

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON EDUCATION & CULTURAL RESOURCES

Call to Order: By Rep. H.S. "Sonny" Hanson, Chair, on March 5, 1993, at 3:10 p.m.

ROLL CALL

Members Present:

Rep. Sonny Hanson, Chair (R)
Rep. Alvin Ellis, Vice Chair (R)
Rep. Ray Brandewie (R)
Rep. Fritz Daily (D)
Rep. Ervin Davis (D)
Rep. Ed Dolezal (D)
Rep. Dan Harrington (D)
Rep. Jack Herron (R)
Rep. Bob Gervais (D)
Rep. Bea McCarthy (D)
Rep. Scott McCulloch (D)
Rep. Norm Mills (R)
Rep. Bill Rehbein (R)
Rep. Sam Rose (R)
Rep. Dick Simpkins (R)
Rep. Wilbur Spring (R)
Rep. Norm Wallin (R)
Rep. Diana Wyatt, Vice Chair (D)

Members Excused: None

Members Absent: None

Staff Present: Andrea Merrill, Legislative Council
Susan Lenard, Committee Secretary

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

Committee Business Summary:

Hearing: SB 138, SB 306, SB 307
Executive Action: SB 306, SB 307, HB 540

HEARING ON SB 138

Opening Statement by Sponsor:

SENATOR GAGE, Senate District 5, Cut Bank, introduced SB 138 as a bill to clarify the distribution of local government severance

tax. He said foundation millages are to be a part of the whole distribution program. **SEN. GAGE** commented on the 1989 special session and the area of local government severance tax. Previous to the 1989 session oil and gas were taxed under a net proceeds tax. **SEN. GAGE** stated oil and gas investors left Montana because compliance with the net proceeds tax was so difficult, since school millages across the state were different. **EXHIBIT 1**

Proponents' Testimony:

REP. BERGSAGEL, House District 17, Malta, commented on the complexity of the issue. He noted his district is in Phillips county which has difficulty with the phrase "for the exclusive use and benefit of local government" on the intended use of the local government severance tax (LGST) on oil and gas production. He said his county interpreted the phrase differently and spent nearly \$600,000 of LGST on education. The way SB 138 is written, Phillips county would be required to immediately pay back the \$600,000 plus an additional one million dollars derived from the local severance tax collections. He explained the county does not have the \$600,000. **REP. BERGSAGEL** offered amendments which, he commented, both OPI and his county do not like. He said the amendments would require Phillips county to pay back the one million dollars, but not the six hundred thousand. It was explained Phillips county has extreme difficulty with the bill without the proposed amendments. **REP. BERGSAGEL** said schools within his district would be forced to sue if the amendments were not adopted. He noted SB 138, if passed, would clarify present law so there would be no further misinterpretation of its intent. **REP. BERGSAGEL** asked for the committee's consideration and support of SB 138 with the amendments. **EXHIBIT 2**

Madalyn Quinlan, Office of Public Instruction (OPI), commented OPI supports the bill because it clarifies language they believed was already clear in the tax code about how LGST money should be distributed. It was OPI's contention LGST should be distributed to the county equalization levy and to the university levy. She noted the amount deposited per year into the county equalization fund would total approximately nine million dollars from LGST. **Ms. Quinlan** explained this money funds the state foundation program. In addition, LGST is used to fund over one million dollars of the six million dollar university levy.

Janelle Fallan, Executive Director of Montana Petroleum Association, distributed information on Montana's Oil and Gas Industry. She stressed the complexity of the issue and noted the Association believed the present statute was already clear. **EXHIBIT 3**

LeRoy Schram, Board of Regents, said if the bill does not pass and the pending lawsuits succeed the state could face losing four million dollars of the six million dollars levy. Since that money is used as a offset for the general fund, the general fund would

thus be one million dollars deeper in debt. He urged the committee's adoption of the bill.

Opponents' Testimony:

Jean Barnard, Phillips County Assessor, presented written testimony to the committee in opposition to SB 138. **Ms. Barnard** also distributed two handouts related the Oil and Gas Severance Tax. **EXHIBITS 4, 5, AND 6**

Carl Knudsen, Superintendent of Saco Public Schools, presented written testimony to the committee regarding the dispute between the schools in question, the Board of Regents, and OPI. He asked the committee to support all amendments that would protect educational programs otherwise harmed by the application of the retroactivity provision as currently worded in SB 138. **EXHIBIT 7**

Steve Cascaden, Superintendent of Whitewater Public Schools, stated he is superintendent of a small school located south of the Canadian border. He emphasized the school was rural and isolated, having only a gravel road and receives mail only three days per week. He explained the Whitewater community approved of the use of the LGST in order to keep mill levies low. **Mr. Cascaden** noted loss of this money would triple the district's levies. He emphasized his opposition to the bill and his support for the amendments offered by **REP. BERGSAGEL**.

Questions From Committee Members and Responses:

REP. ELLIS asked the sponsor if change in LGST monies is related to the price or amount of production relevant to the time HB 28 was signed into law. **SEN. GAGE** responded by saying it is somewhat related but commented it is also dependent upon delinquencies and the amount the state might have earned from investment of the money during the six months the districts had possession of it. **REP. ELLIS** asked if it was true Phillips County attempted to apply a forty million dollar levy two ways. He asked where Phillips County misappropriated its funds. **SEN. GAGE** said it was his understanding the county contended the forty five million dollars and the six million university levy should not get any money from the LGST. He said the county believed the money should go toward the school districts. **REP. ELLIS** asked if the county is responsible for sending the forty million dollar levy from the LSGT derived funds. **SEN. GAGE** replied the forty million dollar levy is a state equalization levy which has never participated in the LGST amount. The fifty-five million dollars would participate in the distribution formula if it was assessed in 1989 as part of the 1988 net proceeds tax.

REP. ELLIS asked **Ms. Quinlan** to respond to his questions. **Ms. Quinlan** said for fiscal year 1991 the Phillips County treasurer took LGST money and deposited it into the county equalization account. At that time it was approximately forty-five million dollars. The county superintendent took the money and distributed

it only to those school districts with production. The money was given in excess of the foundation program entitlement. She noted gas tax money was also use which accounted for the large sums of money available.

