

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN BOB GILBERT**, on February 2, 1993, at
9:00 a.m.

ROLL CALL

Members Present:

Rep. Bob Gilbert, Chairman (R)
Rep. Mike Foster, Vice Chairman (R)
Rep. Dan Harrington, Minority Vice Chairman (D)
Rep. Shiell Anderson (R)
Rep. John Bohlinger (R)
Rep. Ed Dolezal (D)
Rep. Jerry Driscoll (D)
Rep. Jim Elliott (D)
Rep. Gary Feland (R)
Rep. Marian Hanson (R)
Rep. Hal Harper (D)
Rep. Chase Hibbard (R)
Rep. Vern Keller (R)
Rep. Ed McCaffree (D)
Rep. Tom Nelson (R)
Rep. Scott Orr (R)
Rep. Bob Ream (D)
Rep. Rolph Tunby (R)

Members Excused: None

Members Absent: None

Staff Present: Lee Heiman, Legislative Council
Jill Rohyans, Committee Secretary
Louise Sullivan, Transcriber

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 138, SB 141 and SB 151
Executive Action: None

**VICE CHAIRMAN MIKE FOSTER ASSUMED THE CHAIR IN THE ABSENCE OF
CHAIRMAN GILBERT**

HEARING ON SB 138Opening Statement by Sponsor:

SENATOR DEL GAGE, SD 5, Cut Bank, said the bill clarifies legislative intent in regard to the distribution of the local government severance tax (LGST) as enacted in House Bill 28 passed in 1989. He submitted written testimony **EXHIBITS 1 and 2.** **SEN. GAGE** said he proposed to delete the reference to "the exclusive use and benefit of local government" and substitute with language that states the local government severance tax is in lieu of a tax on net proceeds for "replacement of property taxes formerly levied on net proceeds". He said the reason the language was put into the original bill was to make it clear that none of that revenue was to be used for the operation of state government. The counties were concerned at the time they were working on HB 28 that it would be very easy for the state to take that money and use it for state government. **SEN. GAGE** also explained the calculations contained in Exhibit 2. He said the bill was to basically clarify that the LGST distribution is to go to schools and the university system to the same extent as the funding they were receiving from the net proceeds tax in 1988.

Proponents' Testimony:

Madelyn Quinlan, Revenue Analyst, Office of Public Instruction (OPI), said the State Superintendent is a proponent of the bill. She believed the language was clear at the time HB 28 was drafted in 1989, and that the county equalization fund and the 6 mill university levy would be recipients of the LGST tax in the same way they had been recipients of the net proceeds tax. This bill clarifies that intent. The county equalization account, which is a source of revenue for the school foundation program, received approximately \$9 million a year from LGST. This is in addition to another \$7-8 million a year in district revenues paid to the school districts. The 6 mill university levy generates approximately \$1 million. OPI said the this \$10 million revenue figure needs to be clarified.

Janelle Fallan, representing the Montana Petroleum Association, said they also believed HB 28 was very clear but obviously there was some confusion. She said SB 138 does a good job of clarifying the intention. She urged support for the bill.

Doug Abelin, representing the Northern Montana Oil and Gas Producers, said the bill clarifies HB 28 and is a good bill.

LeRoy Schramm, Legal Counsel for the Board of Regents, urged support for the reasons previously stated. He said if the bill did not pass they stand to lose about \$1 million per year from their 6 mill levy.

Opponents' Testimony:

Ira Hammond, farmer, rancher and taxpayer in Phillips and Valley Counties, submitted written testimony **EXHIBIT 3.**

Steve Cascaden, Superintendent of Schools, Whitewater, read his written testimony. He urged the Committee to vote against SB 138 **EXHIBIT 4.**

Buck Taylor, farmer, rancher, businessman and concerned taxpayer, Saco, said he had been on the Saco school board for nine years and watched the state come after the Saco school district's money. He said the LGST money was to replace the millions of dollars of Class 1 property taken away and was to be replaced dollar for dollar. This fell short by 40%. He did not think it was fair to give and then take away. He opposed SB 138.

Duane Denny, Superintendent of Schools, Hinsdale, said the attempt to change the intent of HB 28 is unfair and betrays the trust of the taxpayers of Montana. A lot of effort went into HB 28 and the school districts lost a great deal of taxable valuation, which they felt they could live with, but they cannot live with the continual dollar loss. He said schools are entitled to that revenue and cannot afford to lose it. He urged the Committee to kill the bill **EXHIBIT 5.**

Jeanne Barnard, Phillips County Assessor, Malta, read written testimony on behalf of the taxpayers of Phillips County **EXHIBIT 6 and 6a.**

Wayne Stahl, Phillips County Commissioner, Malta, submitted a copy of the legal opinion rendered by Larry Schuster of Great Falls, former attorney for the Department of Revenue in tax specialties **EXHIBITS 7 AND 7A.** He also submitted a letter from the Phillips County Commissioners in opposition to SB 138 **EXHIBIT 7b.** Phillips County millage increased by 40 mills and some taxes were almost doubled. He said Phillips County is a stable county, but not a rich one. He read testimony regarding a meeting organized by the Phillips County Superintendent of Schools in October 1992 and submitted a list of persons attending that meeting **EXHIBITS 7c and 7d.**

Gary Baden, County Superintendent of Schools, Phillips County, submitted written testimony **EXHIBITS 8, 8a, and 8b.**

Chip Erdmann, Helena attorney, said he represented the Saco and Whitewater School Districts in the legal action regarding the distribution of the LGST fund. He gave the history of the agreement between OPI and the school districts in Phillips County and submitted a copy of that agreement **EXHIBIT 9.** He said this is a fairness issue. **Nancy Keenan, Superintendent of Public Instruction,** entered into this agreement with the school districts. **Supt. Keenan** was quoted in the paper as saying she welcomed the declaratory judgment action in order to resolve the

issue, yet today her office wants to make the agreement retroactive. He said the lawsuit should run its course. It is unfair, after the counties have relied on this money for three years, to go back on the agreement. He urged the defeat of SB 138.

Michael Johnson, representing the Hinsdale School District, opposed the bill because it is unfair and contrary to the original intent of the law. He urged defeat of SB 138.

Questions From Committee Members and Responses:

REP. HARRINGTON asked **Wayne Stahl** if he supported HB 28. **Mr. Stahl** said he did not support HB 28. **REP. HARRINGTON** then asked **Mr. Stahl** if he had objected when they tried to put the oil companies back on the mill levies. **Mr. Stahl** replied that he did not.

REP. ELLIOTT stated the taxable value in Phillips County in 1989 was approximately \$36 million. **Ms. Barnard** replied that was correct.

REP. ELLIOTT asked what the mill levy was for the Saco-Whitewater school district before HB 28. **Ms. Barnard** said there were increases in mills, but some of the increase was offset by using reserve monies.

REP. ELLIOTT asked **Ms. Barnard** if she would supply him with a compilation of the mill levies. **Ms. Barnard** said she did not have that information with her, but would send it to him.

VICE CHAIRMAN FOSTER asked that she also supply that information to the committee members.

MINORITY LEADER TED SCHYE, ex-officio Committee member, asked **SEN. GAGE** why they need the retroactive provision if the question is in court. **SEN. GAGE** said he had discussed this with **Mr. Petesch** of the Legislative Council and it was his opinion this would be classed as curative type legislation which could be used where it did not affect any contractual rights. **SEN. GAGE** said those involved in HB 28 should make that determination.

MINORITY LEADER SCHYE, felt the judge in the case would state the intent. **SEN. GAGE** said in his opinion that was not true as the judge was not at the hearings.

Closing Statement by Sponsor:

SEN. GAGE said it is not known what net proceeds taxes would have been had the LGST not been included. The bill was not intended to correct anything, rather it clarifies what was intended when HB 28 was passed. The people who were at the hearings should recall, when they talked about dollar for dollar replacement, it was assuming there would be constant production and a constant

price. There is no way that could be guaranteed. This bill guarantees that those people who received revenue from the last net proceeds tax through millage assessments will continue to receive the same amount of revenue.

VICE CHAIRMAN FOSTER asked why there is no fiscal note. SEN. GAGE said the bill had no fiscal impact.

CHAIRMAN GILBERT ASSUMED THE CHAIR

HEARING ON SB 141

Opening Statement by Sponsor:

SEN. DOROTHY ECK, SD 40, Bozeman, said SB 141 was introduced at the request of the Department of Revenue. The bill clarifies that the state cannot tax federal property unless legislation is passed by Congress allowing states to tax federally owned property. She said the Senate Taxation Committee was concerned about interfering with the beneficial use tax. They were assured the bill would not have any impact on beneficial use.

Proponents' Testimony:

Dave Woodgerd, Chief Counsel, Department of Revenue, said the bill ensures the state can tax federal property when the federal government has given its approval. It is quite similar to HB 160.

Opponents' Testimony: There were no opponents.

Questions From Committee Members and Responses:

REP. HARRINGTON asked Dave Woodgerd if both bills were necessary. Mr. Woodgerd responded that, after discussions, they felt the best way to handle this was to introduce both bills, pass both, and coordinate them.

REP. REAM asked Mr. Woodgerd if the stricken language on page 1, lines 19-23 was covered under Section 15-24-1203, MCA. Mr. Woodgerd said that language was in the bill because the Legislature felt that Congress may, at some time, authorize the taxation of transmission lines. The Senate Taxation Committee inserted the reference to Section 15-24-1203, MCA, to ensure that there would not be a problem regarding the future taxation of transmission lines.

Closing Statement by Sponsor:

SEN. ECK closed.

HEARING ON SB 151**Opening Statement by Sponsor:**

SEN. BOB BROWN, Senate District 2, Whitefish, said the bill makes permanent the exemption from property taxation of certain property used exclusively in the production of motion pictures or television commercials. **SEN. BROWN** said in 1987 the Glacier County assessor concluded that movie equipment was probably taxable under the migratory personal property tax statute. The tax bill in that instance came to approximately \$3400. The movie industry had made movies in various other states, had never been subject to this tax before and it was an inconvenience to them. They had to inventory all their equipment, determine what had been leased, what they owned, and had to determine a depreciation schedule to arrive at some kind of property tax value. The word spread throughout the industry that it was too expensive to film in Montana. He said at the next legislative session the tax on movie equipment was repealed but with a sunset provision which is repealed in this bill. He said the Montana economy has received about \$12 million from movie productions since 1987. He said movie companies should not be prohibited from coming to the state by a tax. If SB 151 is defeated, the tax remains in effect. He asked for concurrence in the bill to encourage this valuable and growing industry to come to Montana.

Proponents' Testimony:

Matthew Cohn, Director of Travel Montana, Department of Commerce, said the Montana film office which was created in 1974 is part of Travel Montana and since 1987 has been totally funded by the 4% accommodation tax. He said their primary goal is to benefit Montana by bringing production companies into the state. He said the revenue also includes that money spent by crew members, workers' compensation and unemployment insurance paid by the production companies, and individual income tax which they are required to withhold. He submitted written testimony **EXHIBIT 10.**

Lonie Stimac, Montana Film Office, Travel Montana, Department of Commerce, said one of the reasons the tax is so complicated is because the equipment is rarely, if ever, owned by a production company. It is leased from as many as six different vendors for any one production. Therefore, it becomes very cumbersome, difficult, and time-consuming for the production company accountant and the County Assessor to try to determine the value of the equipment.

Eric Brown, Great Falls, felt he was lucky to be a full-time employee in the movie industry and especially to be working in his home state. He believed continuation of the tax would hinder future filming in Montana. He said when he works out of state he is given per diem which goes into the economy of that community

and state. In addition, state taxes are deducted from his salary. The taxes collected under the migratory equipment statute are negligible but he believed they could influence companies to go elsewhere.

J.P. Gabriel, owner of motion picture rental business, Great Falls, said if anybody should be in favor of taxing movie companies for their equipment, it should be him, because that is his business. He submitted a brochure showing the type of equipment he rents. He said he pays taxes on this equipment which he could pass on to the production companies, but he believed it would be devastating to the motion picture industry in the state and they would not come back. He would then be out of business even though this is the only business of this type in Montana **EXHIBIT 11.**

Gayle Fisher, Russell Country, Great Falls, submitted written testimony by FAX **EXHIBIT 12.**

George S. Willett, President, Showdown Ski Area, Neihart, submitted written testimony by FAX **EXHIBIT 13.**

Sunny Anderson Casting and M.R. Productions, submitted written testimony **EXHIBIT 14.**

Keith Colbo, representing the Montana Tourism Coalition, testified in support of SB 151. He said it is important to continue the tax exemption on movie equipment used in the state. He said the exemption will further encourage movie production and will economically benefit the state.

Doug Johnson, Cascade County Commissioner, expressed support the bill and agreed with previous testimony. He said this tax costs more to collect than what it brings in. He urged the Committee to pass the bill.

Stuart Doggett, Executive Director, Montana Innkeepers Association, said he supported the bill in 1989. SB 151 is important to the production of movies and commercials, and is a benefit not only to the lodging business, but all businesses in the state.

Gary Wunderwald, independent film director and production manager, said the movie companies definitely need this exemption. Approximately \$100 million in revenue has come into the state since 1974. He said movie production is a clean industry and good for our communities. It is a thriving, growing business and needs support from the Legislature.

Dan Ritter, representing the Montana Chamber of Commerce, added the support of the Chamber for SB 151 and encouraged a do pass recommendation.

Stan Kaleczyc, Helena attorney representing the Motion Picture Association of America, said the Association supports this legislation.

Dan Irving, representing the Montana Association of Theater Owners and the Montana Video Software Dealers Association, expressed support for SB 151.

Ellen Hargrave, owner of a cattle ranch west of Kalispell, said her ranch was chosen as a location for filming a VISA commercial. The Kalispell Chamber of Commerce is delighted with the results, as are the Glacier Park people. Several individuals from the local area were hired as "extras". She said this bill to encourages companies to film in local Montana communities.

Questions From Committee Members and Responses:

REP. FELAND asked Mr. Cohn if equipment is kept in the state for 180 days and not taxed, could it be taken out of the state for a week and then brought back. Mr. Cohn said that was highly unlikely because television commercials usually film for three to five days and films last from two to eight weeks. He said it is conceivable that the companies could move the equipment back and forth, but not highly likely.

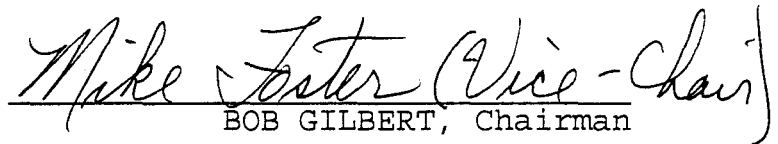
REP. FELAND asked where the migratory equipment is taxed if it is constantly moving from state to state.. Mr. Cohn said, assuming they were California companies, they would be taxed in California, in the same way Mr. Gabriel pays taxes in Montana on his rental equipment.

