

LOCAL GOVERNMENT INTERIM COMMITTEE
STATE OF MONTANA

PARTIAL TRANSCRIPT OF THE DIGITALLY RECORDED MEETING
ENTITLEMENT SHARE PANEL

Held at the State Capitol Building
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Harold Blattie, Montana Association of Counties
Susan Nicosia, Columbia Falls City Manager
Tim Burton, Montana League of Cities and Towns

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1 WHEREUPON, the proceedings were had as follows:

2 CHAIR MacDONALD: Okay. We are picking up with
3 our agenda at the Entitlement Share. And I want to
4 welcome to our table Former Senator Bob Story and
5 Harold Blattie of Montana Association of Counties.
6 Bob Story is with Montana Taxpayers Association. And then
7 we have Susan, is it Nicosia --

8 MS. NICOSIA: Yes.

9 CHAIR MacDONALD: Yeah.

10 -- from Columbia Falls, who is the city manager. And
11 we then have Mr. Tim Burton, who has been with us this
12 morning from the Montana League of Cities and Towns.

13 I want to welcome the panel. It's a pretty high-power
14 panel, so -- But you got us right after lunch, so we're
15 going to need all that, all that, all that power to keep
16 us, keep us engaged. No, not really.

17 So I would just remind everyone again, cell phones
18 off; when you do come to the podium to speak, please give
19 us your name and spell it.

20 And with that, let us, let us begin the panel.

21 MR. STORY: Well, thank you, Madam Chairman.
22 Bob Story, presently with the Montana Taxpayers
23 Association. Our representation here I guess really,
24 insomuch as --

25 UNIDENTIFIED SPEAKER: Use the mic.

1 MR. STORY: Our representation here, is so much
2 from the Taxpayers Association perspective only and to the
3 point that, you know, if the Entitlement Share Program
4 gets eroded too much, that generally is a local property
5 tax increase, and so we -- That's really our interest in,
6 in that.

7 My personal interest in the Entitlement Share Program,
8 as some of you know and some of you don't, is I was the
9 chair of the interim, special interim committee that put
10 this program together and the chief sponsor of the bill
11 that made it become law. And so I've been involved with
12 it now for 20 years. And the, the folks with me here,
13 Susan and Harold, were both also on that committee that
14 worked for about two years to put this program together,
15 and they'll bring their insights to that also.

16 We have kind of a PowerPoint that I put together a
17 session ago I think that -- just to follow as an outline
18 so that we don't ramble too much, I guess.

19 But the basic purpose of the -- well, I guess I should
20 go back in the history of what brought us to this point.
21 In the late '90s, the Legislature did a lot of revisions
22 to the tax system, especially the property tax system.
23 And, in doing that, to prevent property tax increases at
24 the local level, they took general fund money and
25 reimbursed local governments and schools for the revenue

1 lost from, from some major property tax cuts that I think
2 will be listed here somewhere eventually. And those were
3 substantial amounts of money, in the neighborhood of
4 \$100 million a year.

5 And also, about that same time, the Department of
6 Revenue had some pretty big concerns about some of the
7 other revenue streams and the complications with them and
8 the accounting of money on them, especially motor
9 vehicles. And so they looked at this as an opportunity to
10 do some simplification.

11 So there were two main purposes of this whole project,
12 and one was to basically institutionalize the
13 reimbursement so that local governments could count on
14 them over a period of time. Previous to that, when
15 especially business equipment taxes had been reduced from
16 12 to 9 percent and later from 9 to 6 percent, those
17 reimbursements were phased out over a 10-year period, the
18 theory being that you lower the tax rate, you generate
19 more business equipment. And so over a period of time,
20 local governments and schools would be made whole as the
21 tax base grew.

22 But by the time we went, in ninety -- '99 and reduced
23 the rate from 6 to 3 percent, that bill had a clause in it
24 that said if certain criteria were met in the economic
25 growth, the business equipment tax would go away. Well,

1 then you could never grow back out of that at the local
2 government level. And so the State put a reimbursement
3 plan together to provide some general fund money, because
4 that was a policy decision made by the Legislature. It
5 wasn't anything that local governments came and asked to
6 have done.

7 The second part of the purpose was to simplify the
8 revenue exchanges between state and local governments.
9 And you may or may not have a handout I think that
10 Mr. Blattie put together that shows you how the motor
11 vehicle revenues moved around between local governments,
12 the state, back to local governments, and so forth, and it
13 was a fairly complex and probably not real good
14 distribution method. It's just one of those things that
15 got built up over years and years.