REP. ELLIS asked **Mr. Cascaden** for the distance the Whitewater school is from the next nearest school. **Mr. Cascaden** replied it is thirty-four miles from the nearest neighboring high school.

REP. BRANDEWIE asked the sponsor if the amendments were acceptable. **SEN. GAGE** replied he was not opposed to the amendments unless they jeopardize the passage of the bill.

REP. REHBEIN asked **Ms. Fallan** if the amendments were acceptable to her organization. **Ms. Fallan** said if **SEN. GAGE** and OPI have no objections she sees no reason to object to the adoption of the amendments.

REP. MCCARTHY asked **Mr. Knudsen** to explain his comment in support of the amendments and not the bill. **Mr. Knudsen** explained the reason for opposing SB 138 is that section 2 contains the statement it will be retroactive to August of 1989. With that legal interpretation his school would be forced to pay back the \$223,000 they spent two years ago. He said his community does not have the present means to pay back that amount. **REP. MCCARTHY** maintained the amendments would remove the retroactive stipulation and the schools would thus not be required the pay back that money. **Mr. Knudsen** stated he would support the bill if the amendments were adopted, leaving both the schools and the state revenue neutral.

REP. MCCARTHY asked the same question of **Mr. Cascaden**. **Mr. Cascaden** replied he would support SB 138 if amended.

REP. ROSE asked **Mr. Knudsen** if \$223,000 is the total amount of influx into the system. **Mr. Knudsen** replied the income problem in 1989 to the 1991-92 year shows the class one category taxable value at eleven million dollars. He noted this figure was false, there was no taxable value that year. **Mr. Knudson** said the amount generated in revenue was \$546,000. He explained the district payments totaled \$287,000. It was noted when the \$230,000 came in the district thought it was almost revenue neutral because the tax revenue was previously at \$554,000. **Mr. Knudsen** stated the difference in amounts was made up in revenue.

REP. ROSE asked **Mr. Cascaden** how much money his district received and why they did not think it odd to receive that seemingly excessive amount. **Mr. Cascaden** stated they received \$209,000 and asked OPI to clarify the reason for the amount. He said the issue was never properly addressed.

REP. BRANDEWIE asked **Mr. Knudsen** if his district would be obligated to pay back money from the period of 1989 to 1991 if the amendment would release them of money used back to 1991. **Mr.**

Knudsen said his interpretation was that the district would receive the distribution. For the fiscal years of 1992 and 1993 an agreement was made with OPI to take the overall distribution and put it into an agency account to earn interest. It is this portion the district would relinquish claim thus releasing 1.74 million dollars to the state. **REP. BRANDEWIE** asked if the amendment would leave his district revenue neutral. **Mr. Knudsen** replied in the affirmative.

REP. ELLIS asked **Ms. Quinlan** who was responsible for making the original error if indeed there was an error. **Ms. Quinlan** said from the viewpoint of OPI the error was made when the county superintendent over-distributed foundation program money to the districts.

REP. ROSE asked **Ms. Quinlan** if it never occurred to OPI there was some problem when the location of \$600,000 dollars was unknown. **Ms. Quinlan** replied that is how this came to be an issue. She said OPI received school expenditure reports at the close of the fiscal year. At that point OPI realized there was a problem of over-distribution of money in Phillips County but it took six months from the close of the fiscal year to realize what had actually happened. She said OPI contacted the county and told them they were to repay the money distributed to school districts in excess of the foundation program amounts. **REP. ROSE** asked if it was true that within a six month period each school district spent in excess of \$200,000. **Ms. Quinlan** replied the money was distributed to the school districts in fiscal 1991 and could have been spent in that year or put into an excess reserve account and spent over a two year period of time. She noted one school district spent it for taxpayer relief and the other for remodelling.

REP. SPRING asked **Mr. Knudsen** for the amount of his district's voted levy in 1991 and 1992. **Mr. Knudsen** said the combined voted levies for his high school and elementary were forty-nine million dollars. He mentioned the district did infuse tax audit monies in those years that would have meant an additional thirty million. Had the district not used the tax audit money the levy would have been set at ninety million dollars.

REP. SPRING asked **Mr. Cascaden** the same question. **Mr. Cascaden** replied his district levy was approximately two million dollars.

REP. MILLS asked **Mr. Knudsen** how his district would have financed the programs it did had it not used the money in question. **Mr. Knudsen** replied the district had requested a emergency budget authorization from OPI to spend \$240,000 on the costs using tax audit money it had in reserves. When the money was received by the district it contacted OPI and asked if they could use the LGST money instead of the tax audit money. **Mr. Knudsen** stated OPI gave its approval. He said the district then used the LGST money to pay for the remodelling and the tax audit money to reduce the levy amounts.

REP. MILLS asked the same question of Mr. Cascaden. Mr. Cascaden replied his district used its own local tax money for its projects but then reappropriated the LSGT money. He said his district tried to do the same thing as Saco Public Schools, but OPI did not give them the approval to do so. REP. MILLS asked what his district did with the money. Mr. Cascaden said his district put the LGST money into the cash reappropriated account and used it at the end of the year to keep the levies down. REP. MILLS asked why he has a problem with requiring the community to pay back the LGST amount used to keep their levies down. Mr. Cascaden stated the amount would now be double or triple the original amount.

REP. HANSON asked Ms. Quinlan for the total amount of dollars under discussion. Ms. Quinlan said for fiscal 1991 the amount of \$485,000 was deposited into the county equalization fund and then distributed outside the foundation program. In fiscal 1992, the amount was \$463,000. Ms. Quinlan noted the amount deposited into county equalization accounts statewide is nine million dollars. This money is used to fund the foundation program. In terms of repayment, the Saco and Whitewater school districts' county equalization accounts were over-distributed by approximately \$485,000 for fiscal 1991. REP. HANSON asked if the \$463,000 amount for fiscal 1992 was distributed. Ms. Quinlan said it was not. She indicated it was deposited into the county equalization account where it presently remains in Phillips County. She noted it should have been reverted back to the state under HB 62, but will remain in interest bearing accounts at the county level until this dispute is settled.

