Education

EXHIBIT NO. 1

DATE 6/1/89

BILL NO. GOVERNOR'S
PROPOSAL



A Proposal to Equalize School Funding in Montana

Positions and Recommendations
Submitted to the June Special Session
of the 51st Legislature

May 1989

Stan Stephens, Governor



JUDY RIPPINGALE
LEGISLATIVE FISCAL ANALYST

STATE OF MONTANA

Office of the Legislative Fiscal Analyst

STATE CAPITOL
HELENA, MONTANA 59620
406/444-2986

EXHIBIT NO. 2
DATE 6/1/89
FILE NO GOVERNOR'S PROPOSAL

June 1, 1989

TO: Representative Ray Peck, Chairman
House Select Committee on Education

FROM: Madalyn Quinlan, Associate Fiscal Analyst *MQ*

SUBJECT: Governor's Proposal on Public School Funding

I would like to bring to your attention several concerns that I have about the Governor's public school funding proposal; these concerns need to be resolved before a district-by-district analysis can be presented to the legislature by our office.

1) The executive proposal, "A Proposal to Equalize School Funding in Montana," which was distributed on May 24, 1989 stated in Appendix B that the shared classes of property included classes 1, 2, 5, 7, 8, 10, 11, 15, and 17. The shared classes are those classes for which 80 percent of the school taxes, excluding debt service and capital outlay, will be recaptured by the state. The Appendices distributed with the proposal on June 1, 1989 do not include class 5 property in the shared classes.

Class 5 (new industry and pollution control) is a relatively small property class having a taxable valuation of \$27.1 million in tax year 1988, which represents 1.4 percent of the statewide valuation. However, certain districts will see major shifts in their "equalized taxable valuation" depending on whether class 5 property is equalized or not. For example, Colstrip High School district would have an equalized taxable valuation of

\$43.2 million if class 5 is equalized and \$51.3 million if it is not equalized. Other school districts that have significant quantities of class 5 property are Colstrip elementary, Columbia Falls elementary and high school, Sidney elementary and high school, and Butte elementary and high school. Most districts in the state have some amount of class 5 property.

This inconsistency in the executive proposal needs to be clarified.

2) The executive has made various statements about the foundation schedule increases that will be provided under the Governor's proposal. The May 24th document states that the schedules will be increased by at least 40 percent. The appendices distributed on June 1 show a 35.47 percent increase. These schedule increases need to be explicitly stated in order to run a district-by-district analysis.

3) Our office has run some preliminary district-by-district calculations based on a 35 percent increase in the schedules. The level of recapture from local levies varies substantially according to the assumptions made about the level of non-tax revenues available to local districts. If the same non-tax revenue sources (motor vehicle taxes, corporate license taxes paid by financial institutions, interest on investments, Public Law 874 funds, cash reappropriated from reserves, new production taxes on oil and gas production) are available to districts that were available to fund fiscal 1989 budgets, then state recapture on local levies is more likely to be in the \$25-30 million range than the \$60 million estimated in the Governor's proposal. While the level of non-tax revenue available to any given district may vary substantially from year-to-year, overall these funds have been a significant revenue source statewide and have provided at least \$60 million to fund school district budgets statewide in fiscal years 1987, 1988, and 1989. These revenue