Closing Statement by Sponsor:

SEN. BROWN closed and stated if there were any technical questions they could be taken care of by amendments.

ADJOURNMENT

Adjournment: The meeting adjourned at 10:45 a.m.


BOB GILBERT, Chairman


JILL ROHYANS, Secretary

Minutes transcribed by Louise Sullivan. Proofed for content and edited by Jill Rohyans.
BG/jdr/lrs

HOUSE OF REPRESENTATIVES

TAXATION

COMMITTEE

ROLL CALL

DATE

2/2/93

NAME	PRESENT	ABSENT	EXCUSED
REP. GILBERT, CHAIRMAN	✓		
REP. FOSTER	✓		
REP. HARRINGTON	✓		
REP. ANDERSON	✓		
REP. BOHLINGER	✓		
REP. DOLEZAL	✓		
REP. DRISCOLL	✓		
REP. ELLIOTT	✓		
REP. FELAND	✓		
REP. HANSON	✓		
REP. HARPER	✓		
REP. HIBBARD	✓		
REP. KELLER	✓		
REP. McCAFFREE	✓		
REP. MCCARTHY	✓		
REP. NELSON	✓		
REP. ORR	✓		
REP. RANEY	✓		
REP. REAM	✓		
REP. TUNBY	✓		

Testimony of Senator Delwyn Gage
Senate Bill 138
House Taxation Committee
February 2, 1993

I am sponsoring Senate Bill 138 to clarify language that was enacted in House Bill 28 in the 1989 Special Session regarding the distribution of the local government severance taxes. This clarification appears to be needed because several school districts and counties have questioned the state over the distribution of the LGST tax to the county equalization fund for schools and the six mill university levy. The debate focuses around the language in 15-36-101, MCA that states that the local government severance tax is "for the exclusive use and benefit of local government." I think it was clear in 1989 that the legislature intended that the recipients of net proceeds taxes, which included the county equalization and the 6 mill levy funds, would also be the recipients of LGST revenues. However, given the debates that have arisen since the passage of House Bill 28 in 1989, I now am sponsoring Senate Bill 138 to clarify the legislative intent.

The local government severance tax was enacted in 1989 as a "flat tax" to replace net proceeds taxes on pre-1985 oil and gas production. By "flat tax," I mean that all oil and gas producers in the state now pay taxes as a percentage of the taxable value of the oil and gas produced. The tax rate varies depending on whether the production is from a regular well, a stripper well, or a tertiary recovery operation, but the tax rate is the same for all producers within a production category. The flat tax replaces the former taxation method of applying mill levies to net proceeds.

As a legislator who was closely involved with the amendments to House Bill 28 whereby the flat tax was incorporated into the school funding reform bill, I thought it was clear at the time that the local government severance tax was intended to replace property taxes levied on net proceeds. The legislation required that the Department of Revenue compute a "unit value" for each taxing unit based on the number of mills that were levied within the taxing unit on oil and gas production in 1988. The unit value calculation was included in the distribution formula for the LGST as a means of recognizing variations in the effective tax rate on production in different areas of the state. The unit value calculation included those mills levied for county equalization and university purposes.

The LGST amendments to House Bill 28 specifically stated that no local government severance tax distributions could be made to a municipal taxing unit. We did not make a similar exclusion for the county equalization fund or the university levy. So again, I think it is clear that the legislature intended for the county equalization fund and the university mill levy fund to receive a share of the distribution of the LGST tax.

As you can see by reviewing the bill before you, I am proposing to delete the reference to "the exclusive use and benefit

of local government" and substitute language that states that the local government severance tax is in lieu of a tax on net proceeds for "replacement of property taxes formerly levied on net proceeds." The bill proposes to make this language apply retroactively to House Bill 28 as it was signed into law on August 11, 1989. This bill will clarify the legislative intent in regard to the distribution of the local government severance tax as enacted in House Bill 28 in 1989.

Thank you.

DATE 2/2/93SB 138

The purpose of this information is to show you that what former Senator Swede Hammond has been telling Representatives is incorrect. It will show you that when HB28 was passed in the 1989 special session and the flat tax on oil and gas was implemented it was intended that all levies that participated in the final net proceeds tax assessments were to also participate in the distribution of the local government severance tax (LGST) also known as the flat tax.

The first calculation is to determine a unit value and I have used natural gas since that is the type of production in the area that Senator Hammond is from. These are arbitrary figures for illustration purposes. Net proceeds assessments were always a year behind the production year.

1987 Production		
1,000,000 MCF @ 2.25 per mcf - Sale price		\$ 2,250.00
Deductable costs		(750.00)
Taxable net proceeds		\$ 1,500.00
		=====
1988 Taxes		
County assessments - 150 mills X 1,500.00		\$ 225.00
University " 6 mills X 1,500.00		9.00
Schools - Foundation 45 mills X 1,500.00		67.50
Permissive 10 mills X 1,500.00		15.00
Voted 39 mills X 1,500.00		58.50

Total mills	250 mills - Total tax	\$ 375.00
Unit value - \$ 375.00 divided by 1,000,000 MCF		\$.375

That is to say that for each production year beginning with the production sold in 1988 the taxing units will get \$.375 for each mcf of gas sold. This will then be distributed to the taxing units based on the mills assessed in 1988 and assuming the same production of 1,000,000 MCF these units would get the same taxes in 1989 as they did in 1988 as the mills for distribution purposes are frozen at the 1988 level.

1989 Taxes		
1989 LGST - 1,000,000 MCF X \$.375 =	\$ 375.00	
Distribution formula:		
\$ 375.00 divided by 250 mills = \$ 1.50 per mill		
County mills - 150 X \$ 1.50	-	\$ 225.00
University - 6 X 1.50		9.00
Schools - 45 X 1.50		67.50
10 X 1.50		15.00
39 X 1.50		58.50

Total taxes distributed		\$ 375.00

You will see that this is the same as the 1988 tax for each of the taxing units.

① Since there is usually a decline in production as wells get older and for comparison purposes lets assume that in 1988 the sales of gas were only 900,000 MCF. That means the taxing units would get less taxes to distribute:

900,000 MCF X \$.375 unit value = \$ 337.50

Distribution formula - 337.50 divided by 250 mills = 1.35 per mill.

County - 150 mills X 1.35	\$ 202.50
University 6 mills X 1.35	8.10
Schools 45 mills X 1.35	60.75
10 mills X 1.35	13.50
39 mills X 1.35	<u>52.65</u>

Total taxes distributed \$ 337.50

You will notice that in the calculation of the unit values of \$.375 the assessments for the schools and the university system were included. Now lets see what happens when we leave the schools and the university system out of the distribution of the taxes:

900,000 MCF X \$.375 = \$ 337.50 tax to distribute

Distribution formula:

337.50 divided by 150 mills = 2.25 per mill

County - 150 mills X 2.25	\$ 337.50
less what they get if schools and university are included per above	<u>202.50</u>

Windfall to county \$ 135.00

The other alternative if it had been determined that the schools and the university system were to be left out of the distribution then they should also have been left out of the calculation of the unit value and that would have meant that the producer would have gotten a tax decrease which no one in the legislature intended to do. That calculation would have been as follows:

County tax - 1988 - 225.00 divided by 1,000,000 MCF equals a unit value of \$ 2.25 per MCF.

Now if we assume the production in 1988 of 9,000,000 MCF with a unit value of \$ 2.25 the tax to distribute is \$ 202.50 and the distribution formula is:

\$ 202.50 divided by 150 mills = 1.35 per mill

County - 150 mills X 1.35	\$ 202.50
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② One of the main considerations in converting from net proceeds tax to a flat tax was to make sure that none of the taxing units got an advantage over the other in the distribution of the taxes. That is the reason that the 40 mill equalization levy is not a part of the distribution formula as it was not a part of the law when the assessments were made in 1988 against the 1987 net proceeds. The calculation below will show you what would happen to the revenue of the other taxing units if we now include the 40 mill equalization levy in the distribution formula. For illustration I will use the 1989 taxes assuming production of 900,000 MCF.

900,000 MCF X \$.375 unit value =

\$ 337.50

Distribution formula:

\$ 337.50 divided by 290 mills = 1.16379 per mill

County - 150 mills X 1.16379	\$ 174.57
University 6 mills X "	6.98
Schools 45 mills X "	52.37
10 mills X "	11.64
39 mills X "	45.39
40 mills X "	<u>46.55</u>

Total tax distributed

\$ 337.50

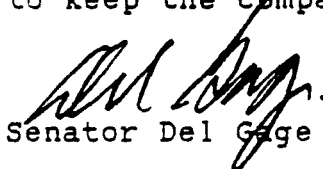
You can see that instead of getting \$ 202.50 without the 40 mill equalization participation the county only gets \$ 174.57 and that is why the 40 mill equalization levy does not get a part of the LGST. If it had been part of the assessment on the 1988 taxes against the 1987 net proceeds tax it would get a part of the LGST funds but since it was not a part of the law until 1989 it cannot now become part of the distribution formula without taking funds from the county, university and other school levies.

This is why the information that Senator Swede Hammond is giving to legislators is not correct and it is also why those who contend that the school and university levies should not participate in the distribution of the LGST are not correct.

If anyone would like further information regarding any of this please contact me and I will be happy to talk with you about this. You can also verify this by contacting Don Hoffman who works for the Dept. of Revenue or by talking with Terry Cohea who all of you know is the fiscal analyst.

This information is given to you so you will understand more fully the need for SB138 which will be heard by House Tax this week.

I have purposely left out all the ramifications of price changes of gas, delinquent taxes, interest and penalties and interest on the investment of LGST from the time of collection to the time of distribution by the state in order to keep the comparisons as simple as possible.


Senator Del Gage

I am Ira Hammond from Saco, Montana. I am a farmer, rancher, and taxpayer in Phillips and Valley Counties. I am here to oppose passage of Senate Bill 138.

The sponsors of this bill say it is to clarify the law dealing with local government severance taxes replacing property tax levies.

I would like to refresh your memories that it is in the taxation and education committee records of 1989 that the intent of this wording and the law was to replace the lost revenue for local governments due to a change in the law dealing with oil and gas taxes dollar to dollar.

Let me give you an example of how this has replaced the lost revenue from natural gas wells in the Saco School District. By the eliminating of property from Class 1 to LGST, the monies raised by 1 mill in 1989 was \$14,488.00. Now 1 mill raises \$3,397.00. This is a 426% loss.

The local government severance tax was to replace this lost tax base dollar for dollar. This amounts to a ~~\$14,488.00~~^{477 675} loss to Saco School. LGST payment is ~~\$225,000.00~~²³⁷ or a net loss of ~~\$225,000.00~~^{190 675}. This is a ~~50~~⁴⁰% loss. Loss of LGST has increased my county wide taxes by 70%.

To me, ^{nearly} one quarter of a million dollar loss is not payment dollar for dollar. I'm sure my banker nor yours would allow us to make that kind of short fall on our payments, and the State of Montana should not expect local taxpayers to absorb that kind of loss. This is less than ~~50~~⁴⁰ cents on the dollar.

This bill says it is to protect school districts who are NOT

local governments. As a student of government, I can assure you that of the three classifications of government in the United States of America; Federal, State, and Local, School Districts most certainly can only be considered local. They are governed by a local board elected from within its district which is about as local as you can get.

The 3rd provision of this bill that is a death sentence to many school districts and other forms of local government, is the provision to make it retroactive. In other words, make those entities pay back the money they've already received and spent. When we receive money as payment for something, we can't hold it indefinitely while the payor decides several years down the road he didn't really mean to pay it. We as private citizens have a legitimate obligation to pay our bills in good faith.

To me, Senate Bill 138 is an attempt to get around payment of bills in good faith. If this bill is passed, it is my intent to pay my taxes under protest and to encourage as many of my constituents to do the same.

This is not responsible government. It is Ex Post Facto which is unconstitutional as provided in the United States Constitution, the highest law of the land.

Thank You!! I urge you to defeat Senate Bill 138, and if you can't see your way clear to that, at least don't leave yourselves wide open to challenge of the law in Supreme Court due to Ex Post Facto.

SB 138

My name is Steve Cascaden and I am the Superintendent of Schools in Whitewater. My school district is located 34 miles north of Malta and 20 miles south of Canada.

MEMBERS OF THE HOUSE TAXATION COMMITTEE. I am here today to speak in opposition of SB 138.

As we all know, SB 138 is a result of HB 28. Both HB 28 and the proposed SB 138 have and will seriously damage my district, financially.

In 1989, before HB 28 came about, my district taxable value was \$8,758,680.00 for each the elementary and High school district. In that year, we raised a total of 51.52 mills to run the school. This generated a dollar amount of \$452,263.68.

In 1990, after HB 28 came on board, my district's taxable valuation dropped to \$3,356,942.00 for each the elementary and high school district. This is a loss of approximately \$5.4 million plus in taxable valuation. If I ran the same mills in 1990 as was done in 1989 I would have brought in only \$172,901.00. This is a difference of \$278,00.00. Also, be advised that we ran an emergency budget in 1990 in order to put some of our reserves into the general fund to help diminish the budgetary shortfall that we experienced.

According to HB 28, Local Government Severance Tax was to replace the lost revenue due to the removal of Class I properties (ie: gas and oil) from the tax rolls. Needless to say, it didn't. I am losing approximately \$189,000 a year due to OPI's interpretation of HB 28.

Now, SB 138 comes along and basically says HB 28 was worded wrong and the mistake has to be corrected in order to collect all the LGST money from 1989 to whenever. In other words, nothing will be left. There won't be any money to help keep our levies down.

In Whitewater, we reappropriate all the LGST money that we receive, like we are supposed to, which keeps our mill levies down, which helps our taxpayers out. If we allow SB 138 to retroactively go back and collect, what we consider to be rightfully ours, but is perceived to belong to OPI, than an awfully unfair tax burden would be placed on my taxpayers. It would conceivably break my district.

What does all this do to my school districts? We are a small school with a total enrollment of 98 students. We are the only community in the State, with a high school, that does not have a paved road to the town. We have students driving 26 miles just to get to Whitewater. We were one of the poorest school districts in the State before gas production hit our district just a very short time ago. Recently, we have just started catching up with the Jones's of education. However, we still use textbooks copyrighted

before 1980 and we even borrow textbooks from neighboring districts because of an influx of students in certain classes.