REP. HANSON asked if the amendment would affect distribution of the nine million dollars in the foundation amount. Ms. Quinlan said the amendment will not affect the nine million dollar distribution. She said it was her understanding the lawsuits will be dropped if SB 138 passes. If this occurs, the nine million dollars will no longer be in jeopardy.

REP. GERVAIS asked if this type of situation has ever occurred before. Ms. Quinlan replied foundation program money has been over-distributed or in excess of what schools were entitled, but she could not recall a case where local severance tax money was involved. Over-distribution of the foundation program money was recovered, she added.

REP. SIMPKINS asked Ms. Quinlan if the passage of SB 138 and the proposed amendments would forgive not only Phillips County but possibly all of the counties which received overpayment. Ms. Quinlan said the amendment refers to any school district that received an over-distribution of foundation program money attributable to local government severance tax. REP. SIMPKINS asked for the price tag of passing the amendment. Ms. Quinlan replied it would result in a cost of \$485,000 to the state. REP. SIMPKINS asked how much money is at stake if the state loses the lawsuit. Ms. Quinlan said at present twenty-five million dollars

HOUSE EDUCATION & CULTURAL RESOURCES COMMITTEE

March 5, 1993

Page 7 of 11

should have been distributed to the county equalization account for all of fiscal 1991, 1992, and half of fiscal 1993.

Closing by Sponsor:

SEN. GAGE stated if the bill does not pass and the court rules against the state, then two more years will pass before the legislature can address this situation, thus two more years of accrued expenses. He said Mr. Knudsen remarked on the decrease in the district's tax base but failed to comment on the increase in their non-mill revenue which is where the local severance tax money goes. SEN. GAGE said the committee should be aware Phillips County is involved in another lawsuit challenging the constitutionality of the local severance tax and the flat coal tax.

HEARING ON SB 306

Opening Statement by Sponsor:

SENATOR HERTEL, Senate District 15, Moore, explained SB 306 establishes definite wording to explain the procedures for staggering trustee positions at the time they are due for election. He said existing law would be changed so initial terms may be shortened rather than lengthened in order to comply with the intent of subsection one of MCA 20-3-302. The length of a board member's term may be less than but never greater than three years. He said the bill is simple but important and asked the committee to give it favorable consideration.

Proponents' Testimony:

Bruce Moerer, Montana School Boards Association, stated SB 306 came through MSBA's resolution process. The intent is to never have a majority of the trustees elected at one time. He said the process cannot be controlled for a position vacated during the middle of the year. Mr. Moerer stated Don Waldron, Montana Rural Education Association, who was unable to be present, asked to go on record in favor of SB 306.

Loran Frazier, School Administrators of Montana, stood on support of SB 306.

Opponents' Testimony: None.

Questions From Committee Members and Responses: None.

Closing by Sponsor:

SEN. HERTEL asked for the committee's favorable consideration of SB 306.

HEARING ON SB 307Opening Statement by Sponsor:

SENATOR WATERMAN, Senate District 22, Helena, explained SB 307 is a consolidation bill which comes from the people who are affected by and approve of it. **SEN. WATERMAN** said it is an example of how consolidation should occur. She noted the bill affects only schools with contiguous boundaries. Senate bill 307 would allow those schools with identical boundaries to voluntarily consolidate elementary and high school districts. The bill originally said the decision to consolidate would be held through an election by the year 1995. **SEN. WATERMAN** said school board trustees from a few of the schools possibly affected said this type of consolidation is a good idea but the reason it has not yet been done voluntarily is because the election process is expensive. She said seventy districts could be consolidated into thirty-five by 1995. **SEN. WATERMAN** stated an amendment was attached in the Senate committee which excludes public schools receiving PL-874 money if the creation of a K-12 district would result in the loss of PL-874 funding.

Proponents' Testimony:

Bruce Moerer, Montana School Boards Association, stated **Don Waldron**, Montana Rural Education Association, requested to go on record in favor of SB 307. Twelve members of MREA would be affected by the bill and all are in support of the measure. **Mr. Moerer** expressed MSBA's support of the bill, noting it would combine elementary and high school districts with the same boundaries such that no outlying elementary districts would lose their status.

Loran Frazier, School Administrators of Montana, related having called ten school districts which would be affected to be affected by the bill. He said six of them already have something like this in place and the other four had no difficulty with it.

Eric Feaver, Montana Education Association, stood in support of SB 307.

Opponents' Testimony: None.Questions From Committee Members and Responses:

REP. ELLIS asked **Mr. Moerer** about a district which had consolidated in this fashion but was required, because of the accreditation standards, to add another administrator as a result of the increase in student body size. **Mr. Moerer** said the district to which he may be referring is in Townsend. **Mr. Moerer** said an elementary school in the district was being closed down and many other things were in the process of undergoing change. He was not sure the example appropriately fit the intent of the bill. **REP. ELLIS** asked **Mr. Moerer** to look into the specifics of

the situation for assurances SB 307 will not result in an increase in administrative position requirements. **Mr. Moerer** replied he would, noting the board of public education has indicated they will start granting alternative accreditation standards so administrative staff increases would not be mandatory.

REP. SPRING asked **Mr. Frazier** if the seventy schools in question have two school boards, one for each elementary and one for each high school. **Mr. Frazier** responded these schools have one superintendent and one school board of trustees.

Closing by Sponsor:

SEN. WATERMAN said, although members of the school board of trustees sit on one board, technically they serve on two boards, one for the elementary level and one for the high school level. She stressed SB 307 outlines a acceptable and desireable plan for the way school consolidation should take place. **SEN. WATERMAN** said many schools are amenable to consolidation but stressed each situation needs to be looked at in a case by case basis. She emphasized all SB 307 does is reduce the number of districts statewide.

EXECUTIVE ACTION ON SB 307

Motion/Vote: **REP. MCCULLOCH** MOVED SB 307 BE CONCURRED IN. Motion carried unanimously.

EXECUTIVE ACTION ON SB 306

Motion/Vote: **REP. WYATT** MOVED SB 306 BE CONCURRED IN. Motion carried unanimously.