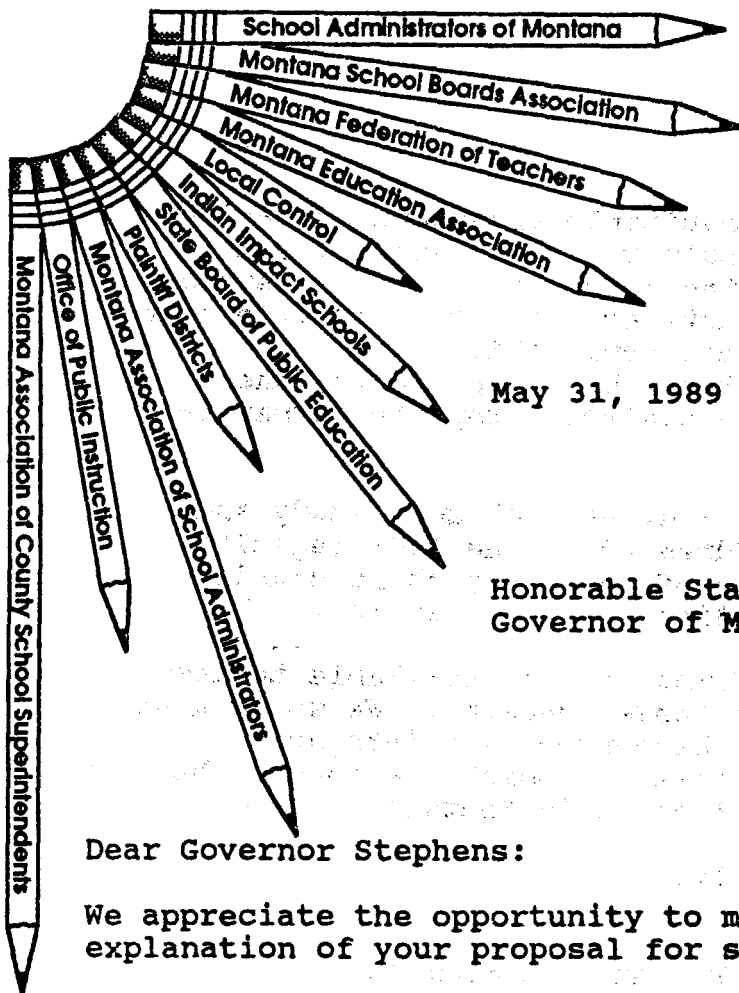
sources cannot be overlooked, and so far there is no indication that the executive plans to recapture on revenues other than those property taxes raised directly by mill levies.

4) Another factor which makes the level of recapture difficult to project is the likelihood that the districts that are high spending and "property wealthy" districts will increase their mill levies in order to spend at their fiscal 1988 expenditure levels, especially when a portion of those local levies will be recaptured by the state.

5) The executive has yet to propose a mechanism for making its proposal revenue neutral for the natural resource industries as stated in the May 24th document. How will the tax credit/reduction for these industries be calculated? What mechanism (i.e., severance tax, corporate license tax, property tax) will be used to provide the tax credit?

6) It is unclear as to whether the executive proposal anticipates that Public Law 874 dollars will be available for equalization in fiscal 1991. It is unlikely that the federal Department of Education will approve the equalization of these funds in Montana for fiscal 1991.

EXHIBIT NO. 3
DATE 6/1/89
BILL NO. GOVERNOR'S
PROPOSAL



May 31, 1989

Honorable Stan Stephens
Governor of Montana

Dear Governor Stephens:

We appreciate the opportunity to meet with you to hear the explanation of your proposal for school funding and equalization.

The educational forum has the following concerns with the proposal in your report of May 1989:

- I. We are concerned that the level of equalization under the proposal is inadequate to meet a court test. The report states that 87% of funds will be equalized (page 2). We believe that the proposal will equalize less than 75% of school funding. We also believe that Federal Impact Aid cannot be incorporated in the proposal, because it will not meet the federal test.
- II. We are concerned that the proposal will reduce funding available to local school districts. Every school district would have to vote the maximum allowable mill levy to achieve the 4% increase over 1988 funding levels permitted under the proposal. The 4% inflation permitted, does not approach the actual inflation rate for the three year period 1988-1991. The actual rate will be closer to 15%. More importantly many districts will not vote the maximum levies because of disincentives built into the proposal.
- III. We are concerned that the reliance on local voted property taxes is excessive under the proposal. This concerns us because of the strong disincentive for voters to approve a voted levy when a significant portion of the levy will not be used in the local community.