You are probably asking yourself why did they have to borrow books, why didn't they just buy them instead? Well, it's because we have not received our foundation payment from OPI since last May. It gets kind of complicated from here, but I will try to simplify it a little. Whitewater and Saco asked OPI to obtain an Attorney General opinion on HB 28 as it relates to LGST. The language was being interpreted differently by OPI and Phillips County so thus the request. We were told by OPI that this would be frivolous and embarrassing to them if they were to ask such an opinion. So what do they do in return? They request the Attorney General's office to investigate Phillips County, Whitewater, and Saco for possible mismanagement of money. They even went as far as stating this in our local newspaper, The Phillips County News. Talk about embarrassing!

Auditors were sent to the county to check the books. We were told there was an over distribution of money to our schools. Then we hear through the grapevine that our foundation payments have been withheld due to this over distribution. We were never officially notified nor was the State Board of Education that this was going on. Therefore, we were denied an opportunity for a hearing on this matter as is indicated by law. We were then forced to obtain an attorney to protect our rights. Our foundation payments have been withheld first because of a supposed over distribution in LGST money and then later changed to say that we received too much Tax Audit money.

Communication lines seriously broke down between OPI, Phillips County, and Whitewater and Saco schools. We continued to ask for directions in writing and never received anything of the sort. Not until we threatened OPI with a Writ of Mandamus did we get them to move on this issue. We might never have received our foundation payments.

Have we received our foundation payments? Yes, just recently. However, I have a copy of a letter addressed to our County Treasurer from OPI dated 12/23/92, which I received from OPI on 1/15/93, stating that enclosed you will find the foundation payments for Whitewater and Saco. Needless to say, those payments were not enclosed in the letter and were not received by our county until 1/19/93.

When we received all of this Tax Audit and LGST money that seemed to be the root of all evil. We didn't know what to do with it. So the former Superintendent of Whitewater and the former Chairman of the Board spent many hours on the phone with OPI clarifying what can and can't be done with this money. We did what we were told, but unfortunately we trusted their word instead of getting something in writing. Now, they say that we were covering up the fact that we received all of this money and they deny the fact that

we even talked to them.

The reason I brought all this up is the fact that the mess we are now experiencing is a direct result of HB 28 and that SB 138 is just another ploy by OPI to steal our money and to stop our lawsuit before an opinion can be rendered. Why are they so afraid of an opinion being rendered?

Along with all of this, we are presently in the process of paying OPI \$470,000.00 because we supposedly received what they consider to be an over distribution of audit money. I question the legality of this, but that is what OPI tells us we have to do. If SB 138 goes through and we lose all that is proposed for us to forfeit then it could conceivably put one of the final nails in our coffin. How much more can we stand to surrender? Not much!!

Let me ask you: What would be left to help soften the blow of losing \$5 million in taxable valuation? Can you imagine the tremendous tax burden that our small contingent of taxpayers would have to shoulder when it comes tax time? These people will definitely be paying more than their fair share of taxes in Montana compared to the average Montana taxpayer. Is that fair?

Why then are my school districts and my taxpayers being punished? If SB 138 passes, they will certainly take a tax hit that no one would ever wish on themselves.

Is this equitable and fair? If that question was posed to the taxpayers of Phillips County, I would dare say that you would know the answer. It doesn't even seem that this is being considered a part of this issue.

In closing: I urge you to vote against SB 138.

THANK YOU!

WHITEWATER PUBLICSCHOOL
ACTUAL BUDGET

EXHIBIT # 4
DATE 2-2-93
SB-138

<u>1989</u>	<u>TAXABLE VALUATION</u>	<u>MILLS</u>	<u>\$ GENERATED</u>	<u>1 MILLS =</u>
ELEM.	\$8,758,680.00	28.08	\$245,952.72	\$8,759.00
H.S.	8,758,680.00	23.44	205,310.96	8,759.00
TOTAL		51.52	\$451,263.68	

<u>1990*</u>	<u>TAXABLE VALUATION</u>	<u>MILLS</u>	<u>\$ GENERATED</u>	<u>1 MILLS =</u>
ELEM.	\$ 3,356,942.00	25.73	\$ 86,375.61	\$3,357.00
H.S.	3,356,942.00	24.74	83,052.18	3,357.00
TOTAL		50.47	\$169,427.7	

<u>1992*</u>	<u>TAXABLE VALUATION</u>	<u>MILLS</u>	<u>\$ GENERATED</u>	<u>1 MILLS =</u>
ELEM.	\$3,517,772.00	33.61	\$118,239.98	\$3,518.00
H.S.	3,417,504.00	20.98	71,709.64	3,418.00
TOTAL		54.59	\$189,949.62	

* RESERVES DUMPED INTO GENERAL FUND

HOUSE OF REPRESENTATIVES

WITNESS STATEMENT

PLEASE PRINT

NAME Duane Denney BILL NO. SB138

ADDRESS Box 398 Nivisale, mt. 59241 DATE 2-2-93

WHOM DO YOU REPRESENT? Hinsdale Public Schools

SUPPORT _____ OPPOSE _____ X _____ AMEND _____

COMMENTS:

IT IS OUR BELIEF THAT THE ATTEMPT TO
CHANGE THE INTENT OF HB 28 IS UNFAIR,
& A BETRAYAL OF THE TRUST OF THE
CITIZENS OF MONTANA, MORE PARTICULARLY,
THE SCHOOL DISTRICTS OF MONTANA.

We believe that HBAF made the LGST money available for the 'exclusive use' of local governments - In our case districts 7a, 7c & Joint District 5, we are entitled to these revenues & cannot afford to lose them.

Thank you for listening - it is our prayer
that you will Kill This bill & allow
HB 28 to work as originally intended

COUNTY COMMISSIONERS

ELI L. LORING (GENE) COWAN
Loring, Montana

SHERMAN DOUCETTE
Malta, Montana

WAYNE C. STAHL
Saco, Montana

Clerk and Recorder
INGELEF I. SCHWARTZ

Treasurer
ELLEN JEAN MAVENCAMP

PHILLIPS COUNTY SB. 138

EXHIBIT 6
DATE 2/3/93

Assessor
JEANNE L. BARNARD

Sheriff - Coroner
GENE PEIGNEUX

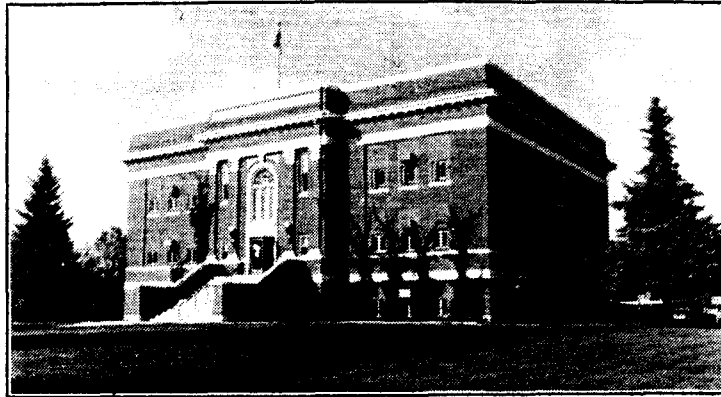
Clerk of Court
FRANCES WEBB

Superintendent of Schools
GARY A. BADEN

County Attorney
JOHN C. McKEON

Justice of Peace
GAYLE STAHL

District Judge
LEONARD H. LANGEN
Glasgow, Montana



Malta, Montana
59538

FEBRUARY 2, 1993

HOUSE TAXATION COMMITTEE
1993 LEGISLATURE
SENATE BILL 138 TESTIMONY

Chairman Gilbert, and members of the taxation committee. My name is Jeanne Barnard and I am the Phillips County Assessor. My testimony is at the request of, and on the behalf of the taxpayers of Phillips County to oppose Senate Bill 138.

In 1989, Phillips County had a taxable value of 16,709,368 of class one properties. This generated \$ 2,428,531 dollars. With the elimination of Class one properties as a tax base, the County levy went from 28.88 mills to 44.48. Revenue generated went from 2.4 million to a replacement revenue of 1.5 million, with taxpayers forced to anti-up the difference. To add insult to injury, in 1989 Phillips County collected 100% of the tax owed on net proceeds and royalties with a zero delinquency rate. Under HB 28, we now have to absorb the Statewide delinquencies which average around eight to nine percent.

The following excerpt was taken from the issues describing local government severance taxes: Section 15-36-115 (5), MCA, requires that distributions of local government severance taxes to be made to "taxing jurisdictions". However, in subsections (1) and (2) of 15-36-112, MCA, determinations are required to be made based on "school districts" and "districts". In order to clarify the intent and to make the terminology consistent, the above terms should be replaced by the term "taxing unit". This term is defined in 15-1-101 (2), MCA to include an organized body which has authority to establish tax levies to raise revenue. The Attorney General in 42 Op. Att'y Gen. No. 80 (1988) confirmed this definition of the term as used elsewhere in Title 15. Consistent use of the term in the statute will make it clear that all units of local government with authority to levy mills will receive LGST reimbursement except municipal taxing units which are specifically exempt.

PAGE 2

FEBRUARY 2, 1993

HOUSE TAXATION COMMITTEE
1993 LEGISLATURE
SENATE BILL 138 TESTIMONY

The inequities surrounding HB 28, has cost the taxpayers of Phillips County thousands of dollars in lost revenue. The County should not be liable for the controversial issues of the past as we have already paid dearly and continue to do so.

Respectfully Submitted,

Jeanne L. Barnard
Jeanne L. Barnard,
Phillips County Assessor

SB138

We, the undersigned taxpayers of Phillips County, do hereby request that the Phillips County ~~Assessor~~ ^{Assessor} testify in front of the House Taxation Committee on our behalf and in opposition to the above titled bill.

1. Stephen R. Cascaela
2. Kimberly Cascaela
3. James Simonson
4. Robert Math
5. Lynn Simonson
6. Dee Simonson
7. Patty Matthews
8. Stephen Matthews
9. Melvin J. Olson
10. Virginia Olson
11. Dora Math
12. Roger Simonson
13. Judy Simonson
14. Ruthy Olie
15. _____
16. _____
17. _____

LEGAL OPINION

DATE: 2/2/93

QUESTION PRESENTED: May the Legislature amend the tax distribution provisions of 15-36-112, MCA (1991), by enacting Senate Bill 138?

STATUTORY FRAMEWORK

In 1989, the Legislature substantially amended the tax laws pertaining to oil and gas. It enacted House Bill 28 during the June 1989 Special Session to substitute a Local Government Severance Tax (LGST) on oil and gas production in place of the former tax system of net proceeds. The law includes a distribution formula for the LGST tax distributions which are provided to Montana County Treasurers. The law presently provides:

"(5) Except as provided in subsection (6), the county treasurer shall distribute the the money received under subsection (4) to the taxing units that levied mills in fiscal year 1990 against calendar year 1988 production in the same manner that all other property tax proceeds were distributed during fiscal year 1990 in the taxing unit, except that no distribution may be made to a municipal taxing unit."

The purpose of the LGST is not in doubt. The Legislature provided for ".... a local government severance tax in lieu of a tax on net proceeds for the exclusive use and benefit of local government." 15-36-101(1), MCA.

TAX ADMINISTRATION

After the effective date of House Bill 28, the Department of Revenue (Department) and the Office of Public Instruction (OPI), took specific positions with respect to the distribution of LGST money. They have insisted that the 6 mills which are levied for the support of the Montana University system, pursuant to 15-10-106, MCA and 20-25-243, MCA, be applied to every LGST distribution which a County Treasurer receives. They have also insisted that the mills for the support of the elementary district foundation program, pursuant to 20-9-331, MCA, and the mills for the support of the high school district foundation

program, pursuant to 20-9-333, MCA, be applied to every LGST distribution which a County Treasurer receives. As a consequence, the County Treasurers are compelled to hold back the LGST tax monies, represented by the ratio of the mills discussed above and to remit that money to the State Treasurer for the use and benefit of OPI and the Montana University System.

LITIGATION

During October 1992, several school districts and Phillips County initiated litigation in the District Court to challenge the tax administration decisions concerning the LGST, which were discussed above. Since that time several other Counties have intervened in the litigation, to support the position of the Phillips County authorities.

The focus of their challenge is clear. They assert that the LGST was enacted specifically for "the exclusive use and benefit of local government." The mills which are levied for the University System and for the two foundation programs, which are discussed above, are state taxes or levies. Therefore, any diversion of LGST distributions to those two levies or taxes frustrates the object and purpose of the LGST system.

LEGAL ANALYSIS

The Montana Constitution has always limited legislation which has a retroactive effect. Article 15 Section 13 of the 1889 Montana Constitution contained a restriction on retroactive laws. In Hughes v. Board of Land Commissioners, 353 P.2d 331 (1960), the Montana Supreme Court held that "This constitutional provision was enacted for the purpose of preventing retroactive statutes."

The 1972 Montana Constitution sets forth a similar restriction on retroactive laws. Article 13 Section 1(3) provides:

"The legislature shall pass no law retrospective in its operations which imposes on the people a new liability in respect to transactions or considerations already passed."

EXHIBIT #7
DATE 2-2-93
SB-132

The Montana Supreme Court has considered the application of the clause in Pacific Power and Light Company v. Department of Revenue, 237 Mont. 77, 776 P.2d 1176 (1989).

Retroactive legislation is generally looked upon with disfavor. Sullivan v. City of Butte, 211 P. 301 (1922). There is a presumption in Montana that statutes should not be retroactively construed, unless expressly so declared by the Legislature. Dunham v. Southside Bank of Missoula, 169 Mont. 466, 548 P.2d 1383 (1976), Burr v. Department of Revenue, 545 P.2d 45 (1978).

The present statutory presumption is set forth in 1-2-109, MCA. It provides:

"When laws retroactive. No law contained in any of the statutes of Montana is retroactive unless expressly so declared."

In Butte and Superior Mining Co. v. McIntyre, 229 P. 730, 733 (1924), the Supreme Court of Montana held that the foregoing statute:

"..... is but a rule of construction. A statute which takes away or impairs vested rights, acquired under existing laws, or creates a new obligation, imposes a new duty, or attaches a new disability, in respect to transactions already passed, is deemed retrospective."

See also Continental Oil Co. v. Montana Concrete Co., 207 P. 116 (1922).

The concept of a retrospective law has been set forth by the Montana Supreme Court on several occasions. In Castles v. Department of Highways, 609 P.2d 1223 (1980), it held:

"A retrospective law is one that takes away or impairs vested rights acquired under existing laws or creates new obligations or imposes new duties in respect to transactions already passed."