EXECUTIVE ACTION ON HB 540

Motion: **REP. MCCARTHY** MOVED HB 540 DO PASS.

Discussion:

REP. MCCARTHY said she understood the sentiment of the committee is to table HB 540 but asked her fellow representatives to seriously consider having the bill brought out on the floor for discussion. She stressed people need to be made aware of the repairs needed in the system. She explained the long process of approval any renovation or repair project must pass before action can occur. **REP. MCCARTHY** appealed to the committee to allow the

bill to be discussed by the entire House body. She noted those who wished to vote against HB 540 could do so on the floor.

REP. BRANDEWIE spoke against the do pass motion. He suggested the money should be taken from the account and used for the purposes of repair right now, rather than to invest it and utilize the interest. He was adamantly against putting off making the repairs with the false sense of assurance the same amount of money will be able to produce as much in the years ahead.

Motion: **REP. ELLIS** MADE A SUBSTITUTE MOTION THAT HB 540 DO NOT PASS.

Discussion:

REP. GERVAIS said the sponsor has not done justice to the bill. He said he would like **REP. BACHINI** to have the opportunity to address the issue on the floor.

REP. HERRON asked **REP. MCCARTHY** if the administration already set up a replacement program of fifteen to twenty percent to keep the university buildings in good order. **REP. MCCARTHY** said beginning in 1988 all of the repair and building funds were pulled back by the governor. The university system was deprived of any funding except for emergency repairs. She stressed no repair funds were committed.

REP. WALLIN said he would not run a business the way the university system is handled. He stated HB 540 could very well be a means of helping the system.

REP. SPRING questioned the legality pulling twenty million dollars from the account to be used for these purposes. **REP. HANSON** said the approval to move money out of the trust requires a three fourths vote.

REP. SIMPKINS said HB 540 attempts to entirely circumvent the intent of the treasure state endowment fund. He stated there isn't five hundred million dollars of disposable money available in the fund. He said rather than having its budget cut the university system always seems to come out ahead. He emphasized the buildings in the university system belong to the people of Montana, but they have been allowed to deteriorate. He stressed the Board of Regents has the authority to move money under emergency conditions. **REP. SIMPKINS** contended the Board has always chosen to support higher faculty and staff pay, rather than attend to other pertinent needs.

REP. MCCARTHY stated the Board of Regents is limited in the amount it may allocate to repairs before getting approval from the legislature.

HOUSE EDUCATION & CULTURAL RESOURCES COMMITTEE

March 5, 1993

Page 11 of 11


REP. HANSON articulated his difficulty with the bill. He said the public voted for public services, not maintenance. He said if fifty million dollars is taken from the fund, it will take nearly four years to reach the twenty million dollar cap.

Vote: HB 540 DO NOT PASS. Motion failed with a tie vote of 9 to 9 with REPS. DAILY, DAVIS, DOLEZAL, HARRINGTON, GERVAIS, MCCARTHY, MCCULLOCH, WALLIN, and WYATT voting no. EXHIBIT 8


Motion/Vote: REP. SIMPKINS MOVED HB 540 BE TABLED. Motion failed with a tie vote of 9 to 9 with REPS. DAILY, DAVIS, DOLEZAL, HARRINGTON, GERVAIS, MCCARTHY, MCCULLOCH, WALLIN, and WYATT voting no. EXHIBIT 9

ADJOURNMENT

Adjournment: 5:30 p.m.



REP. H.S. "SONNY" HANSON, Chair



SUSAN LENARD, Secretary

HSH/SL

HOUSE OF REPRESENTATIVES

Education and Cultural Resources COMMITTEE

ROLL CALL

DATE

3/5/93

NAME	PRESENT	ABSENT	EXCUSED
REP. SONNY HANSON , CHAIR	✓		
REP. ALVIN ELLIS , VICE-CHAIR	✓		
REP. DIANA WYATT , VICE-CHAIR	✓		
REP. RAY BRANDEWIE	✓		
REP. FRITZ DAILY	✓		
REP. ERVIN DAVIS	✓		
REP. ED DOLEZAL	✓		
REP. DAN HARRINGTON	✓		
REP. JACK HERRON	✓		
REP. BOB GERVAIS	✓		
REP. BEA MCCARTHY	✓		
REP. SCOTT MCCULLOCH	✓		
REP. NORM MILLS	✓		
REP. BILL REHBEIN	✓		
REP. SAM ROSE	✓		
REP. DICK SIMPKINS	✓		
REP. WILBUR SPRING	✓		
REP. NORM WALLIN	✓		

HOUSE STANDING COMMITTEE REPORT

March 8, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Education and Cultural Resources report that Senate Bill 306 (third reading copy -- blue) be concurred in.

Signed: JS "Sonny" Hanson
Sonny Hanson, Chair

Carried by: Rep. Ellis

Committee Vote:
Yes 12, No 3.

520842SC.Hbf

HOUSE STANDING COMMITTEE REPORT

March 8, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Education and Cultural Resources report that Senate Bill 307 (third reading copy -- blue) be concurred in .

Signed: 11 S. "Sonny" Hanson
Sonny Hanson, Chair

Carried by: Rep. Ellis

Committee Vote:
Yes 11, No 0.

520845SC.Hpf

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.

1988 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 1989 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 1989 and assuming the same production of 1,000, ~~000~~ MCF. *PRICE OF 92.25* These units would get the same taxes in 1990 as they did in 1989 as the mills for distribution purposes are frozen at the 1989 level.

1990 Taxes		
1990 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 1989 tax for each of the taxing units.

Since there is usually a decline in production as wells get older and for comparison purposes lets assume that in 1989 the sales of gas were only 900, ~~000~~ MCF. That means the taxing units would get less taxes to distribute:

82 = 8

900, ~~36~~ 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 ①
University 6 mills X 1.35	8.10 ②
Schools 45 mills X 1.35	60.75 ②
10 mills X 1.35	13.50 ②
39 mills X 1.35	52.65 ②

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, ~~36~~ MCF X \$.375 = \$ 337.50 tax to distribute

Distribution formula:

337.50 divided by 150 mills = 2.25 per mill

337.50 " " *189* " = *1.7857* " "

150 x 1.7857 County - 150 mills X 2.25 \$ 337.50 *267.85*
less what they get if schools and university are included per above 202.50

39 x 1.7857 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 - *289.50* 1989 - 225.00 divided by 1,000, ~~36~~ MCF equals a unit value of \$ 2.25 per MCF.