The Montana Education Community
1 S. Montana, Helena, MT 59601

May 31, 1989
Governor Stephens
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- IV. We are concerned about the inequitable treatment of various taxpayers. We note that agricultural, residential, and business taxpayers are projected to pay a statewide levy of 85 mills, but the energy industries are frozen in effect at 55 mills. In addition, in those communities with significant percentages of "state-shared" property, the residential, agricultural, and business property taxpayers will be adversely affected.
- V. The "New Century Plan" needs a great deal more study and public input and should be addressed in the 1991 legislative session. We believe the focus of this very short special session must be on school funding and equalization.

Members of the Montana Education Community are available to meet with you and your staff to discuss these concerns. We would also welcome the opportunity to review the consensus points as developed by us. We believe the consensus points represent the most equitable solution to school funding in Montana.

Cordially,

Members of the Montana Education Community

EXHIBIT NO. 4
DATE 6/1/89
BILL NO. GOVERNOR'S
PROPOSAL

A PROPOSAL TO DEFINE BASIC EDUCATION AND IMPLEMENT THE NEW CENTURY PLAN FOR
ACCOUNTABILITY AND QUALITY IN EDUCATION

Positions and Recommendations
Submitted to the June Special Session of the 51st. Legislature
May 1989



Stan Stephens, Governor

A Proposal to Define Basic Education and Implement The New Century Plan for
Accountability and Quality in Education

Contents

- I. Introduction
- II. Proposed definition of a Basic System of free quality
public education
- III. Governor's New Century Plan for Accountability
and Quality in Education
 - A. Montana School Report Card Program
 - B. Century Incentive Program for Teachers
 - C. Montana Parent's choice in Schools Program
 - (1) Intra and inter district school choice
 - (2) Learning Incentive Program
 - D. GAAP
 - E. Alternative Certification

I. Introduction

The Montana Supreme Court has dictated a major revolution in school finance. Because any response to the court requires the state to assume a very large share of school spending, it is appropriate to take two necessary steps: define the basic system of quality education that the state will fund and require schools be accountable for the \$600 million they spend each biennium.

Defining a basic system of quality education will allow the legislature and the court to easily assess whether the state is funding its constitutional share of the cost. Furthermore, the equalization of school funding will be made easier when it is clear exactly what education spending must be equalized. With adoption of the New Century Plan for Education, Montana takes its place at the forefront of innovative state efforts to bring accountability and quality to their school spending and education. Adoption of the Montana School Report Cards Program, the Century Incentive Program for Teachers, the Montana Parents Choice in Schools Program, GAAP, Private Contracting and Alternative Certification, parents, students, taxpayers and educators will have assurance that the best education for the money is being offered in Montana.

II. PROPOSED DEFINITION OF
A BASIC SYSTEM OF FREE, QUALITY EDUCATION

The Montana Constitution requires that the Legislature provide a basic system of free quality elementary and secondary schools and then fund its share of the cost. The Montana Supreme Court has ruled that the way the state finances that basic system is unconstitutional, therefore, it is essential not only that we revise the funding method but also define the basic system and the state's share of the funding for that system.

I propose that the term "basic system of free quality public school education" include:

- (1) the basic instructional program defined and specified by the Accreditation Standards Adopted by the Board of Public Education as of December 31, 1988, and other legislative instructional mandated programs. (See Appendix "C" for details on those standards.) New standards adopted after that date (Project Excellence) will be included in the definition when a new revenue source is identified.
- (2) salaries and mandated employee benefits for the certified and noncertified employees employed by a district to execute the basic instructional program and any mandated special education program;
- (3) resources and equipment required to provide the basic instructional program, including textbooks, supplies, and media materials;
- (4) beginning with the 1991-92 school year, capital outlay, meaning physical plant maintenance and operation, which includes funds used for the insurance, improvement, equipping, renovating, or repairing of school buildings or school facilities, but does not include funds used for acquisition of land or new construction of school buildings or facilities; and
- (5) beginning with the 1991-92 school year, transportation to and from public schools as provided by the legislature.
- (6) Extra- and co-curricular programs adopted in the general fund budget of a district to enhance pupil utilization of the basic instructional program will be added to the definition upon completion of a review and

report to the 1991 Legislature by an interim legislative committee working in concert with the Board of Public Education.