Similar authority is found in City of Harlem v. State Highway Commission, 425 P.2d 718 (1967) and Boehm v. Alanon Club, 722 P.2d 1160 (1986).

The Montana Supreme Court has held that certain rights and remedies, in favor of local government, are not vested in any constitutional sense. Freebourn v. Yellowstone County, 88 P.2d 6 (1939), Carlukis v. Doe, 521 P. 2d 1305 (1974).

The Phillips County authorities predicate their objection to any retroactive diversion of LGST distributions on specific constitutional and statutory guarantees.

STRICT ACCOUNTABILITY

Article 8 Section 12 of the Montana Constitution provides:

"Strict accountability. The Legislature shall by law insure strict accountability of all revenue received and money spent by the state and counties, cities, towns, and all other local governmental entities."

The Supreme Court has held that the foregoing provision is not self-executing, and that the Legislature must implement it. Reep v. Board of County Commissioners, 622 P.2d 685 (1985).

The Legislature clearly established the rights of local government entities, when it enacted House Bill 28 during 1989. It statutorily appropriated the LGST funds for the use and benefit of local government, pursuant to 17-7-502, MCA. (Section 6 Chapter 11 of the Special Laws of Montana 1989). 15-36-112, MCA, was amended to read:

"(3) The severance taxes collected under this chapter are allocated as follows:

(a) The local government severance tax is statutorily appropriated, as provided in 17-7-502, for allocation to the county for distribution as provided in subsection (4)(a)(ii);

(b) Any amount not allocated to the county under subsection (3)(a) is allocated to the state general fund."

As a result of certain errors in House Bill 28 which were applicable to the LGST on oil and gas, the Legislature

was called into session during May 1990. It enacted Chapter 3 of the Special Laws of Montana 1990 to correct those errors. Section 2 of the Law amended 15-36-112, MCA, in the following manner:

"(3) The state and local government severance taxes collected under this chapter are allocated as follows:

(a) The local government severance tax is statutorily appropriated, as provided in 17-7-502, for allocation to the county for distribution as provided in subsection (4);

(b) The state severance tax is allocated to the state general fund."

The foregoing Legislative appropriations, in favor of local government, occurred nearly four years ago. They implement the statutory declaration that the LGST system is for the "exclusive use and benefit of local government." 16-36-101(1), MCA. Any retroactive amendment of the distribution formula set forth in 15-36-112(5), MCA, would seem to constitute a rescission of the legislative appropriation in favor of local government.

CURATIVE STATUTES

By definition, a curative statute operates on existing conditions. Snidow v. Montana Home of the Aged, 88 Mont. 337, 292 P. 722 (1932). They operate retrospectively. The Phillips County authorities respectfully assert that any retrospective amendment of 15-36-101(1) and 15-36-112(5), MCA, would operate to impair or to interfere with their substantial financial interests, which have vested through the legislative appropriations previously discussed. Accordingly, any amendment would not be merely curative in nature. It would constitute an infringement of constitutional rights and guarantees.

SUMMARY

The Legislature should not enact Senate Bill 138 to operate in a retrospective sense. The Phillips County Authorities should be allowed to prove the correctness of their claims to the LGST funds which were distributed according to 15-36-112(5), MCA (1991).

EXHIBIT 7a
EXHIBIT 7a
DATE 2/2/93
SB 138

SYNOPSIS OF SCHUSTER MEMORANDUM

The 1989 Special Session substituted a Local Government Severance Tax (LGST) on oil and gas production for the former tax system of net proceeds and stated that the LGST would be "for the exclusive use and benefit of local government". 15-36-101(1), M.C.A.

The positions of the Department of Revenue and Office of Public Instruction in respect to distribution of this LGST money is contrary to this specific statutory language. This has resulted in litigation filed by several school districts and several counties.

Senate Bill 138 now seeks to retroactively change the provisions of Section 15-36-101(1), M.C.A. to delete this language. Such retroactive legislation is generally disfavored.

The counties object to this retroactive diversion of LGST distributions on specific constitutional and statutory guarantees. The counties maintain that any retrospective amendment would operate to impair or to interfere with their substantial financial interest which have vested through the legislative appropriations as previously enacted. As such, any amendment would not merely be curative in nature, but would infringe upon constitutional rights and guarantees.

COUNTY COMMISSIONERS

EUGENE (GENE) COWAN
Loring, Montana

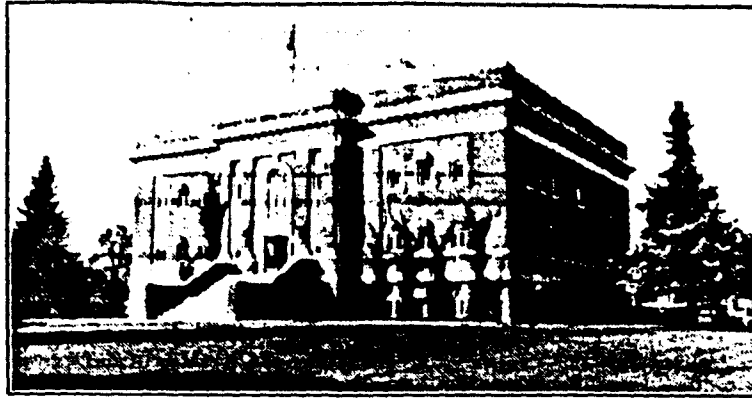
Carol Kienenberger
Dodson, Montana

WAYNE C. STAHL
Saco, Montana

Clerk and Recorder
Laurel N. Hines

Treasurer
JEAN MAVENCAMP

PHILLIPS COUNTY



Malta, Montana
59538

Assessor
JEANNE L. BARNAR

Sheriff - Coroner
GENE PEIGNEU

Clerk of Court
FRANCES WEBB

Superintendent of Schools
GARY A. BADEN

County Attorney
JOHN C. McKEE

Justice of Peace
GAYLE STAHL

District Judge
LEONARD H. LANGE
Glasgow, Montana

FEBRUARY 1, 1993

HOUSE TAXATION COMMITTEE
1993 LEGISLATURE
SENATE BILL 138 TESTIMONY

EXHIBIT 76
DATE 2/3/93
SB 138

TO WHOM IT MAY CONCERN:

We strongly oppose SB 138 and ask that you please table this in committee until the pending lawsuit can be decided in the courts.

We object to the removal of the language "the exclusive use and benefit of local government" under the guise of clarification. We also object to the retroactive applicability.

It is our hope that you will seriously consider our objections before you take action on SB 138.

Thank you,

PHILLIPS COUNTY COMMISSIONERS


EUGENE E. COWAN, CHAIRMAN


WAYNE C. STAHL, MEMBER


CAROL KIENENBERGER, MEMBER

House Taxation Committee
Senate Bill 138 Testimony
1993 Legislature

EXHIBIT 7C
DATE 3/2/93
~~SB~~ 138

I. Schuster Memorandum

- A. Synopsis
- B. Copy entered as testimony

II. Wayne Stahl -- Narrative

I need to tell all of you about the meeting Phillips County's Superintendent of Schools organized in Lewistown, October 27, 1992. The purpose of our meeting was to explain our position in the L.G.S.T. distribution lawsuit. We were very pleased to have 40 or more people attend. Senator Gage was one. After our presentation, Senator Gage stated his opinions and answered questions. He told us he was going to introduce language changes in the 1993 Legislature to correct, in his opinion, the error in House Bill 28.

At that meeting I asked Senator Gage two questions. He candidly answered both.

My first question was if he knew that county wide equalization funds were State owned. Senator Gage's answer was no, he did not. I wonder how many other Senators or Representatives may not have known this. The ownership of the county wide equalization funds is the key to the distribution of local government severance tax dollars.

My second question, prompted by Senator Gage's explanation of events leading to the passage of House Bill 28 was, if he did not like the language, "For the exclusive use and benefit of Local Governments" why was it left in House Bill 28? His reply was, when he removed this language from House Bill 28, he could not muster enough votes to pass the Bill. Subsequently he had to reinsert the language.

I really don't believe that anyone who voted for, or against House Bill 28 in Special Session 1989 would agree that Senate Bill 138 is an attempt to cure an error in House Bill 28. Senate Bill 138 is an attempt to retroactively change the intent of House Bill 28.

The legality of retroactive changes of legislative intent is questionable as stated in Mr. Schuster's memorandum previously entered as testimony. Please table this bill in your committee, allowing our request for Declaratory Judgement to progress through the court system. Thank you for hearing our requests.

Attendance at LGST Meeting in Lewistown
October 27, 1992

~~EXHIBIT~~ 7 d
DATE 2/2/93
SB 138

Gary Baden	Phillips Co. Supt. of Schools	654-2010
Sue Kron	" " Deputy	654-2010
Wayne Stahl	Phillips Co. Commissioner	654-2429
Maria Harrison	Toole Co. Supt. of Schools	434-2112
Teresa R. Miller	Stillwater Co. Supt. of Schools	322-5333
Gwyn M. Andersen	Teton Co. Supt. of Schools	466-2907
Afton Lamoreaux	Clerk, Conrad Public Schools	278-5521
JoAnn Croft	Deputy, Carbon Co. Supt. of Schools	446-1301
Jerry Scott	Carbon County Supt. of Schools	446-1301
Mona Nutting	Carbon County Commissioner	446-1595
Charlotte Miller	Powder River Co. Supt of Schools	436-2488
Nancy Klapmeier	Powder River County Treasurer	436-2444
Karen D. Amende	Powder River Co. Clerk & Recorder	436-2361
Sherry Thomas	Rosebud County Supt. of Schools	356-2537
Pierre R. Lettenga	Pondera County Commissioner	278-7681, Ext. 47
Bill Rappold	" " "	278-7681, Ext. 47
Marlene Fischer	Pondera County Treasurer	278-7681, ext. 16
Delwyn Gage	Senator, District 5	1-800-444-4800
Bob Coffey	Petroleum County Supt. of Schools	429-5551
Beth Bergum	Clerk, Winifred Public Schools	462-5490
Lynda Brannon	Executive Director, MSBA	442-5599
Krys Cole	Liberty County Supt. of Schools	759-5216
Darryl Omsberg	Glacier County Supt. of Schools	873-2295, Ext. 39
Allan R. Lowry	Glacier County Commissioner	873-5063, Ext. 25
Shirley Barrick	Fergus County Supt. of Schools	538-3136
Maxine S. Dronen	Deputy, Blaine Co. Supt. of Schools	357-3270
Jan Allie	Valley County Supt. of Schools	228-8221, Ext. 13
Carol Elliot	Blaine County Supt. of Schools	357-3270
Kelly Gebhardt	Musselshell County Commissioner	323-1104
Mary Nelson	Musselshell County Treasurer	323-2504
Kathryn Pfister	Musselshell Co. Supt. of Schools	323-1104
Sue M. Olson	Musselshell County Commissioner	323-1104
Vicki Knudsen	Musselshell County Attorney	323-1815
Ron Shepard	Fallon County Commissioner	778-2883, Ext. 45
Curtis Huether	Fallon County Assessor	778-2883, Ext. 29

Attendance, LGST Meeting, Lewistown

October 27, 1992

Page 2

Joe Trow	Private citizen, Winnett, Petroleum County	No phone
Linda Bruner	Pondera County Supt. of Schools	278-7681, Ext. 52
Larry Schuster	Attorney, Billings/Great Falls	656-2562/454-2985
Calvin Moore	District Superintendent, Medicine Lake	789-2211
Lavern Schledewitz	Roosevelt County Commissioner	653-1590

L.G.S.T. Meeting, Oct. 27, 1992, Lewistown

PHILLIPS COUNTY SUPT. OF SCHOOLS

BOX DD

MALTA, MONTANA 59638

GARY BADEN
SUE KROIN
WAYNE STAHL
Maria Harrison
Jesse R. Miller
Gwyn M. Andersen
Hon. Amaraux
John Cray
Lenny Scott
Wanda Nutting
Charlotte Miller
Karey Klapmeier
Karen Amende
Sherry Thomas
Liene R. Lettinger
Bill Rappold
Mardene Fischer
DELAID GAGE
Bot Coffey
Beth Deegan
Lynda Channon
Krys Cole
Danae Omyer
Allan R. Lewis
Shirley B. Brink
Mayme S. Dronen
Jan Allie

PHILLIPS Co. Supt.
" " DEP. Supt.
PHILLIPS Co. Comm.
Toole Co. Supt. of Schools
Stillwater Co. Supt. of Schools
Teton Co. Supt.
Conrad Shs. Dist. Clerk
Dep. Co. Super - Carbon County
Carbon Co. Supt. of Schools
Carbon Co. Commissioner
Powder River Co. Supt. of Schools
" " " Treasurer
" " " Clerk + Recorder
Rosebud Co. Supt. of Schools
Fond Co. Commissioner
Gondara Co. Commissioner
Gondara Co. Treasurer
SENATOR - DIST. 5.
Petroleum County Supt. of Schools
District Clerk, Wolford
Mt Assoc of School Bus. Officials
Liberty Co. Supt. of Schools -
Idaho Co. Supt. of Schools
Glacier Co. Commissioner
Fergus Co. Supt. of Schools
Blaine Co. -
Valley Co. Supt. of Schools

EXHIBIT # 7d
DATE 2-2-93
SB-138

Cause List
Kelly Gebhardt

Sevier County
Musselshell Co
Musselshell Co.

Mary Nelson
Kathryn Pister
Lue M. Olson

" Supt. of School
"

Vicki Knudsen

" Co. Attorney

RON SHEPARD

FALLON Co. Comm.

CURT HUETHER

FALLON Co. Assessor

CALVIN MOORE

DIST. SUPT. MEDICINE LAKE

L. SCHLEDEWITZ

ROOSEVELT Co. Comm.

JOE TROW

LARRY SCHUSTER ATTY.

LINDA BRUNER

PONDERA Co. Supt. of Sch.

Chairman Gilbert, Members of the Committee:

My name is Gary Baden. I have been County Superintendent of Schools in Phillips county for two years. For a year and a half, I have studied the implications of the Local Government Severance Tax ever since I found out that a 55-mill share of this "local" money goes to a state agency. Because of the complications, I can find no one killer argument to somehow insist that you vote against this bill. I can show you this -\$1 bill - and ask you why this money doesn't share the same fate as the LGST money. When you figure out that this money doesn't belong to the state agency either, then perhaps you can agree that the LGST is safe from that division, by the language in its statute.

SB 138 speaks to the *intention* of the statute which derives the Local Government Severance Tax: -36-101, MCA. The language in that statute makes its intention abundantly clear:

1. The LGST was written to *replace* net proceeds tax - and,
2. The LGST was for the exclusive use and benefit of *local government*.