Now if we assume the production in 1989 of 9,000 ~~36~~ 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

255.15 " " *189* " = *1.35* " "
County - 150 mills X 1.35 \$ 202.50
39 " X *1.35* *52.65*

One of the main considerations in converting from net *255.15* 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 1989 against the 1988 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, ~~36~~ 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 198~~9~~ taxes against the 198~~8~~ 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

EXHIBIT 1
DATE 3/5/93
SB 138

30

Amendments to Senate Bill No. 138
3rd Reading Copy

Requested by Senator Gage
For the Committee on Education

Prepared by Andrea Merrill
March 5, 1993

1. Title, line 6.

Following: "LEVIES;"

Insert: "EXEMPTING A SCHOOL DISTRICT FROM REPAYING ANY
OVERDISTRIBUTION OF FOUNDATION PROGRAM MONEY FOR SCHOOL
FISCAL YEAR 1991 ATTRIBUTABLE TO AN OVERDISTRIBUTION OF
LOCAL GOVERNMENT SEVERANCE TAX REVENUE."

2. Page 10, line 2.

Following: "applicability."

Insert: "(1)"

3. Page 10, line 3.

Following: "and"

Insert: ", except as provided in subsection (2),"

4. Page 10, line 5.

Following: line 4

Insert: "(2) Any school district that received an
overdistribution of foundation program money for school
fiscal year 1991 is not required to repay the excess if the
excess is attributable to an overdistribution of local
government severance tax revenues."

Amendments to Senate Bill No. 138
3rd Reading Copy

~~Request~~
Requested by ~~Senator~~ ^{Repres.} Bergsagel
For the Committee on Education

Prepared by Andrea Merrill
March 5, 1993

1. Title, line 6.
Following: "LEVIES;"
Insert: "EXEMPTING A SCHOOL DISTRICT FROM REPAYING ANY
OVERDISTRIBUTION OF FOUNDATION PROGRAM MONEY FOR SCHOOL
FISCAL YEAR 1991 THAT IS ATTRIBUTABLE TO AN OVERDISTRIBUTION
OF LOCAL GOVERNMENT SEVERANCE TAX REVENUE;"
2. Page 10, line 2.
Following: "applicability."
Insert: "(1)"
3. Page 10, line 3.
Following: "and"
Insert: ", except as provided in subsection (2),"
4. Page 10, line 5.
Following: line 4
Insert: "(2) Any school district that received an
overdistribution of foundation program money for school
fiscal year 1991 is not required to repay the excess if the
excess is attributable to an overdistribution of local
government severance tax revenue."

Please Note: This complete exhibit may be located at the Historical Society.

OIL AND GAS INDUSTRY

EXHIBIT 3

DATE 3/5/93

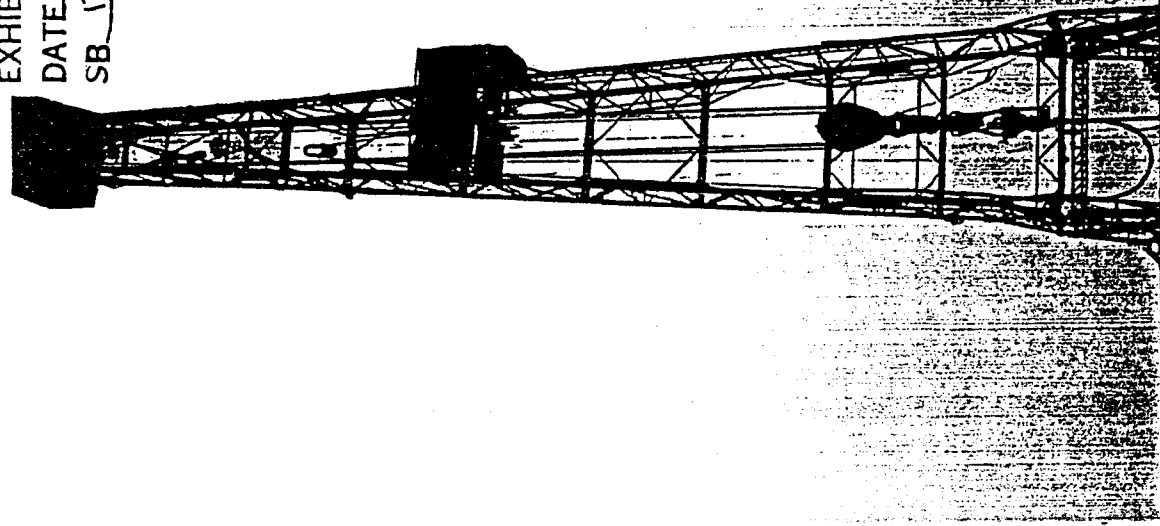
SB 138

1 of 2

MONTANA PETROLEUM PRODUCTION FACTS

CY	BARRELS	GROSS VALUE	MCF	GROSS VA
1978	30,934,923	277,737,502	44,615,198	37,342,9
1979	30,285,631	362,239,259	50,691,868	60,931,6
1980	29,927,468	626,154,711	48,928,608	70,261,4
1981	30,517,947	1,052,333,907	44,800,000	85,120,0
1982	30,937,514	963,428,800	50,932,000	107,109,9
1983	29,320,418	842,681,933	41,203,000	99,010,8
1984	30,668,305	845,919,776	48,499,939	120,949,8
1985	30,284,836	763,601,854	45,871,819	106,835,4
1986	26,863,224	368,939,518	42,215,899	83,249,7
1987	24,225,665	402,679,003	41,708,773	85,961,7
1988	21,998,807	318,982,701	42,870,342	77,166,6
1989	19,970,710	293,769,140	43,109,408	71,992,7
1990	19,305,771	415,661,605	45,997,999	82,194,1
1991	19,393,561	351,047,802	48,416,534	79,944,7
OIL WELLHEAD				
PRICE: \$/BBL	PRODUCING OIL WELLS	NATURAL GAS PRICE: \$/MCF	PRODUCING GAS WELLS	EI
1978	9.253	.837	1377	
1979	12.279	1.202	1881	
1980	22.250	1.436	2150	
1981	34.317	1.900	2142	
1982	31.311	2.103	2069	
1983	28.804	2.403	2043	
1984	28.066	2.512	2088	
1985	25.214	2.329	2033	
1986	13.734	1.972	1818	
1987	16.622	2.061	2100	
1988	14.500	1.800	2023	
1989	14.710	1.670	2575	
1990	21.530	1.790	2428	
1991	18.10	1.663	n/a	