In the interim, current state general fund support for these programs will be continued.

The state will be required to provide its share of the cost of a basic system of quality education. State payment will be made through the foundation program.

The foundation program payment will finance the general fund of the district. The general fund will include teachers' retirement, comprehensive insurance and the current general fund.

The general fund budget will be financed by appropriated foundation program revenue and may be supplemented by additional local voted levies.

Finally, my legislation will call for an interim legislative subcommittee on education working in concert with the Board of Education to review the impacts of this definition of a basic system of quality education upon school funding and education in Montana. The interim subcommittee will report to the next regular legislature on their findings and make any recommendations necessary to fulfill the intent of this legislation and maintain oversight to assure continued compliance with the Supreme Court decision.

My legislation ensures that the accreditation standards we adopt represent the current education being provided in Montana. Any change in accreditation standards from those defining the basic instructional program as of December 31, 1988, will not be included in the definition unless affirmatively ratified by the legislature.

**III. GOVERNOR'S NEW CENTURY PLAN FOR ACCOUNTABILITY AND
QUALITY IN EDUCATION**

A. MONTANA REPORT CARD FOR SCHOOLS PROGRAM

I recommend we require each school to report annually, in a manner discernible to the reader, on the following items. In most respects this requires schools only to report information already gathered in their fall report. The Office of Public Instruction (OPI) will be requested to come up with an acceptable format for statewide dissemination to be used by schools in reporting to parents and the public through press release and submission to the county superintendent and OPI. This requirement excludes special education students and will maintain individual privacy so as not to disclose information identifiable with individual students.

- (1) Student academic performance by grade and subject area.
- (2) Student assessment scores on standardized tests.
- (3) Teacher and administrator attendance.
- (4) Total number of teachers, the ratio to total students and a comparison to the average school of that size/class.
- (5) Total number of administrators, the ratio to total students and to total teachers and a comparison to the average school of that size/class.
- (6) Total number of non-certified employees, the ratio to total students and a comparison to the average school of that size/class.
- (7) Number of student Drop-outs.
- (8) Average class size by grade and subject area.
- (9) Average number of years experience on the school's teaching staff and compared with average size/class.
- (10) Number of teachers assigned to teach outside their major/minor areas of endorsement.
- (11) General fund spending above/below average school of same class/size.

B. GOVERNOR'S NEW CENTURY INCENTIVE PROGRAM FOR TEACHERS
(One Year Pilot Program)

This proposal stimulates better teaching by rewarding motivated teachers with increased compensation. A teacher would be nominated for a Century Incentive Program (CIP) Grant based on demonstrated excellence in and commitment to teaching as measured by classroom performance, creativity, student/teacher relationships and other appropriate criteria.

- (1) Nomination of individual teachers (excluding administrative staff) for a Century Incentive Program Grant can be made by:
 - (A) Majority vote of a school's faculty;
 - (B) The joint approval of a school principal and the district superintendent;
 - (C) Any three parents with children currently or previously taught by the teacher; or
 - (D) A majority of the students of a class taught by that teacher.
- (2) The teacher must then prepare a Century Incentive Program application containing
 - (A) Existing classroom evaluations;
 - (B) Peer review forms completed by a teacher selected by the nominee, a teacher selected by the school principal/administrator and one teacher selected by the school's faculty;
 - (C) Student and parent comments solicited through a general announcement from the school; and
 - (D) Other information related to the nomination criteria or indicative of the individual teacher's excellence in teaching.
- (3) The nominee's CIP Packet will then be reviewed by a panel composed of:
 - (A) A parent selected by the school district's board of trustees;
 - (B) The school's principal/administrator;
 - (C) One teacher selected by the school's faculty; and
 - (D) One student selected by the student council or if none exists, by the board of trustees.

Those Governor's Century Incentive Program nominees selected by the panel and ratified by the school district board of trustees will receive \$2,000 beginning with the school year subsequent to selection.