All this occurs in the first paragraph of the law. It is not obscure language in the law. How could the language be made plainer? SB 138 insists that the *intent* is in need of correction but it would, indeed, change the language of 15-36-101. There is no error to correct - what is the *intention*?

1. Since LGST does not replace the Net Proceeds in dollar-for-dollar total revenue, we would have no objection to correcting that language, but I can find nothing in SB 138 that attempts to correct the replacement portion of 15-36-101. The school districts involved do not receive a dollar for dollar replacement of LGST for Net Proceeds Tax.

2. It appears that the error made in the existing statute only affects the 55-mill share of LGST that is bootlegged past the language in the existing statutory intention. Perhaps, if you could find out who is receiving that money at State (certainly not a local government), perhaps you can find out why, of all the portions of the LGST law, this particular phrase has to be the only phrase singled out for "correction."

All this has (or will have) been made clear, point after point, in the testimony. I have taken the liberty to write my point of view to each of you on this committee, prior to this hearing. I wrote to the members of the Senate committee also. Believe me, they had precious little time to consider the effect of SB 138 in that chamber. I thank you sincerely for this opportunity to be heard, here, in protest of SB 138.

If SB 138 is passed, our day in court will be denied. We have filed suit to determine the intention of the LGST statute and we intended to sort out all these various arguments there. I urge you to consider the effect of SB 138 if you allow it to become law.

I urge you to kill SB 138 here, mercifully and put a stop to any further second guessing of *intentions before the fact of law*. Thank you.



**PHILLIPS COUNTY
SUPERINTENDENT OF SCHOOLS**

EXHIBIT 8-A

DATE 2/2/93

SB 138

Gary A. Baden, Superintendent

Sue E. Kron, Deputy

Ph. 654-2010

FAX 654-1213

Drawer DD

Malta, Montana 59538

26 January 1993

Dear Representative _____:

I apologize for this informal note.

The material enclosed outlines my view and comprehension of SB 138 and 15-36-101 MCA, the statute it intends to "correct."

I, among others, will be present to testify against the bill at your hearing on February 1, 1993. Since there was no danger of testifying while the bill was in the Senate, you can expect, I think, a number of concerned people to speak against SB 138.

All this material will be entered into the testimony against SB 138 and I will be present to answer questions that you may have.

Sincerely,

Gary A. Baden

Jill Rotmans:

It is my intention to enter this material into testimony, speak to it and against SB 138.

I have copied each member of the committee.

Is there more that I need to do??
and, Thanks again for your phone help the other day.
G. A. Baden

Senator Daryl Toews
State Capitol Building
Helena, Montana 59620

Dear Senator Toews:

I am writing to ask you to please vote no on SB 138.

I am asking that you also urge your compatriots to do likewise. This bill takes away any access we may have to a court decision to rule in our favor on the intent of the law, *as derived by the existing language* - not the glib language contained in this "amendment."

The hearing, this morning (Tuesday) at 8:00 a.m., was not known to us until 8:45, let alone the fact we had to bootleg a copy of the bill last Friday. There is no way we could have testified on such short notice. I gather this is the "hardball" as played by those forces who can slip such legislation through the Senate without ever having to shed the light of day on such a measure.

The eyewash that prefaces this bill is precisely that - eyewash. What they intended to do, when the bill was passed, should have been done, in the bill, at that time, not now, ex post facto. The fact is, judging by what I can read out of the hearing testimony on that bill, the "exclusive use ..." language had to be written as it exists in order to make the measure palatable enough to pass into law then.

What 15-36-101 MCA meant to do was exactly what it accomplished - it removed the industries it addresses from the 40-mill state equalization liability when the percentage of tax was determined - the 1989 levy specified in the existing law does that. In order to keep OPI from helping to kill the measure, since the 40-mill share is "their" money, the 55-mill share, which goes directly to state coffers, was selectively ignored when the language of the law was interpreted, once codified. Then the industries were placated with the smaller tax and OPI had to suffer no loss, it was taking its share out the back door in the form of County Equalization - the 55-mill fund it owns entirely. They all got their cake and were eating it, too...

...until we stumbled over the atrocious amount of money it was costing Phillips County, et al. We have included the map we used to locate the money sources, in order to invite them to a meeting to discuss the LGST suit in October of 1992. It might give you some idea of the scope of the source and the lack of population there. Since then, several counties, namely Custer, Carbon, Wibaux, Valley, Glacier, Hill, McCone, Powder River, Rosebud, Sheridan and Toole, have joined the suit in order to address this problem in court. I mention this to give you a place to find faces who at least represent County Attorneys who agreed with the intent of the suit and would therefore prefer to take the argument to court as to settle it in favor of the population.

I believe the argument would have prevailed on our side in a court of law. It seems apparent the "other side" thinks so too - to wit, SB 138 and the hurry it is in to go through the legislative process.

We are denied access to the Courts if SB 138 becomes law.

Thank you, Senator, for your consideration of this request.
Respectfully,

cc: Senator Gerry Devlin
Senator James H. Burnett
Senator Betty Bruski-Maus
Senator Delwyn Gage
Senator Bob Hocken
Senator Greg Jergeson
Senator Cecil Weeding
Senator William P. Yellowtail, Jr.
Senator Dennis G. Nathe
Senator Gary C. Akelstad
Representative Ernest Bergsagel
Phillips County Officials

Dear Senator _____:

I apologize for the casualness of this note but I intend to bring you up to date on what I have wanted Senator Toews of, concerning the LGST legislation. If there is time to debate the issue before this bill is passed, I will make every effort to testify on the second reading.

I have made no effort to copy this to the Representatives whose Districts this legislation affects. I sincerely hope that you will apprise them as you can.

I have just heard of yet another lawsuit that will affect these "non-tax" taxes - flat taxes. I doubt that the people involved will be able to cover all their tracks as SB 138 intends to do with the LGST "flat tax." Once the property is classed and taxed as the other property in this state is taxed, we can return to normalcy, if such exist, in the funding scheme for Montana.

I urge you to vote NO on SB 138.

Thank you, for your consideration of this request.

COPY

COPY



PHILLIPS COUNTY SUPERINTENDENT OF SCHOOLS

Gary A. Baden, Superintendent
Sue E. Kron, Deputy
Ph. 654-2010
FAX 654-1213

Drawer DD
Malta, Montana 59538

4 February 1993

EXHIBIT _____

DATE _____

SB _____

To: All committee members of Legislative Taxation Committees of the Montana Senate and the Montana House of Representatives

From: One of many concerned county officials who are watching the outcome of this effort

Re: SB 138

Can this be filed as addendum to our testimony?? or...

I am taking the liberty to again address the implications of SB 138. I apologize for this informal approach to the communication but there is little time for the necessary formalities.

I have discussed this with former Senator Swede Hammond who has been concerned with SB 28 ever since its inception in the 1990 Legislature. I am taking the liberty of enclosing his phone number - 654-1775 - so that you can call him, if you wish to discuss the matter with him. Senator Hammond voted against HB 28.

We had no chance to testify in the Senate committee hearings.

When we testified at the House Taxation Committee hearing on the 2nd of February, we came prepared to discuss the unfairness of the bill and its "removal" of the chunk of our School Districts' share of the LGST. Those points were well testified to - cookies notwithstanding.

What I assumed to be true was the fact that the arithmetic of the funding scheme was understood as well, or enough to avoid further discussion with those aspects of the unfairness. It is complicated and I could not bring myself to introduce that kind of testimony, to make certain of this understanding, at the hearing in the House Committee. I didn't prepare a single reference to arithmetic for testimony. I presumed everyone understood it well enough avoid a re-hash - that the problem was only limited to the interpretation of the 156-36-101 MCA statute. I gathered from the questions and the testimony that such was not the case.

Well, when I was first elected, nobody 'splained it to me either.

I offer the enclosed - abridged - version of what I have written to others with the same kinds of non-comprehension. This diatribe is the result of eighteen months of study and discussion. I find no one willing to correct it - it could be correct. It is still likely to be incomprehensible.

Even if you can only browse what it says, I think it will add some discomfort to your willingness to ignore any traces of uneasiness you might have with SB 138 and if it does that, it will have served its purpose. When you then vote to kill SB 138, you can do so content in the knowledge that the officials in your county do know what to do with all the "non-tax" receipts. You can believe that SB 138 does nothing to abet them in their efforts to manage the funds in their charge..

If you can wade through the enclosure, you will begin to see what I took for granted you had already figured out - SB 138 will continue to starve all counties which receive non-tax revenue, not just the LGST counties.

And once more, for the record; failing SB 138 does not rob State of any money. It does not have a right to the 55-mill share of LGST any more that it has a right to the cash in your pocket. The law says so.

I thank the members of the House who listened to our testimony in Committee.

I thank you for your further consideration of this measure.

How much more... How much more...

SCHOOL FINANCE IN MONTANA - a primer.

This treatise will help to make the financing of your school easier to understand and easier to manage. There are many facets and nuances built into and band-aided onto the scheme of school finance. This makes it very nearly incomprehensible - it functions merely because it is managed, more or less effectively, at the State level and it is subscribed to, warts and all, at the County level. The reason that it remains in use, seemingly, is that most people believe State gives back to you more than you pay into them .. my, my.

For the sake of this exercise, we will limit the discussion to the General Fund. Every other fund has its own story but can be deciphered if the general fund is understood. This exercise will help to see what the LGST argument might do for your school and, especially, your county. We will not discuss the methods used to derive the valuations that are an integral part of this discussion.

Two required definitions:

PROPERTY TAX - Money received, based on the County's Taxable valuation and that "ordinary" scheme.
"NON-TAX" - Money received by other schemes; i.e., % of production, fines, vehicle assessment and other values - values which do not become part of the County Taxable Valuation.

IMPLICATIONS OF HOW IT WORKS

This scheme is founded on the property tax structure. When money is needed by a county fund, a mill is levied on the taxable valuation. When the taxpayer pays his taxes, the mill levy tells him how much he pays - . How all this is accomplished needs to be completely understood in order to understand how to manipulate it.

To obtain tax dollars, this derivation is used:

\$FUND NEED / \$COUNTY TAXABLE VALUATION (1000) = MILLS/FUND

(For District Levies, insert SCHOOL DISTRICT in place of COUNTY above. The commissioners then approve it)

Le.:

If your fund (\$22,000) is approved by your County Commissioners and your county has a taxable valuation of \$20,000,000, this is how your mill levy is derived:

$$\$22,000 (\text{req'd}) / \$20,000,000 (\text{tax. val.}) = .0011(1000) = 1.1 \text{ mills}$$

Very likely, however, yours will not be the only fund approved for county funding. We'll make a hypothetical list for illustration and use hypothetical mills:

County General Fund	\$408,000 Budgeted fund	20.4 mills
County Cemetery	\$68,000 Budgeted fund	3.4 mills
County Roads	\$692,000 Budgeted fund	34.6 mills
"County" Equalization		55.0 mills (33 Gen. School & 22 Hi-school)
State Equalization		40.0 mills (as of 1990 legislation)
State University		6.0 mills
Your fund	\$22,000 Budgeted fund	1.1 mills
Mosquito District	\$30,000 Budgeted fund	1.5 mills
District Levy (Permissive.)	4526,000 Budgeted fund	6.3 mills (No vote is necessary)
District Levy	\$434,000 Budgeted fund	21.7 mills (Vote required)
TOTAL County	\$??? County liability	210 mills (Varies; school district to school district)

THE COUNTY-TOTAL IS BASED ON EVERY COUNTY LEVY

All the County funds are set up for the year, every year, based on **PROPERTY TAX VALUES AS THE SOLE SOURCE OF FUNDS**. As the year progresses, your \$22,000 comes in as property taxes are paid. Since the taxes may be late or protested, your fund will run in the red the first year. But property taxes are never lost and next year your late taxes will be replaced by late payments this year and your fund will be closer to running in the black as this the scheme functions, year to year.

When John Q. Taxpayer hands over his payment of taxes, the money is "backed into" the "mill-levy" for distribution to the funds. If he pays \$220 in property taxes, your fund would "get" 1.1/210 percent of the money - \$1.152. When all the taxpayers have paid, the \$22,000 will be in your books, ready to spend. Simple...

THE "NON-TAX" REVENUES ARE MELDED INTO PROPERTY TAX SCHEME

Now, some receipts come in as "non-tax" revenue. They include a litany of sources: Motor Vehicle, Taylor Grazing, Corporation License tax, etc., including *the infamous LGST*... all these can be found on Form fp-6b.

So, if the Motor Vehicles in your county pay \$42,000 to obtain licenses, your fund receives \$220 alongside the "ordinary" property taxes it was "milled" on. In the overall scheme, the "non-tax" revenues amount to a small portion of your receipts

and will help avoid operating in the red when taxes are late coming in.

However, if everyone pays their taxes, your fund will receive \$22,220 instead of the \$22,000 you requested. You have imposed an unnecessary burden on your taxpayers - tch, tch. You can't spend it, there are I-105's and other budgetary constraints to keep that from happening. So, next year, all things equal, you'll have a reserve of \$220 and you will have to mill for only \$21,780 - .99 mills. Now, what is your share of John's \$220? Messy, if you don't understand the process. And consider how much money your fund will receive when *all* the "non-tax" revenues come in.

Now, according to statute, we must "anticipate" the "non-tax" moneys which reduces the fund-requirement dependent on the levies. "In order to reduce the levies..." is some of the language for this process. This is fine scheme, anticipating money into the funds as we can determine the amounts to be received. It does work, as long as we can juggle and fuss around with the numbers to avoid breaking a particular fund.

However, some interesting nuances and facets become cumbersome and troublesome. See what happens:

1. We will reduce taxes no matter how we anticipate, even if it is a year late, re appropriating the generated surplus. (\$220 in the example of "Your fund.")
2. We need to look at the arithmetic of the county totals to see the other problem:

Three cases: Case I, none; Case II, ordinary; and, Case III, substantial "NON-TAX" REVENUES, indicated by the resultant levies:

	Case I	Case II	Case III
County General Fund	20.4 mills	18.6 mills	14.2 mills
County Cemetery	3.4 mills	2.8 mills	2.1 mills
County Roads	34.6 mills	31.9 mills	26.7 mills
County Equalization	55.0 mills	55.0 mills	55.0 mills
State Equalization	40.0 mills	40.0 mills	40.0 mills
State University	6.0 mills	6.0 mills	6.0 mills
Your fund	1.1 mills	.99 mills	.91 mills
Mosquito District	1.5 mills	1.2 mills	1.0 mills
District Levy (Permissive.)	26.3 mills	23.7 mills	14.5 mills
District Levy	21.7 mills	18.9 mills	5.5 mills
TOTAL County levy	210 mills	199.09 mills	165.91 mills

(Well, the levies are reduced...)