Production and price statistics from Montana Department of Revenue. Employment, well numbers Association of America. Montana Petroleum Association, November, 1992



COUNTY COMMISSIONERS

EUGENE (GENE) COWAN
Loring, Montana

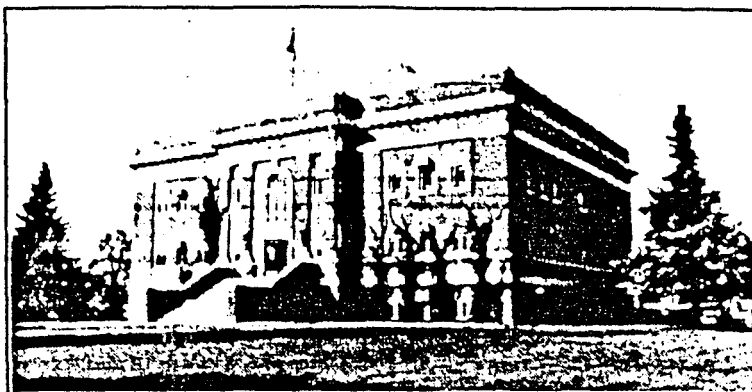
Carol Kienenberger
Dodson, Montana

WAYNE C. STAHL
Saco, Montana

Clerk and Recorder
Laurel N. Hines

Treasurer
JEAN MAVENCAMP

PHILLIPS COUNTY



Malta, Montana
59538

Assessor
JEANNE L. 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

MARCH 5, 1993

HOUSE EDUCATION COMMITTEE
CHAIRMAN REP. HANSON
MEMBERS

EXHIBIT 4
DATE 3/5/93
SB 138

Chairman Hanson, and members of the education committee. My name is Jeanne Barnard and I am the Assessor of Phillips County. My testimony is on the behalf of the Phillips County Commissioners who have a great deal of involvement with the controversy over this issue before you today. I regret the controversy over the local government severance tax that has resulted in litigation in District Court and any other misunderstandings that may have surfaced. I sincerely thank you for giving us this opportunity to come before you. I feel that it is important for you to know how we arrived in this controversy in the first place, ~~and ask you to amend the retroactive date out of this bill.~~ *B*

When one assumes an elected office for the first time, it is a pretty scary confrontation with the laws of Montana. So many laws, so little time, and the only way to learn and understand these laws is to read them and follow them, we have all been there.

After 16 years, a new County Superintendent Gary Baden was elected to Phillips County paralleling an avalanche of new non-tax revenues and the implementation of HB 28 (local government severance tax); HB 20 (personal property tax reimbursement); new and interim production; a tax settlement; and a gas audit. All but one of these revenues deals with natural gas production.

On the issue of the distribution of L.G.S.T. funds, in good faith and after correspondence with OPI beginning October of 1991, Gary Baden, school superintendent, read the law 15-36-101, MCA and read that phrase that stated "for the exclusive use and benefit of local government". It was also his understanding that was later confirmed on a different matter, that revenue based on oil and gas production should only go to those taxing jurisdictions which had the production the tax is based upon. Both a copy of the statute and clause from David Woodgerd, chief legal counsel for the department of revenue, are the handouts I passed out. With a fresh interpretation of this statute, monies were distributed to local governments and to those school districts that produced the gas.

EDUCATION COMMITTEE
MARCH 5, 1993
TESTIMONY JEANNE BARNARD
PAGE 2

If that phrase, quote, "for the exclusive use and benefit of local government was unintended, we are in the right place to get it fixed, and it is in everyone's interest that it be corrected. Until someone new to the County Superintendents office read that law exactly, no one was aware of this interpretation, but now that the question has been raised, the schools affected by this interpretation should have the opportunity to deal with it.

I am not going to get into the specifics of the tax base and mill levies affected by House Bill 28 but would be happy to answer any questions I could in regard to those issues.

Thank you.

~~In conclusion, I respectfully ask you to amend the retroactive date out of SB 138.~~

Jeanne Barnard

Jeanne Barnard
Phillips County Assessor

2

State of Montana

Stan Stephens, Governor



RECEIVED

APR 11 1992

PHILLIPS COUNTY
TREASURER

Department of Revenue

Denis Adams, Director

Room 455, Sam W. Mitchell Building

Helena, Montana 59620

April 10, 1992

EXHIBIT 5

DATE 3/5/93

SB 138

Marion K. Goulet, Treasurer
Phillips County Courthouse
Malta, MT 59538

Re: Williston Basin Oil and Gas Net Proceeds Tax Audit Settlement

Dear Mr. Goulet:

There has been some question concerning the manner in which this settlement should be applied. The Department of Revenue has no responsibility or authority to direct the county concerning how this revenue should be distributed within the county. However, we are concerned that the county understand the nature of this revenue.

The revenue involved here is taxes on the production of oil and gas which should have been paid in earlier years. The Department of Revenue conducted an audit and determined that the taxpayer failed to pay the proper amount of taxes. An assessment was issued which was appealed. Williston Basin Pipeline and the Department negotiated a settlement of how much additional tax should be paid.

Although we do not want to get involved in the exact method of distributing the revenue, we are concerned that the revenue go to the taxing jurisdictions which were originally not paid. This is revenue based on oil and gas production and should only go to those taxing jurisdictions which had the production the tax is based upon.

If you have any questions, let me know.

Sincerely,

A handwritten signature in cursive script, appearing to read "David W. Woodgerd".