- (4) Legislation will contain language declaring that Century Incentive Program payments will not be considered salary for purposes of collective bargaining or purposes of tenure statutes or teacher retirement.
- (5) An individual teacher would be eligible for a CIP grant only once every three years.
- (6) OPI will be instructed to draft a form to be completed by a school district upon final nominee selection. The Office of Budget and Program Planning will then administer the issuance of a check.
- (7) With the excellence in teaching that this Century Incentive Program seeks to acknowledge and reward, it is anticipated that 25 percent of teachers would be eligible and \$5,250,000 will be appropriated. Nominations will be due on a specific date and if nominations were to exceed the anticipated numbers the \$2,000 compensation would be lowered proportionately.

6/1/89 Gov. Prop.

C. **MONTANA CHOICE PROGRAM**
[Two year pilot program]

(1) INTRADISTRICT AND INTERDISTRICT CHOICE.

This program will allow parents to choose which school their children attend. "Well-crafted choice programs can become lightning rods for educational equity, opportunity, innovation and excellence. Choice can turn education back into a cooperative enterprise between school, student and teacher." Gov. Thomas Kean, N.J.

Minnesota Governor Rudy Perpich has moved his state into the forefront on education reform. Here are a few of his comments concerning choice:

"I began to realize that one of the most important steps we can take to improve students' academic skills and attitudes and lower the dropout rate is to expand the choices families have to select among our public schools...."

"When Minnesota passed legislation that gave parents school choice, people predicted their schools would close and that there would be a bureaucratic nightmare of red tape. But very few students actually transferred from their school districts."

"It takes a compelling reason for students to leave their friends and neighborhood. Not many do. But under open enrollment, parents and students always have the power and leverage to choose another school. School districts are compelled to create a system of educational excellence because state revenues follow students wherever they go, and, after all, schools do understand the bottom line." New York Times
3/20/89

It is interesting to note a 1986 Gallup Poll nationwide: 68% of public school parents endorsed the idea of choice among public schools.

We would revise and amend existing tuition statutes to permit parents to send children to a school of their choice at no cost.

Some of the administrative details of a Choice Program are outlined in Appendix "A".

(2) LEARNING INCENTIVE PROGRAM

The Learning Incentive Program is a voluntary program designed to provide greater educational options for high school seniors who desire additional intellectual challenges by allowing them to take courses outside their resident district at either participating public secondary institutions or public/independent colleges or universities for both high school and college credit.

Participating students may take up to the equivalent of two year-long courses outside their resident high school, up to two courses per semester at public/independent colleges or universities, or any combination of these up to the equivalent of two year-long courses. Some of the details and administrative concerns are outlined in Appendix "B".

The State will pay for the credit costs of the courses taken on an average credit per hour basis plus up to \$10 for books.

D. All K-12 schools in Montana will be required to use generally accepted accounting principles when reporting their expenditures and receipts in line with the proposal adopted by the House Select Committee on Education in SB 203.

E. Alternative Certification Program.

Under this proposal, Montana would adopt an Alternative Certification Program. Alternative Certification would allow competent individuals to teach in their area of expertise though they might lack traditional teaching certification.

An example of the usefulness of Alternative Certification is especially apparent in the area of foreign languages. International economic interdependency has brought added importance to language fluency. Alternative Certification would make it easier for schools to provide language options to their students by increasing dramatically their pool of potential instructors.

APPENDIX "A"

MONTANA CHOICE PROGRAM

DESCRIPTION: This program is designed to assist school districts in the creation of intradistrict and interdistrict systems of choice which emphasize parental selection of schools at any or all levels.

GUIDELINES: A. Choice Registration Process

1. Registration will begin at a specified time each year.

2. The process should allow time for parental school visits and orientation.

3. Parents may choose a school as part of the choice registration process only.

4. Parents do not have to choose a school:

a. At time of initiation of the choice system, parents may elect to keep their child in the currently assigned school without any action on their part.

b. After the choice plan is implemented, students already enrolled in a school need not reapply for enrollment each year. If a transfer is not requested, it will be assumed that the child will continue in the school of enrollment to ensure continuity.