It is clear that this scheme, based on property tax requirement percentages, cannot handle effectively a large amount of "non-tax" revenue. If the amounts are a small percentage of the total, it doesn't handle the money either but the amounts and errors are not generally noticeable. If, Heaven forbid, you receive enough money, anticipated (or reserved) into the funds so as to reduce the specific levies a considerable amount, well ...

Watch the money through these three scenarios: a \$100,000 payment is received (Remember, these are NOT choices) Note that the percentages for the fixed levies grows markedly; from 19.05% to 24.11% for State Equalization.

	Case I		Case II		Case III	
	%	Distribution	%	Distribution	%	Distribution
County General Fund	9.71	\$9,714.29	9.34	\$9,342.51	8.56	\$8,558.86
County Cemetery	1.62	\$1,619.05	1.41	\$1,406.40	1.37	\$1,265.75
County Roads	16.48	\$16,476.19	16.02	\$16,022.90	16.09	\$16,093.06
County Equalization	27.19	\$26,190.48	27.63	\$27,625.70	33.15	\$33,150.50
State Equalization	19.05	\$19,047.62	20.09	\$20,091.42	24.11	\$24,109.46
State University	2.86	\$2,857.14	3.01	\$3,013.71	3.62	\$3,616.42
Your fund	0.52	\$523.81	0.50	\$497.26	0.55	\$548.49
Mosquito District	0.71	\$714.29	0.60	\$602.74	0.60	\$602.74
District Levy (Permissive.)	12.52	\$12,523.81	11.90	\$11,904.16	8.74	\$8,739.68
District Levy	10.33	\$10,333.33	9.49	\$9,493.19	3.31	\$3,315.05
TOTAL County	100.00%	\$100,000.00	100.00%	\$100,000.00	100.00%	\$100,000.00

(Minor errors occur due to rounding)

Because we have such large amounts of "non-tax" revenue, the intent of the law is circumvented. No statute for the non-tax revenues addresses the no-limit aspect of the state funds. **EXAMPLE: Phillips County received \$183,197.76 from our gas companies as payment for New and Interim Production in 1991. When that amount is "backed into the levies", the 40-mill share came to \$34,245.61, the 55-mill share came to \$63,499.35.** The language in the NIP statute is not as clear as the LGST statute but it is doubtful that the Legislature intended for PC to turn over half (\$97,744.96) of its receipts because of the interpretation of an *extant, inefficient distribution scheme*.

The LGST, by statute, does not belong in a State fund. It is exempt from the 40 mill state equalization fund since it is based on 1989 levies to specifically avoid that circumstance. If we keep it where it belongs, out of the 55 and 6 mill state funds, the mill levy scheme comes closer to functioning as it should - placing tax dollars into the funds where the demand has been legally made.

Because these questions are "not clear in the statute", PC has initiated a declaratory judgment action to make the intent clear. The action is pending....

This illustrates where the "non-tax" revenue goes when it is "backed into" the mill levy. Remember, Case I is the levy required with no anticipated revenue, Case II has a small amount anticipated to reduce the levies and Case III is more anticipated reduction. If you do not anticipate, then there is generated a surplus with "non-tax" and it reduces the levy by re-appropriation for next year = ...the same problem.

The scenario is the the same for any of the County's receipts "backed into" the levies. The funds with reduced levies starve and the static levies feast using this system.

No county is spared this aspect of the distribution of funds. The fixed levies take more than a fair share because of the inverse proportion effect. Those counties with more receipts send more to State - especially those with LGST and LGST doesn't belong to State in the first place.

CAN WE SOLVE THE PROBLEM??

Anticipation must be done with AMOUNTS and the levy matrix augmented as a distribution tool for "non-tax" revenue. All this can be done with *existing statutes* but it cannot be done with *existing interpretations*.

If your fund, which is "milled" at 1.1 mills when raised strictly by property taxes, has a large amount of anticipated revenue, say half, then watch the system work:

(If your county receives large amounts of LGST, Interim Production, etc., etc. **AND** a large tax audit - 50% is not out of the question for anticipation. The funds only have to be received, the surplus generated and the anticipation actually done yield the same effect - too much goes to the static levies.)

ANTICIPATION STEP:

\$22,000 fund req'd. - \$11,000 anticipated revenue = \$11,000 to be "levied."

CALCULATIONS:

The scenario in Case III indicates the reality of the required anticipated effect of the "non-tax" revenue:

\$22,000 fund req't. - \$11,000 anticipated revenue = \$11,000 to be "levied."

\$11,000/\$20,000,000 = .55 mills which goes into the County Total Levy.

.55/165.36 = .3326% share of all the revenues (when there are lots of anticipated receipts)

.3326% times \$X = \$11,000 and you can see \$X now needs to be \$3,307,276.01 of the "non-tax" revenues to generate your anticipated \$11,000.

The proportions built into the levy matrix do not - CANNOT - describe the proportion of "non-tax" revenues received.

If your county received, in fact, the \$3,307,276.01 required to state the anticipated requirement, and if no anticipation were done prior to its receipt, then the original matrix will dump .52% into your fund - \$17,197.83. Juggling and fooling around with the anticipation estimates doesn't solve the problem - it makes anticipation an unwieldy and illegal manipulation of the statutes.

We need only build an anticipated revenue matrix with the sources and amounts of "non-tax" revenues. We can anticipate the property taxes into submission, use that matrix alongside this one and distribute the budgeted amounts correctly into the approved funds. We will not feed the insatiable demands of the fixed mill levies. Viola...



Testimony

**PHILLIPS COUNTY
SUPERINTENDENT OF SCHOOLS**

DATE 2/2/93
SB 138
Gary A. Baden, Superintendent
Sue E. Kron, Deputy
Ph. 654-2010
FAX 654-1213

Drawer DD
Malta, Montana 59538

Representative Bob Gilbert, Chairman
HOUSE TAXATION COMMITTEE
State Capitol Building
Helena, Montana 59620

26 January 1993

Dear Representative Gilbert:

Senator Gage has all but made a "done deal" of his SB 138 (the L.G.S.T. Language "correction" bill) and that was done in less than three days in the Senate last week. I have had a difficult time trying to intercept this measure long enough to testify against it.

We expect to testify at your hearing, scheduled at 8:15 a.m. on the 1st of February,
and
these points need to be considered before recommending "DO PASS":

1. The LGST does not replace the revenue it is supposed to replace, namely the "unwieldy county-by-county property tax on oil and gas net proceeds." *It shorts the DISTRICT on its share of these revenues - the 55-mill share is sent to state.*

SB 138 has to be passed in order to protect that share presently distributed, without regard to the District's inability to make up its missing funds. The percentages of L.G.S.T. were derived on the 1989 levy, thereby exempting it from the 40-mill share revenues which goes into the State equalization fund. To replace those missing revenues, SB 138 means to keep supplying OPI by denying the language extant in 15-36-101 - the "exclusive use" language.

2. Those who think OPI gives more than OPI receives are content that the LGST lawsuit means to deny them "State" money due in their entitlement programs, the Foundation Program and the Guaranteed Tax Base Program. This is not the true picture. The lawsuit intends only to enforce the existing language and protect the LGST Districts from losing their missing share of the promised replacement money - the 55-mill share of LGST. We might have made this clear earlier but we had no opportunity to testify as the Senate considered SB 138. Three days for transmittal could make The Guinness Book of Records.

3. All "flat tax" taxes are suspect and have been named in a new lawsuit filed in Big Horn county. It is apparent that the unfairness built into such schemes for taxation is becoming more than the paying counties will bear. The flat taxes are written to provide an alternative to the constitutional requirement of property assessment and taxation - yielding less tax liability for those paying a flat tax. The LGST suit is the first of the suits which will challenge the absurdity of the scheme for distributing taxes which are raised on a percentage of production and are then *distributed on needs described by the property tax mill levy matrix*. If SB 138 can be defeated, it will be a first step toward resolving this issue. If SB 138 is passed, it will deny the suit access to the courts.

It is of no use to pick at the language of SB 138. What was "intended" then cannot be less valid than the language being written to describe the "intention" now. Without the language of the law, we have no law.

Sincerely,

Gary A. Baden
Enc.:
p.c.: House Taxation Members, et al

DATE 2/2/93
SS 138

CHAPTER 36

OIL AND GAS SEVERANCE TAX

15-36-101. Definitions and rate of tax — state severance tax — local government severance tax — assessment of nonworking interest owner — exemption. (1) Every person engaging in or carrying on the business of producing petroleum, other mineral or crude oil, or natural gas within this state or engaging in or carrying on the business of owning, controlling, managing, leasing, or operating within this state any well or wells from which any merchantable or marketable petroleum, other mineral or crude oil, or natural gas is extracted or produced shall, except as provided in 15-36-121, each year when engaged in or carrying on the business in this state pay to the department of revenue a state severance tax for the exclusive use and benefit of the state of Montana plus a local government severance tax in lieu of a tax on net proceeds for the exclusive use and benefit of local government. Except as provided in subsection (3), the state severance tax and the local government severance tax are as follows:

AGREEMENT RELATING TO LOCAL GOVERNMENT SEVERANCE TAX DISPUTE

A dispute has arisen between Phillips County (County), Phillips County School Districts Nos. 12A and B (Saco) and Nos. 20AA and D (Whitewater) (School Districts), the State Superintendent of Public Instruction (State Superintendent), and the Board of Regents in regard to the distribution of Local Government Severance Tax (LGST) funds in Phillips County.

The parties recognize that the underlying dispute deals with a legal determination of the LGST issues. The School Districts and County have filed a declaratory judgment action to resolve the LGST distribution issues.

The parties wish to memorialize their agreement regarding the treatment of LGST funds pending the final resolution of the declaratory judgment action and therefore enter into this agreement as follows:

1. STATE SUPERINTENDENT'S OBLIGATIONS:

The State Superintendent agrees not to withhold or offset future foundation payments due to the School Districts pursuant to Sections 20-9-344 and 20-9-346, MCA, as a result of the LGST dispute which is the subject of the declaratory judgment action, until final resolution of the action. The State Superintendent also agrees that the County Treasurer should place the county equalization portion of the LGST in an agency fund until resolution of the LGST issue.

2. BOARD OF REGENT'S OBLIGATIONS:

The Board of Regents agrees that the County Treasurer should place the 6 mill university levy portion of the LGST in an agency fund until resolution of the LGST issue.

3. SCHOOL DISTRICTS' OBLIGATIONS:

The School Districts acknowledge that they have received the permissive and voted levy portion of the LGST distribution in both school years 1990-91 and 1991-92. The School Districts have no objection to the county equalization and 6 mill university levy portion of subsequent LGST distributions being held in a county agency account pending resolution of the LGST declaratory judgment issue.

4. COUNTY TREASURER'S OBLIGATIONS:

The County Treasurer shall place the county equalization and 6 mill university levy portion of future LGST receipts in an interest earning agency account until resolution of the declaratory

judgment issue, and agrees not to remit the county equalization and 6 mill university portion of LGST revenue to the State Treasurer during this period. The County Treasurer also agrees to provide the State Superintendent and the Commissioner of Higher Education with documentation of the semi-annual distribution of LGST funds to the agency fund until resolution of the LGST issue. The documentation will identify the amount representing county equalization monies and the amount representing the 6 mill university levy.

5. CONSTRUCTION OF THIS AGREEMENT:

a. This agreement is to be construed pursuant to the laws of the State of Montana, including Montana law regarding choice of law.

b. Should any provision of this agreement become legally unenforceable, no other provision of this agreement shall be affected, and this agreement shall be construed as if said provision was never included therein.

c. This agreement represents the full agreement among the County, the School Districts, the State Superintendent, and the Board of Regents and this agreement supersedes any other agreements, oral or written, regarding any released actions. In signing this agreement, neither the County, the School Districts, the State Superintendent, nor the Board of Regents rely upon any promise, representation, or other inducement that is not expressed in this agreement. This agreement may be modified only by written agreement of the County, the School Districts, the State Superintendent, and the Board of Regents and may not be modified by any oral agreement.

d. No provision of this agreement shall be modified or construed by any practice that is inconsistent with such provisions, and no failure by a party to comply with any provision, or to require another to comply with any provision, shall affect the rights of a party to thereafter comply.

6. AUTHORITY OF SIGNATORIES:

The undersigned representatives hereby warrant and represent that they are authorized to make this agreement on behalf of the entities that are parties to this agreement.

7. COSTS AND ATTORNEYS FEES:

The parties to this agreement shall bear their own costs and attorneys fees.

8. EFFECTIVE DATE OF THIS AGREEMENT:

EXHIBIT #9
DATE 2-2-93
1 SB-138

This agreement shall be effective on the date signed by the parties, and if the parties sign on different dates, the effective date of this agreement shall be the latter of the signature dates.

9. COUNTERPARTS:

This agreement may be executed in counterparts, each of which will be deemed an original.

STATE SUPERINTENDENT OF
PUBLIC INSTRUCTION

Date: Dec 29 '92

By: Nancy Keenan
Nancy Keenan

COMMISSIONER OF HIGHER EDUCATION

Date: _____

By: _____
John Hutchinson

PHILLIPS COUNTY TREASURER

Date: _____

By: _____
Jean Mavencamp

PHILLIPS COUNTY

Date: _____

By: _____
Sherman Doucette
Chairman, County Commissioners

DISTRICTS 12A & B (SACO)

Date: 1-4-93

By: J. H. Taylor
J. H. Taylor
Chairman of the Board

DISTRICTS 20AA & D (WHITEWATER)

Date: _____

By: _____
Robert Math
Chairman of the Board



Montana

MONTANA FILM OFFICE/TRAVEL MONTANA

EXHIBIT 10
DATE 2/2/93
SB 151

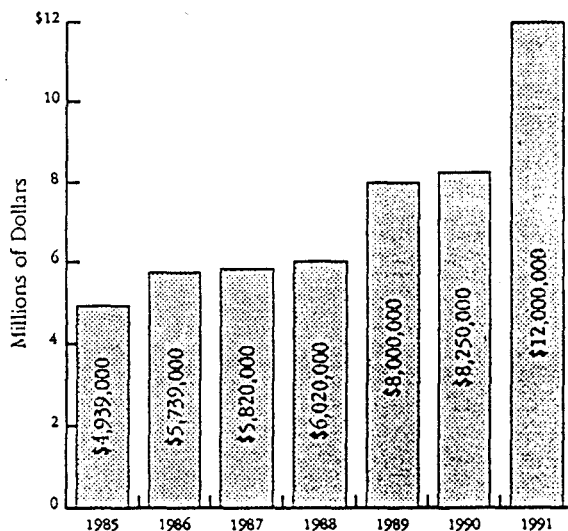
The Montana Film Office/Travel Montana was created in 1974.
It is funded entirely by the 4% Accommodations Tax.