DAVID W. WOODGERD
Chief Legal Counsel

/dgj

c: Denis Adams
Don Hoffman
Gregg Groepper
Chip Erdman
John McKeon

(c) with the state required by 15-35-104, a copy of any new coal sales agreements or extensions of existing agreements executed during the quarter;

(c) on or before January 31 of each year;

(i) a list of incremental production for all qualified purchasers during the previous calendar year;

(ii) a written statement from each qualified purchaser verifying the volume of coal purchased in that year from all Montana coal mine operators; and
(iii) the necessary information on incremental production purchased through a broker to verify that such incremental production did not cause a reduction in the base consumption level of any other purchaser of Montana coal; and

(d) any other data, reports, evidence, or production data that may be necessary for the department to determine whether a purchaser is a qualified purchaser and the base consumption level for each purchaser.

(3) By July 1, 1985, the department shall prepare and publish for informational purposes only an unaudited compilation of the base production level for each coal mine operator and a compilation of the base consumption level for each purchaser.

(4) Any coal mine operator or purchaser may, for the purpose of determining the eligibility of coal production for the new production incentive tax credit, file with the department a petition for a declaratory ruling as provided in 2-4-501. The department shall issue a ruling on the petition within 90 days of the date the petition was filed with the department.

History: En. Sec. 5, Ch. 636, L. 1985.

15-35-205. Returns and taxpayer information open to public inspection — certain exceptions. (1) All information filed with the department in accordance with 15-35-204 is public record and open to public inspection, except the information required under 15-35-204(1)(b) and the coal sales agreements specified in 15-35-204(2)(a) and (2)(b).

(2) Except during proceedings before the state tax appeal board pursuant to 15-2-201, the information required under 15-35-204(1)(b) and the coal sales agreements specified in 15-35-204(2)(a) and (2)(b) are open to inspection only upon the order of the governor, under rules to be prescribed by the department, or upon order of a court of competent jurisdiction.

History: En. Sec. 6, Ch. 636, L. 1985.

Cross-References

Access to public documents, Art. II, sec. 9,
Mont. Const.

Part 1 — General Provisions

- 15-36-101. Definitions and rate of tax — state severance tax — local government severance tax — assessment of nonworking interest owner — exemption.
15-36-102. Quarterly payment of tax — delayed payment of local government severance tax.
15-36-103. Determination of gross value of product.
15-36-104. Record of product — carriers to furnish data.
15-36-105. Statement to accompany payment — records — collection of tax — refunds.
15-36-106. Falsifying or failing to file statements unlawful.
15-36-107. Procedure to compute tax in absence of statement — penalty and interest.
15-36-108. Warrant for distraint.
15-36-109. Penalty for violations.
15-36-110. Severance tax supplemental.
15-36-111. Repealed.
15-36-112. Disposition of oil and gas state and local government severance taxes — calculation of unit value for local government severance tax.
15-36-113. Deficiency assessment — review — interest.
15-36-114. Credit for overpayment — interest on overpayment.
15-36-115 through 15-36-119 reserved.
15-36-120. Tribal royalties exempt.
15-36-121. Exemption from state severance tax — imposition of local government severance tax.
15-36-122. Statute of limitations.

Chapter Cross-References

Oil and gas net proceeds tax, 15-23-601.

38. Resource indemnity trust tax, Title 15, ch.
Privilege and license tax on oil and gas producers, 82-11-131.

Part 1

General Provisions

Part Cross-References

Payment of taxes by electronic funds transfer, Title 15, ch. 1, part 8.

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:

(a) except as provided in subsections (1)(b), (1)(c), and (1)(d), a 5% state severance tax on the gross taxable value of all the petroleum and other mineral or crude oil produced by the person, plus the local government severance tax of 8.4% on the gross taxable value, as defined in subsection (6)(a)(ii), of all the petroleum and other mineral or crude oil produced by the person other than new production, from each lease or unit; but in determining the amount of the state severance tax and local government severance tax, there must be excluded from consideration all petroleum or other crude or mineral oil produced and used by the person during the year in connection with his operations in prospecting for, developing, and producing the petroleum or crude or mineral oil;

(b) a 2.65% state severance tax on the gross taxable value of all natural gas produced by the person, plus the local government severance tax of 15.25% on the gross taxable value, as defined in subsection (6)(a)(ii), of all natural gas produced by the person other than new production, from each lease or unit; but in determining the amount of the state severance tax and the local government severance tax, there must be excluded from consideration all gas produced and used by the person during the year in connection with his operations in prospecting for, developing, and producing the gas or petroleum or crude or mineral oil; and there must also be excluded from consideration all gas, including carbon dioxide gas, recycled or reinjected into the ground;

(c) a 2.5% state severance tax on the gross taxable value of the incremental petroleum and other mineral or crude oil produced by the person, plus the local government severance tax of 5% on the gross taxable value, as defined in subsection (6)(a)(ii), of the incremental petroleum and other mineral or crude oil produced by the person other than new production, from each lease or unit in a tertiary recovery project after July 1, 1985. For purposes of this section, a tertiary recovery project must meet the following requirements:

(i) the project must be approved as a tertiary recovery project by the board of oil and gas conservation. The approval may be extended only after notice and hearing in accordance with Title 2, chapter 4.

(ii) the property to be affected by the project must be adequately delineated according to the specifications required by the board; and

(iii) the project must involve the application of one or more tertiary recovery methods that can reasonably be expected to result in an increase, determined by the board to be significant in light of all the facts and circumstances, in the amount of crude oil which may potentially be recovered. For purposes of this section, tertiary recovery methods include but are not limited to:

- (A) miscible fluid displacement;
- (B) steam drive injection;
- (C) micellar/emulsion flooding;
- (D) in situ combustion;

(F) cyclic steam injection;

(G) alkaline or caustic flooding;

(H) carbon dioxide water flooding;

(I) immiscible carbon dioxide displacement; or

(J) any other method approved by the department as a tertiary recovery method.

(d) a 5% local government severance tax on the gross taxable value, as defined in subsection (6)(a)(ii), of all petroleum and other mineral or crude oil produced by the person other than new production produced by a stripper well, as defined in subsection (7).