5. Parents choosing a school during choice registration must select and rank-order a set number of schools (as determined locally) at the set time of registration. Parents are not guaranteed their first choice.

6. All students shall be provided access to all schools subject only to the following:

a. Space availability -- which will be defined locally by the administration

and school board. Such policy should address school capacity, class size and facilities. Actual space available should be determined in advance of the choice registration process.

b. Sibling preference -- to those children with a brother or sister in the selected school.

7. If there are more eligible students than spaces available after the criteria in these guidelines (A.6, a and b) have been considered, one or all of the following may be used as further criteria:

a. Those students living closest to the school may be given priority, or

b. A lottery may be conducted among the eligible students to fill the available spaces.

8. If the first choice is not awarded, then the student may be placed in the second or third choice school, subject to these same guidelines and in accordance with local policy.

9. Districts may use a waiting list for those who do not receive their first choice.

10. It is expected that students will spend at least one year in the selected school--subject to the local appeal process (A.12)

11. Student transfer requests -- requests for movement of a student other than during the choice registration process -- will be handled by a locally designated school administrator, who will discuss the request with both the parent/guardian and student.

a. Student placement in a school selected by a transfer request is subject to the same guidelines as stated in A. 6 and must be compatible with the student's interests and needs.

b. If the final decision of the locally designated school administrator is not

acceptable to the parent/guardian, see
A.12.

12. The parent/guardian should have the right to appeal student placements or transfer denials before a locally-appointed committee comprised of a parent(s), teacher(s), administrator(s). Final decisions on appeals rest with the district school board.

APPENDIX "B"

LEARNING INCENTIVE PROGRAM

PROGRAM

OBJECTIVES:

- A. To provide for a greater variety of educational options for eligible public school students.
- B. To offer intellectually stimulating experiences for eligible students.
- C. To facilitate the use by secondary students of the specializations, technology and depth of knowledge available at public secondary and public/independent colleges and universities.
- D. To provide students with an opportunity to gain knowledge and skills by attending other public secondary institutions or public/independent colleges and universities.

GUIDELINES:

- A. Pupil Eligibility
 - 1. Twelfth grade students enrolled in public secondary schools are eligible for this program.
 - 2. Students may participate in this program by taking up to the equivalent of two year-long courses at a public secondary institution outside their district, two courses per semester at a public/independent college or university, or any combination of these up to the equivalent of two year-long courses.
 - 3. Students may enroll in any official session, including summer, of the participating institutions.
- B. Participating Institutions
 - 1. Institutions that are eligible to participate in this pilot program are all Montana public secondary schools and public/independent two- and four-year colleges and universities.

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2. Participating institutions will determine which courses may be used for this program.

3. Participating institutions must provide students with a comprehensive list of course offerings yearly before high school scheduling begins.

4. Participating institutions may require students to meet appropriate standard academic prerequisites for admission into courses. Such prerequisites will be determined by the individual institutions, subject to existing state regulations and guidelines.

5. Transportation: Students attending participating institutions under this program are responsible for their own transportation.

6. Students may not audit courses under this program. All courses may be taken for credit and students must meet all requirements set by the instructor.

C. Student Placement

1. Participating colleges and universities will allow students to enroll in courses offered.

2. Colleges and universities will provide the appropriate support services for these students (e.g. use of computer labs, tutorial services.)

3. Participating public secondary schools may accept students on a space available basis.

4. Participating public secondary institutions and public/independent colleges and universities cannot discriminate against students on the basis of race, gender, language ability, socioeconomic status or educational handicap.

D. Post-secondary Course Completion

1. Students who successfully complete post-secondary courses under this program will be

awarded both secondary and post-secondary (dual) credit.

2. If a student attends the same public/independent college or university after high school graduation, that post-secondary institution must accept the student's credits acquired under this program. That college/university may not refuse to grant credit and may not charge students for the award of this credit subject to regulations in effect at the time of the student's enrollment.