The primary role of the Montana Film Office is to bring productions (feature films, commercials, television) into Montana for the overall economic benefit of the state. As the number of productions filmed in Montana continues to grow, so do the job opportunities for Montanans and the amount of direct expenditures to Montana businesses generated by out-of-state production companies.

In 1991 those expenditures exceeded \$12 million not including the personal expenditures of production company crew members. This figure was \$8 million in 1990 and \$6 million in 1988. (Totals for 1992 are not in yet. However, we had a total of 67 projects including three motion pictures.)

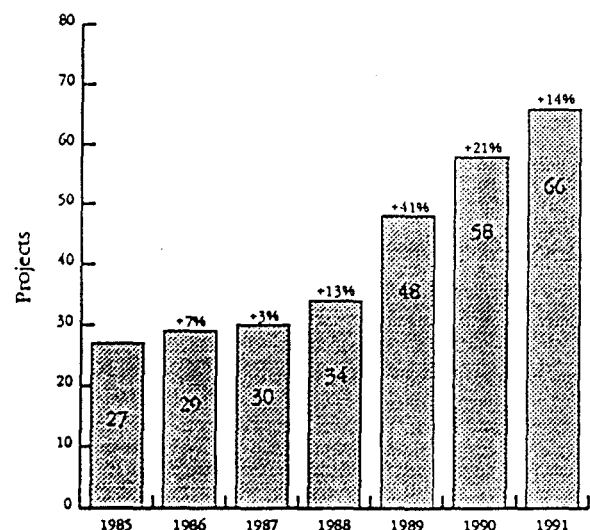
Beyond their immediate economic benefits, some films and commercials also provide Montana with side benefits that exceed our best estimates, by exposing Montana's beauty and flavor to audiences worldwide. A few good examples are the Manhattan, Montana beef commercial, both VISA Gold's and American Express' portrayal of Montana as the ideal vacation commercials, and Robert Redford's interpretation of Norman Maclean's *A River Runs Through It*.

MONTANA REVENUE FROM FILMING
(by year*)



*reflects only expenditures directly related to production costs;
excludes personal expenditures by actors and crew members

MONTANA FILM PROJECTS PER YEAR



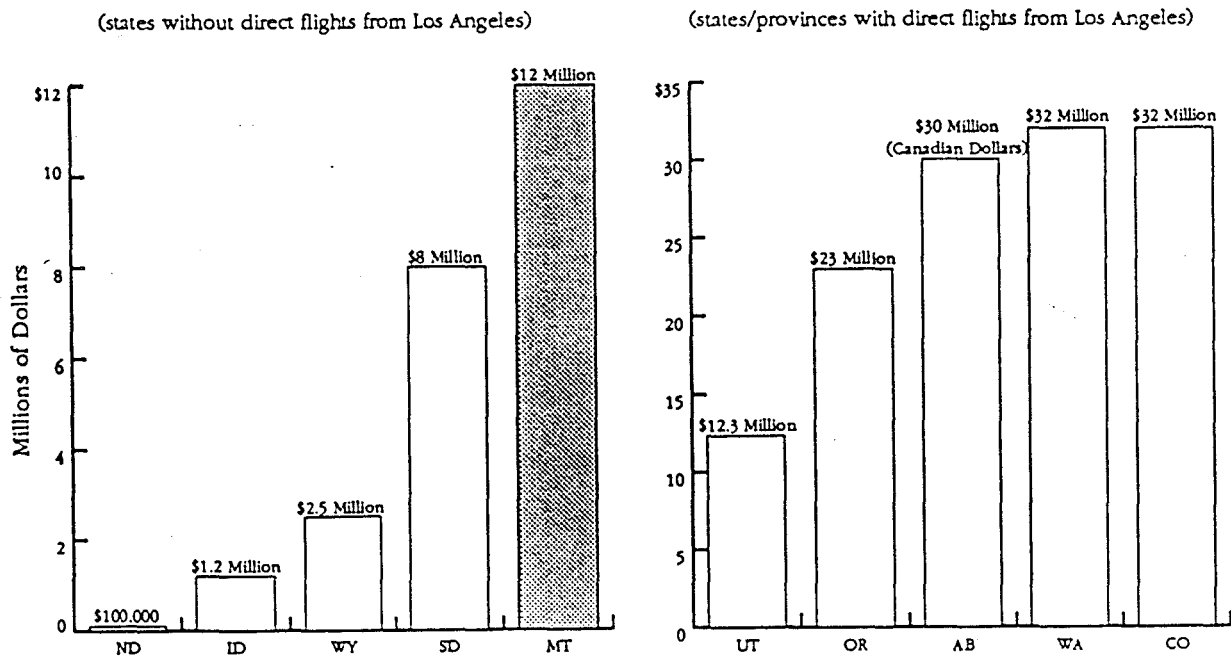
Travel Montana

Department of Commerce • 1424 9th Avenue • Helena, Montana 59620
Phone (406) 444-2654 • FAX (406) 444-2903

It is the Montana Film Office's responsibility to ensure that the state is "film friendly". We not only work with producers to find locations that fit their script, we also act as their liaison through every phase of production.

Producers have come to depend on a state's film office to help them cut through any red tape that may slow them down in the whirlwind world of shooting on location--time is money. A state's willingness and ability to accomplish this can weigh heavily in a production companies decision in choosing a location. **Montana's reputation is sterling** in this regard. We are noted in Hollywood for our overall attitude of cooperativeness and facilitation which gives us a definite **competitive edge**.

1991 STATE FILM REVENUE



*revenue data supplied by film commissions

Montana Businesses Directly Affected by the Film Industry

EXHIBIT #10
DATE 2-2-93
/ SB-151

Air Cargo	Costume Rentals	•Dentists
Air Charter	Delivery Services	•Doctors
•Helicopter	Dumpsters	•Eye Doctors
•Fixed wing	Federal Express	•Masseuse
Antique Stores	Florists	Motor Homes/Trailers
Appliance Dealers	Furniture Rental	Office Supplies
Art Supplies	Gasoline Suppliers	Photo Processing/Film
Banks	Grocery Stores	Portable Toilets
Beepers/Mobile Phones	Hardware Stores	Printer Services
Business Machines:	Health Clubs	Production Companies
•Copiers	Heavy Equipment Rental	Recycling Centers
•Fax machines	Hotels	Restaurants
•Typewriters	Ice Suppliers	Security Companies
Car Rentals	Locksmiths	Sign Makers
Caterers	Lumber Stores	Taxi Service
Casting Agencies	Medical:	Tents/Canvas Companies
Cleaners/Laundries	•Ambulances	Video Rentals
Coffee Suppliers	•Chiropractors	Water Suppliers

Made in Montana

Features

1992

- *Ballad of Little Jo*
- *Josh & S.A.M.*
- *South to Wyola*

1991

- *A River Runs Through It*
- *Diggstown*
- *Far and Away*
- *Keep The Change*
- *Nobody's Sweetheart*

1990

- *Common Ground*
- *Son of the Morning Star*
- *True Colors*

1989

- *Always*
- *Bright Angel*
- *Montana*
- *Thousand Pieces of Gold*

1988

- *Cold Feet*
- *Disorganized Crime*

1987

- *Pow Wow Highway*
- *War Party*

1986

- *Amazing Grace and Chuck*
- *Stacking*
- *The Untouchables*

1985

- *Runaway Train*

1983

- *The Stone Boy*
- *Triumphs of a Man Called Horse*

1982

- *Firefox*

1980

- *Continental Divide*
- *Fast Walking*

Pre-1980

- *All the Young Men*
- *Beartooth*
- *Cattle Queen of Montana*
- *Christmas Coal Mine Miracle*
- *Damnation Alley*
- *Dangerous Mission*
- *Devils Horse*
- *Evil Knivel*
- *Grey Eagle*
- *Heartland*
- *Heaven's Gate*
- *The Killer Inside Me*
- *The Legend of Walks Far Woman*
- *Little Big Man*
- *Missouri Breaks*
- *The Other Side of Hell*
- *Pony Express Rider*
- *Potato Fritz*
- *Rancho Deluxe*
- *Red Skies Over Montana*
- *Rodeo Red & the Runaway*
- *Route 66*
- *South by Northwest*
- *Telefon*
- *Thunderbolt & Lightfoot*
- *Warpath*
- *Where the Rivers Rise*
- *Winds of Autumn*
- *Winterhawk*

Commercials and Stills

Acura, Allied Signal, American Express, Amtrak, AT&T, Audi, Banc One, Benneton, Bon Appetit, Bon Marche, British Vogue, Brooklyn Gum, Budweiser, Buick, Busch Beer, Chevy Blazer, Chrysler MiniVan, Conesco Insurance, Coor's Light, Death Penalty Photo Book, Dodge Truck, Eddie Bauer, Elle Magazine, Esquire Magazine, Fleischmann's Margarine, Ford, Ford Explorer, French Glamour, Guess Jeans, H.I.S. Jeans, Harley Davidson, Harold's Clothing, Honda, Hush Puppy Shoes, Interstate Bank, Isuzu, Jeep, Jeep Cherokee, Kemper Insurance, L.L. Bean, Lord & Taylor, Marlboro, Marshall Fields Catalog, McDonald's, Men's Journal Magazine, Mercedes, Minolta, Motel 6, National Potato Boards, Nature's Own Bread, Nestle's White Chocolate, Nike, Nissan, Orowheat Bread, Osh Kosh, Panasonic, Pat Williams Political Ad, Perkins Pancake House, Perrier, Peterbilt Trucks, Ranter Beer, Ski Magazine, Smirnoff Vodka, State Farm Insurance, Sunoco Gasoline, Target, TCI Cablevision, Timberland, United Airlines, VISA, Wathne Products

MOTION PICTURE EQUIPMENT

and

MIGRATORY PERSONAL PROPERTY TAX

Background

The original intent of the Migratory Personal Property Tax is to offset unfair bid advantages that an out-of-state company would have over an instate, local business which pays property tax all year long. Ostensibly, our out-of-state company, without this law, would pay no tax and could bid a job at a lower price while maintaining the same profit margin as an instate firm who is subject to personal property tax.

Two good examples of this are construction companies and oil well drilling companies.

Why Is This Tax Now An Issue For Film Companies?

Although the law has existed for many years it was not applied to film companies until 1987 simply because county assessors were unaware that film companies should be included. In June of 1987 the Glacier County assessor applied the law to Hemdale Productions "War Party" film. After significant research by the Department of Commerce and the Department of Revenue into exemptions and loopholes it was determined that the county assessor was legally correct and film companies should be assessed the tax.

The issue was raised in the press at that time and as a consequence other county assessors are now aware of their legal requirements and are levying the tax on subsequent filming in Montana (i.e. Ravalli County - "Waiting for Salazar").

How Much Is The Tax And Where Do The Revenues Go?

The revenues go to the county that levies the tax. The tax amount is dependent upon the school mill levy and which school district the film companies Montana headquarters are located.

Therefore, there are literally hundreds of mill levy tax rates which could apply. In the case of "War Party" the tax total ended up \$3,400. If Montana were to film three major films per year (this is optimistic) the tax revenue to counties would be between \$8,000-\$15,000.

What Are The Film Companies Concerns?

First, they do not have to pay any property tax in other states so their costs of filming are adversely affected. Second, to inventory list and depreciate each of their film equipment items is a monumental time consuming and expensive task. It's simply a major hassle when they can least afford it.

#10
DATE 2-2-93
SB-151

Third, in the majority of cases, the equipment is leased and they do not know the value.

What Effect Will Enforcement Of The Law Have On Future Filming In Montana?

As the word about the tax spreads among film companies, Montana's ability to attract films will be diminished. Department of Commerce staff have had calls from film companies who said they "heard they would have to pay a \$60,000 tax if they filmed in Montana." These are untrue rumors, but have the net effect of taking Montana out of consideration. The gross revenue loss could be as high as \$8 million per year.

Simply put, a construction company has to build where the job is. An oil company has to drill where oil reserves are. A film company is mobile and can find suitable locations in any number of western states.

We

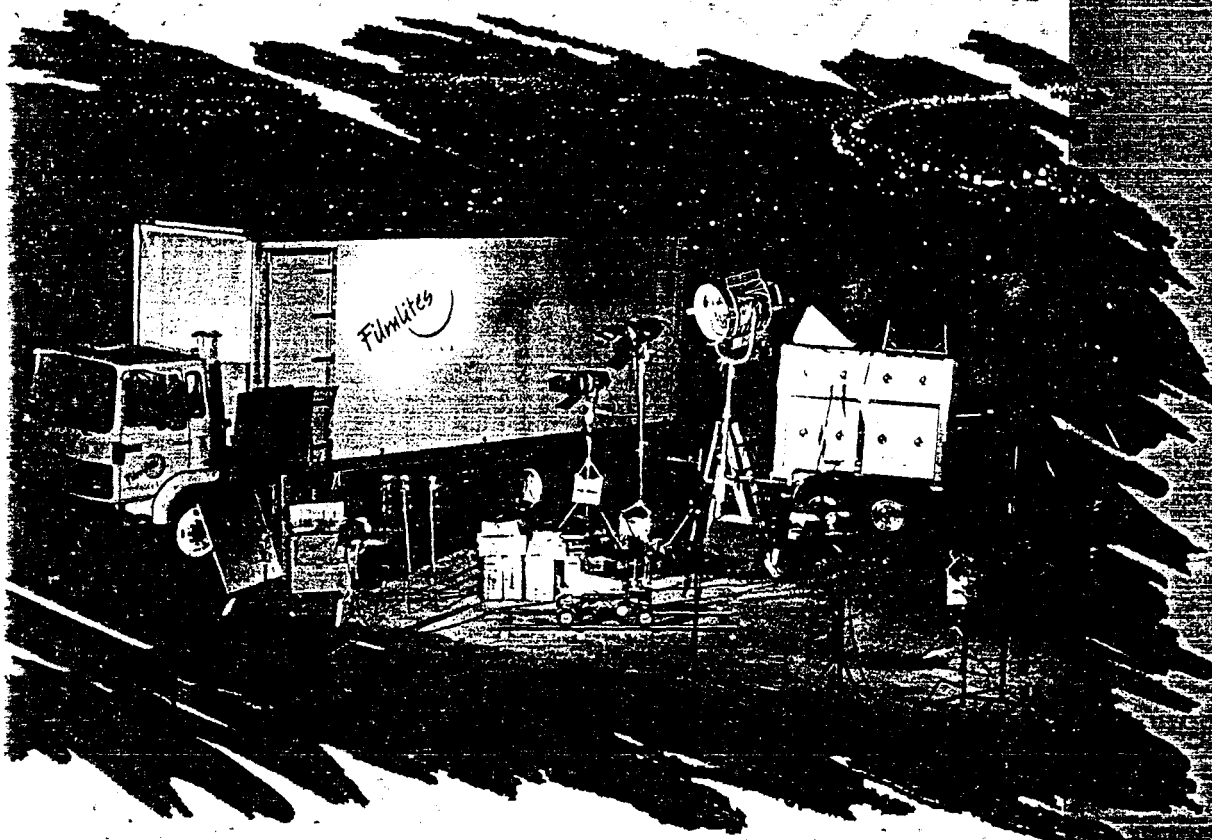
Montana offers everything you need to shoot your next film project under the Big Sky including fresh air, scenic beauty, wide open spaces and friendly folks who want your business.