(2) For purposes of this section, the term "incremental petroleum and other mineral or crude oil" means the amount of oil, as determined by the board, to be in excess of what would have been produced by primary and secondary methods. The determination arrived at by the board must be made only after notice and hearing and shall specify through the life of a tertiary project, calendar year by calendar year, the combined amount of primary and secondary production that must be used to establish the incremental production from each lease or unit in a tertiary recovery project.

(3) (a) A local government severance tax is imposed on the gross value paid in cash or apportioned in kind to a nonworking interest owner by the operator or producer of extracted marketable petroleum, other mineral or crude oil, or natural gas subject to local government severance taxes imposed under this chapter. The local government severance tax on nonworking interest owners is computed at the following rates:

(i) 12.5% on the gross value paid in cash or apportioned in kind to a nonworking interest owner by the operator or producer of extracted marketable petroleum and other mineral or crude oil;

(ii) 15.25% on the gross value paid in cash or apportioned in kind to a nonworking interest owner by the operator or producer of extracted or marketable natural gas.

(b) The amounts paid or apportioned in kind to nonworking interest owners are exempt from the local government severance taxes imposed under 15-36-121(2) and under subsections (1)(a) through (1)(d) of this section.

(4) Nothing in this part may be construed as requiring laborers or employees hired or employed by any person to drill any oil or natural gas well or to work in or about any oil or natural gas well or prospect or explore for or develop any work for the purpose of developing any petroleum, other mineral or crude oil, or natural gas to pay the severance tax, nor may work done or the drilling of a well or wells for the purpose of prospecting or exploring for petroleum, other mineral or crude oil, or natural gas or for the purpose of developing them be considered to be the engaging in or carrying on of the business. If, in the doing of any work, in the drilling of any oil or natural gas well, or in prospecting, exploring, or development work, any merchantable or marketable petroleum, other mineral or crude oil, or natural gas in excess of the quantity required by the person for carrying on the operation is produced sufficient in quantity to justify the marketing of the petroleum, other mineral

EXHIBIT 7DATE 3/5/93SB 138**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:

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

EXHIBIT 7
DATE 3/5/93
SB 138

EXHIBIT 8DATE 3/5/93HB 540

HOUSE OF REPRESENTATIVES

Education and Cultural Resources COMMITTEE

ROLL CALL VOTE

DATE 3/5/93 BILL NO. HB 540 NUMBER _____MOTION: DO NOT PASS

NAME	AYE	NO
Rep. Ray Brandewie	✓	
Rep. Fritz Daily		✓
Rep. Ervin Davis		✓
Rep. Ed Dolezal		✓
Rep. Dan Harrington		✓
Rep. Jack Herron	✓	
Rep. Bob Gervais		✓
Rep. Bea McCarthy		✓
Rep. Scott McCulloch		✓
Rep. Norm Mills	✓	
Rep. Bill Rehbein	✓	
Rep. Sam Rose	✓	
Rep. Dick Simpkins	✓	
Rep. Wilbur Spring	✓	
Rep. Norm Wallin		✓
Rep. Diana Wyatt		✓
Rep. Alvin Ellis	✓	
Rep. Sonny Hanson	✓	

9

9

EXHIBIT 9
DATE 3/5/93
HB 540

HOUSE OF REPRESENTATIVES

Education and Cultural Resources COMMITTEE

ROLL CALL VOTE

DATE 3/5/93 BILL NO. HB 540 NUMBER _____

MOTION: table

NAME	AYE	NO
Rep. Ray Brandewie	✓	
Rep. Fritz Daily		✓
Rep. Ervin Davis		✓
Rep. Ed Dolezal		✓
Rep. Dan Harrington		✓
Rep. Jack Herron	✓	
Rep. Bob Gervais		✓
Rep. Bea McCarthy		✓
Rep. Scott McCulloch		✓
Rep. Norm Mills	✓	
Rep. Bill Rehbein	✓	
Rep. Sam Rose	✓	
Rep. Dick Simpkins	✓	
Rep. Wilbur Spring	✓	
Rep. Norm Wallin		✓
Rep. Diana Wyatt		✓
Rep. Alvin Ellis	✓	
Rep. Sonny Hanson	✓	

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

EDUCATION

COMMITTEE

BILL NO. SB 138

DATE 3/5/93 SPONSOR(S) SENATOR GAGE

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Long & BLDG Box 880 Ullrich 59231	D.C.		X
Steve Cascardi Whitewater, MD	Whitewater School		X
Jeanne Barnard	Phillips County		X
Wayne Gifford			X
Gene Carson	Phillip B. Carson		X
Jean Mavencamp	Phillips County		X
Carl Knudsen	SACO SCHOOLS		X
LARRY CROWDER	SACO Schools		X
Jamara Crowder	Saco Schools		X
Janelle Fallon	MT Petroleum	X	
L.R. H. Schram	Bd. of Regts	X	
Madalyn Quinlan	OPI	X	

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

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

EDUCATION COMMITTEE BILL NO. SB 306
DATE 3/5/93 SPONSOR(S) SENATOR HERTEL

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Bruce W. Moerer	MSBA	X	
Koran Frazier	SAM	X	
Don Waldman	MSBA	X	

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

HOUSE OF REPRESENTATIVES

WITNESS STATEMENT

PLEASE PRINT

NAME Don Waldron BUDGET SB 307

ADDRESS Heber

WHOM DO YOU REPRESENT? Mt. Rural Ed Assn.

SUPPORT SB 307 OPPOSE _____ AMEND _____

COMMENTS: _____

I call 12 of our schools that
would be covered under this bill -

7 - have taken some action

5 - have Board motions in place

+ meetings planned.

The others were not opposed - they

felt this was a good idea and

would like to change the ~~method~~

of process would be much shorter

+ easier -

We support this bill

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

EDUCATION COMMITTEE BILL NO. SB 307
DATE 3/5/93 SPONSOR(S) SENATOR WATERMAN
PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Don Bruce W. Meier	MSBA	X	
Lois Frazier	SHAM	X	
Jack Cox	OPI	X	
Don Waldron	MREA	X	
Eric Leaver	MFA	X	

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