3. Students must meet the local resident district and state mandates for graduation.

The OPI and Board of Regents will be instructed to develop an average tuition cost figure for the allowed course hours. There will also be funding of \$25 per eligible secondary student for books for post-secondary courses taken.

APPENDIX "C"

SYNOPSIS OF ACCREDITATION STANDARDS

AS OF JUNE 30, 1989

- . Schools must be scheduled for at least 180 days
- . School Districts operating both an elementary and a high school must have a certified superintendent.
- . Schools with less than 150 students and which are not under a district superintendent's supervision must provide county superintendent of schools supervision two days per teacher per year.
 - less than 150 students must have a superintendent or 2 days per teacher per year supervision by the county superintendent.
 - from 150-300 students in a district the superintendent may be half-time principal and the district may hire a half-time principal.
 - from 150-300 in a school there must be a principal administering at least one-half time and a superintendent.
 - greater than 300 students in a school there must be a full-time principal
 - greater than 500 students in a junior or senior high requires an assistant principal administering at least one-half time.
 - greater than 650 students in an elementary school requires an assistant principal administering at least one-half time
- . 3 days of professional development per year per teacher.
- . School days
 - 2 hours for kindergarten/pre-school
 - 4 hours for grades 1-3
 - 6 hours for grades 4-12

. Teacher load

high schools and junior highs 4 full-time teachers plus administrator

M.S. & 7-8 > 60 students 3 full-time teachers plus administrator

7-8 < 60 students 2 1/2 full-time teachers plus administrator

7-12 < 30 students (phys. ed & typing < 45) (no size limits for music classes)

No teacher has > 29 hours of teaching per week

< 160 students per teacher per day (music excepted)

multigrade - 1-3 < 20 students

multigrade - 4-6 < 24 students

multigrade - 7-8 < 26 students

Single grade kindergarten < 24 students

Single grade 1-2 < 26 students

Single grade 3-4 < 28 students

Single grade 5-8 < 30 students

One teacher schools < 18

No teacher has > than 28 hours of teaching per week

. Basic Instructional Program

> 20 units for high school graduation

Course requirements for graduation

Language arts: 4 units

American History: 1 unit

American Government: 1/2 unit. A 2-unit course in American history and American democracy, which includes a study of government, may be used to meet the American history and government requirements.

Mathematics: 2 units

Laboratory science: 1 unit

Health and physical education: 1 unit. A school must offer at least a two-year program of physical education and specific instruction in health, the content to be adjusted to provide for earning one unit of credit during the two-year period. Students must take health and physical education for two years. Participating in interscholastic athletics cannot be utilized to meet this requirement.

The basic instructional program for each high school shall be at least 16 units of course work which shall include at least those given below:

Language arts: 4 units. The basic minimum program in the four skills of communication (speaking, listening, reading and writing) is required each year.

Social sciences: 2 units

Mathematics: 2 units

Science: 2 units

Health and physical education: 1 unit. A school must offer at least a two-year program of physical education and specific instruction in health, the content to be adjusted to provide for earning one unit of credit during the two-year period. Students must take health and physical education for two years. Participation in interscholastic athletics cannot be utilized to meet this requirement.

Fine arts: 1 unit. Fine arts include music, art, and drama.

Practical arts: 2 units. Practical arts includes home economics education, industrial arts, business education and agriculture.

Two electives.

Basic instructional program for junior high school, middle school, and grades 7 and 8 budgeted at high school rates must offer:

Language arts: 3 units in junior high and 2 units for middle school, and 7th and 8th grades.

Social sciences: 3 units in junior high and 2 units in middle school and 7th and 8th grades.

Social sciences: 3 units in junior high and 2 units in middle school and 7th and 8th grades.

Mathematics: mathematics offerings are to include both algebra and general math in grade 9. Three units in junior high and 2 units in middle school and 7th and 8th grades.