Light up

the

Big Sky

And Filmlites Montana provides you with experienced film crews, location lighting, equipment and services. Along with our Seattle company, Filmlites Montana can help you with any film project throughout the Northwest.



If you want to know more about Filmlites Montana, just ask these folks who've recently filmed in Montana:

"Far and Away"
Imagine Films
Directed by Ron Howard

"A River Runs Through It"
Big Sky Productions
Directed by Robert Redford

"Diggstown Ringers"
Diggstown Productions
James Woods, Lou Gossett Jr.

"Rescue 911"
Katy Productions

"Sesame Street"
Children's TV Workshop

Limelight Productions
Spot Films
HKM Productions
Partners USA
Barry Dukoff Films
Vivid Productions
Harmony Pictures
RSA/USA

EXHIBIT

DATE

FILE

COMMUNICATION

CAMERA DOLLIES

ELECTRICAL
EQUIPMENT

EXPENDABLES

GRIP EQUIPMENT

HAIR-ION
GRIP TRUCK

LIGHTING
INSTRUMENTS
TML
QUARTZ

MOTOR HOMES

600 AMP AC/DC
SILENT CRYSTAL
BEEBEE GENERATOR
(TRAILER MOUNTED)

600 AMP AC/DC
SILENT CRYSTAL
GENERATOR
(4-WHEEL DRIVE)

SPECIAL EFFECTS

STANDS

VIDEO ASSIST
EQUIPMENT



MONTANA
1307 12th Ave.
Great Falls, MT 59405
(406) 453-2938
(800) 300-5487
(406) 771-9422 (FAX)

Filmlites

MONTANA

1301 12th Ave. S.
Great Falls, MT 59405
(406) 453-4938
(800) 800-5487
(406) 771-0422 (FAX)

Motorola Cell Phones
Motorola Walkies

CAMERA DOLLIES

Chapman Super Pee Wee
Doorway
Western

ELECTRICAL EQUIPMENT

Cable: 2/0, banded, 2-hole extensions,
stingers, tie-ins, boxes, switches, etc.
Hand Squeezers
Variacs

EXPENDABLES

Beadboard
Duvatyne
Foamcore
Hargraves
Lee, CMC, Rosco
Lumber
Showcard
Sprays and Paints
Tape
and much more

GRIP EQUIPMENT

Flags and Scrims
Mounting Equipment
Overheads and Butterflies:
6' x 6' to 20' x 20'
Reflectors
Various Black Draperies

FIVE-TON GRIP TRUCK

LIGHTING INSTRUMENTS

11MIS
12,000 Watt Silver Bullets
4,000W
2,500W
1,200W
575W
200W

LIGHTING INSTRUMENTS

QUARTZ

5,000W Baby Seniors
2,000W Baby Juniors
1,000W Baby Babies
600W Tweenies
200W Minis
100W Peppers
Nine Light Molepars
Nine Light Molefays
2,000W Mighty Moles
1,000W Mickey Moles
2,000W Zips
750W Zips
Arri Light Kits

MOTOR HOMES

24' Empress
32' Southwind

600 AMP AC/DC SILENT CRYSTAL BEBEE GENERATOR (TRAILER MOUNTED)

600 AMP AC/DC SILENT CRYSTAL GENERATOR (FOUR-WHEEL DRIVE MOUNTED)

SPECIAL EFFECTS

Igeba Foggers
Dry Ice Foggers
Rosco Foggers

STANDS

Century Stands
Crankovators
Lowboys
Matthew Super Cranks
Rollers and Combos

VIDEO ASSIST EQUIPMENT

Batteries, Hoodmans
Cables, Connectors
1/2" VHS Portables
Sony 8 Combo Decks

EXHIBIT #11
DATE 2-12-93
SB-151

If your group requires equipment that is not listed above, give us a call. We probably know who has it locally and at the most economical rate.

EXHIBIT #11
DATE 2-12-93
SB-151

COMMUNICATIONS

Motorola Cell Phones
Motorola Walkies

CAMERA DOLLIES

Chapman Super Pee Wee
Doorway
Western

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Variacs

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Tape
and much more

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6' x 6' to 20' x 20'
Reflectors
Various Black Draperies

FIVE-TON GRIP TRUCK

LIGHTING INSTRUMENTS

HIMIS

12,000 Watt Silver Bullets
4,000W
2,500W
1,200W
575W
200W

LIGHTING INSTRUMENTS

QUARTZ

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Cables, Connectors
1/2 " VHS Portables
Sony 8 Combo Decks

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MONTANA

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Great Falls, MT 59405
(406) 453-4938
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EXHIBIT 11DATE 9/3/93BY SB/SI

We

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Light up

the

Big Sky

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"Rescue 911"
Katy Productions

"Sesame Street"

Limelight Productions
Spot Films
HKM Productions
Partners USA
Barry Dukoff Films
Vivid Productions
Harmony Pictures

COMMUNICATIONS

CAMERA DOLLIES

ELECTRICAL
EQUIPMENT

EXPENDABLES

GRIP EQUIPMENT

FIVE-TON
GRIP TRUCKLIGHTING
INSTRUMENTS
HMI
QUARTZ

MOTOR HOMES

600 AMP AC/DC
SILENT CRYSTAL
BEBEE GENERATOR
(TRAILER MOUNTED)600 AMP AC/DC
SILENT CRYSTAL
GENERATOR
(4 WHEEL DRIVE)

SPECIAL EFFECTS

STANDS

VIDEO ASSIST
EQUIPMENT

Filmlites
MONTANA
1301 12th Ave. S.
Great Falls, MT 59405
(406) 453-4938

EXHIBIT 11

DATE 9/3/93

SA 151

COMMUNICATIONS

Motorola Cell Phones
Motorola Walkies

CAMERA DOLLIES

Chapman Super Pee Wee
Doorway
Western

ELECTRICAL EQUIPMENT

Cable: 2/0, banded, 2-hole extensions,
stingers, tie-ins, boxes, switches, etc.
Hand Squeezers
Variacs

EXPENDABLES

Beadboard
Duvatyne
Foamcore
Hargraves
Lee, CMC, Rosco
Lumber
Showcard
Sprays and Paints
Tape
and much more

GRIP EQUIPMENT

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Mounting Equipment
Overheads and Butterflies:
6' x 6' to 20' x 20'
Reflectors
Various Black Draperies

FIVE-TON GRIP TRUCK

LIGHTING INSTRUMENTS

HIMIS
12,000 Watt Silver Bullets
4,000W
2,500W
1,200W
575W
200W

LIGHTING INSTRUMENTS QUARTZ

5,000W Baby Seniors
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Arri Light Kits

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SPECIAL EFFECTS

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Dry Ice Foggers
Rosco Foggers

STANDS

Century Stands
Crankovators
Lowboys
Matthew Super Cranks
Rollers and Combos

VIDEO ASSIST EQUIPMENT

Batteries, Hoodmans
Cables, Connectors
1/2 " VHS Portables
Sony 8 Combo Decks

Filmlites

MONTANA

1301 12th Ave. S.
Great Falls, MT 59405
(406) 453-4938

If your group requires equipment that is not listed above, give us a call. We probably



EXHIBIT 12
DATE 2/2/93
SB 151

P.O. Box 3166
Great Falls, MT 59403-3166
406-761-5036
Toll Free 1-800-527-5348

A tourism region uniting these Montana counties: Blaine, Cascade, Chouteau, Fergus, Hill, Judith Basin, Liberty, Meagher, Petroleum, Pondera, Teton, Toole & Wheatland

PLEASE VOTE YES ON SENATE BILL 151!

We support making permanent the tax exemption on personal property for motion picture companies when filming in Montana.

No other state collects this tax.

Collection of the tax would be costly to administer.

We feel imposing this property tax would deter film companies from choosing Montana as a filming location and the economic benefits (purchase of supplies, lodging, food) to the state would be lost.

PLEASE VOTE YES ON SENATE BILL 151

Dayle Fisher



EXHIBIT 13
DATE 2/2/93
SB 151

Ski Lift, Inc.
P. O. Box 92
Neihart, MT 59465
(406) 236-5522
Town Office:
(406) 727-5553
24-Hour Snowphone:
(406) 771-1300

DATE: February 1, 1993

TO: Bob Gilbert, Chairman
Mike Foster, Vice Chairman
Ed Doleza
Gary Feland
Hal Harper
Chase Hibbard

FROM: Geo. S. Willett, President
Russell Country

As the President of Russell Country I would like to express my support of Senate Bill 151. It seems counterproductive to place Montana at a disadvantage with other states in the eyes of the filming industry.

This tax revenue would be small and would cause cumbersome bookkeeping problems for the industry, as well as the counties involved.

The film industry has had a big economic impact on the communities they have landed in and we want to see that continue.

Thank you for your support of Senate Bill 151.

Very truly yours,

SHOWDOWN SKI AREA


Geo. S. Willett
President

EXHIBIT 14
DATE 2/7/93
SB 151

Dear Legislators:

We support S.B. 151...to make permanent the personal property tax exemption for motion picture companies!

If Montana taxes movie company equipment...the companies will NOT SHOOT HERE! We would be the ONLY state to have such a law! Since they would NOT SHOOT HERE...NO TAX would be collected! For movie companies, the tax would create added cost for production, bookkeeping, and would cost them much time and hassle. (They would shoot else where in FILM FRIENDLY STATES)!

Last year movie companies spent approximately twelve million dollars in Montana! This money trickled down to every type of business=hotels, restaurants, car rentals, cleaners, etc. Employment was also created for local crew members and talent!

Also our STATE...through the Montana Film office...spends TAX (Red Tax) PAVERS DOLLARS...to portray an image of being FILM FRIENDLY to film and commercial companies. The state welcomes and encourages such production companies to shoot in Montana. In other words...bring in welcome out of state funds for all to benefit!

One commercial can generate anywhere from fifty thousand to 2 million dollars PER commercial! Movies generate even more money! The movies, i.e., Far and Away and A River Runs Through It peaks interest in tourism to our state...which is FREE ADVERTISING...saving limited TAX DOLLARS!

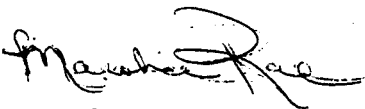
In summary...Montana would gain NOTHING and COULD lose MILLIONS in revenue yearly....that would effect all of us!

PLEASE SUPPORT S.B. 151, the personal property TAX EXEMPTION for motion picture companies! Anything else would be counter PRODUCTIVE !!!

THANK YOU FOR YOUR SUPPORT!!!



Sunny Anderson
Sunny Anderson Casting



Marsha Rae
M.R. Productions

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

SB 138
SB 141
SB 151

House Taxation COMMITTEE BILL NO. SB 151
DATE 1/2/93 SPONSOR(S) GAGE, ECK, BROWN

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Quane A. Denny	Hinsdale Public Schools		SB 138 X
IRA HAMMOND	Self		SB 138 X
Michael Johnson	Hinsdale Public Schools		SB 138 X
ALLIE LEE HAMMOND	Saco Public Schools		SB 138 X
GARRY WUNDERWALD	SELF	SB 151 X	
Buck TAYLOR	SELF & Saco Public School		SB 138 X
GARY A. BADEAU	PHILLIPS County		SB 138 X
WAYNE C. STAHL	PHILLIPS County		SB 138 X
Steph R. Cascarda	Whitewater Public Schools		SB 138 X
Janora Crowder	Saco Public Schools		SB 138 X
Larry Crowder	Saco Schools		SB 138 X
Berna Math	Whitewater Phillips Cnty		SB 138 X
James Simonson	Whitewater Schools		SB 138 X
Susan Haag	Whitewater Schools		SB 138 X

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

**HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER**

House Taxation COMMITTEE BILL NO. SB 138
SB 141
SB 151
 DATE 2/7/93 SPONSOR(S) Sage, Eck, Brown
 PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Doug A. Belin	N. M. 2nd for Ave.	SB 138 ✓	
Jeanne Barnard	Phillips County		SB 138 ✓
Rab. Hewari	H.D. # 9	SB 138 ✓	
Lynda Brannon			✓
Manahua Rags		SB 151 ✓	
Danny Anderson		SB 151 ✓	
Madalyn Quinlan	OPI	SB 138 ✓	
Stuart Daggert	MT Trucking	SB 151 ✓	
Gaulli Fillion	MT Petroleum Assn	SB 138	
John Schramm	Bd of Regents	SB 138	
Keith P. Colby	MT Tourism Coalition	SB 151	
DAN RITTER	MT CHAMBER	SB 151 ✓	

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**HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER**

House Taxation COMMITTEE BILL NO. SB/138
SB/141
SB/151
 DATE 2/2/43 SPONSOR(S) Hager, Cook, Brown
 PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
MATHEW COHN	Dept of Commerce	X 151	
Lowie Stimac	" " "	X 151	
Kathleen M. Simonson	P.C. Co. Whitewater Schools		SB 138
Harold P. Olson	P.C. Whitewater Schools		SB 138
Robert Simonson	Phillips Whitewater		SB 138
Leo Depuydt	Phillips Co. Whitewater		SB 138
Lynn Simonson	Phillips Co. Whitewater		SB 138
Lora Simonson	Phillips Co. Whitewater		SB 138
Ronabeth Cascaden	Whitewater Public Schools		SB 138
Shane Anderson	" " "		SB 138
Nate Dean	" " "		SB 138
Sarah Dunbar	Whitewater Schools		SB 138
Mike Hammock	Whitewater		SB 138
Robert Math	Whitewater		SB X 138

**PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
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