Health and physical education: 1/2 unit each year in junior high and 1/2 unit each year in middle school and 7th and 8th grades.

Art: 1/2 unit each year in junior high and 1/2 unit each year in middle school and 7th and 8th grades.

Music: 1/2 unit each year in junior high and 1/2 unit each year in middle school and 7th and 8th grades.

Practical arts (includes home economics, industrial arts, business education and agriculture); 1/2 unit each year in junior high and 1/2 unit each year in middle school and 7th and 8th grades.

If the middle school program for grades seven and eight is funded at high school rates, it shall include:

Art: art history, art criticism, aesthetic perception and production.

English language arts: reading, writing, listening and speaking.

Health and physical education.

History, social and behavioral sciences.

Mathematics: written and mental computation and problem solving.

Music: general, instrumental and vocal (emphasizing comprehensive music elements, music history, criticism, aesthetic perception and music production).

Physical and natural sciences.

Practical arts: e.g., agriculture, business education, home economics, industrial arts.

Exploratory courses: e.g., creative writing, dance, drama, foreign language, photography.

Basic Instructional Program: Elementary

Language arts including reading, literature, writing, speaking, listening, spelling, penmanship and English.

Arithmetic, written computation and problem solving.

Science, ecology and conservation.

Social sciences, including geography, history of the United States, history of Montana, agriculture and economics. Contemporary and historical traditions and values of American Indian culture may also be included.

Fine arts, including music and art.

Physical education.

Safety, including fire prevention as outlined in state statutes.

Health education.

. Librarians

K-12 < 100 students - 1 1/2 hours day

K-12 101-300 3 hours day

7-12 301-500 1 full time librarian

plus one library aide (or a volunteer)

7-12 501-1000 1.5 librarians

1001-1500 2.0 librarians

1501-2000 2.5 librarians

2001-2500 3.0 librarians

plus one library aide for each librarian or a volunteer

Elementary schools > 4 teachers require 1 librarian per 800 students

Minimum expenditures

Funding: high school, junior high school, middle school and 7th and 8th grade funded at high school rates

50 or fewer	\$ 900			
51-100	1,440			
101-200	2,800			
201-500	3,600	(or	\$9.00	per
student, whichever is greater.)				
501-1,000	5,400	(or	\$7.20	per
student, whichever is greater.)				
1,000-1,800	7,200	(or	\$6.30	per
student, whichever is greater.)				
1,801+	10,800	(or	\$5.40	per
student, whichever is greater.)				

A minimum of \$1.80 per student shall be expended for media software.

Funding: Elementary

300 or fewer	\$8.10 per student or \$180, whichever is greater.
Over 300	\$2,430 plus \$4.50 per student over 300 enrollment.

A minimum of \$1.80 per student shall be expended for media software.

. Guidance and Counseling 7-12

A minimum equivalent of one full-time counselor for each 400 students shall be provided. All schools must have a counselor assigned for at least one hour a day or five hours per week.

A separate room specifically designed for guidance and counseling shall be provided.

Adequate space and facilities for clerical assistance shall be provided.

A guidance library shall be provided which is available to all students.

. Special Education

General

Handicapped children are provided opportunities to become confident, dignified and self-sufficient members of society.

To the maximum extent possible, and when appropriate, handicapped children are educated with non-handicapped in the district in which they live.

A child receives special education only when documentation shows that the child cannot be appropriately educated in the regular program.

A current individualized education program is prepared for each student receiving special education and/or related services.

Itinerant and Resource Room Services

Direct services are provided to students with handicaps who are enrolled in the regular education program for more than 50% of the school day.

Ongoing consultation and communication are provided by the itinerant and resource personnel to the student's regular teacher(s).

Self-Contained Instruction

Direct services are provided to students enrolled in special education for more than 50% of the school day.

Students in self-contained placement participate with regular students to the maximum extent appropriate.

Each student who has successfully completed an identified educational program must receive a diploma. The official transcript will indicate the specific courses taken and level of achievements.

. School Plant

There are general school plant requirements that needn't be detailed here.