16 Harold.

17 MR. BLATTIE: The handout, this is the cover page
18 of it. And the two pages that are attached show the flow
19 of motor vehicle registration money prior to House
20 Bill 124. And as you can see, there were numerous
21 transactions, numerous opportunities for mistakes to be
22 made. And the county treasurer had a significant role in
23 making sure that all of those allocations were done
24 properly.

25 The second page of that shows the simplified revenue

1 stream. All of the motor vehicle money became a part of
2 the base amount of the Entitlement Share. And that will
3 be something that I can come back to in a bit.

4 MR. STORY: Now, if you'll look at that, you can
5 just see how complex that distribution system had gotten
6 to be. And, you know, anecdotally, one of the things that
7 would happen was if a local treasurer made an error one
8 year, they usually corrected it themselves the next year.
9 So they might have sent too much money one year and they
10 just held back the next or they sent too much -- held --
11 didn't send enough the first year. Anyway, it, just as
12 Harold said, made a lot of room for ambiguity in the
13 revenue streams.

14 So in '99, here's what the Legislature did that made
15 some major tax reductions. They reduced -- And a lot of
16 this had to do with things that were going on at the
17 federal level, whether it had to be the deregulation of
18 the telecommunications industry, whether the potential
19 deregulation of the electrical industry, kind of the
20 historic reduction in business equipment taxes. As I
21 said, there were two reductions prior to that, and this
22 just continued that on and then phased out the
23 livestock -- ad valorem tax on livestock also.

24 So those had some big impacts on electrical
25 generation, especially in certain districts. You know,

1 Cascade County, Rosebud County had a lot of electrical
2 generation. The telecom property was spread pretty far
3 and wide, but this was the beginning of the cell phone
4 revolution, and, you know, we're trying to keep the tax
5 rate reasonable on, on these I guess historic telecom
6 properties so that at least you could generate investment
7 there.

8 Anyway, the State reimbursed all these cuts, as I
9 said; \$76 million, roughly speaking. And the point was to
10 not have that a phased-out reimbursement and also have it
11 put in place so that, you know, the Legislature would have
12 a little more difficulty in, in rolling that money back
13 into the state treasury.

14 MR. BLATTIE: Robert, if I could.

15 I think it's really important to understand that if
16 there isn't a reimbursement to local governments for that
17 lost property tax base that mills are levied against, it
18 becomes a tax shift to all other classes of property. And
19 there was legislation in the past where that took place
20 and, you know, the Legislature -- the legislators could go
21 home and say, "You know, we reduced this particular class
22 of property, the rate on it," and really not, I don't
23 think, understand the effect of the shift to all other
24 classes of property that weren't beneficially treated.

25 MR. STORY: This was like a rifle approach to

1 reimbursement. If you lost a dollar in tax revenue from a
2 tax reduction, you got that dollar back in reimbursement.
3 And this went on not only in cities, counties, but it also
4 went on in the schools. There was a block grant program
5 for schools. That pretty much met the end of its run last
6 session, but it had been reduced a couple times prior to
7 that.

8 And when you do that, especially in school funding,
9 they took the money and they put it back in schools, but
10 they put it back through the distribution formula. So
11 most of those reimbursement dollars ended up in places
12 other than where the tax reductions were, because they
13 followed the kids. So you took a lot of money out of
14 Cascade County and a lot of money out of Rosebud County
15 and spread that across the whole state. Get more of a
16 shotgun approach to reimbursement then. That being what
17 it is, but that's what happened.

18 Now, they (inaudible) meant to be ongoing. As I said,
19 the earlier ones were phased out, and, as Harold said, it
20 was mainly meant to prevent a property tax shift. Because
21 you weren't reducing anybody's obligation, any local
22 government or school's obligation to provide services, so
23 they were going to have to pay for those services one way
24 or the other. And if they didn't get it from their old
25 tax base, they were going to get it from their new tax

1 base, which basically meant mill levy increases to
2 everyone that was left paying taxes.

3 The simplification thing was a little more complex.
4 There were a lot of different areas of money where the
5 State collected money, the counties collected money, it
6 moved back and forth. But the whole point was to simplify
7 that. And the simplest way to simplify it was you just
8 rolled all that money into the general fund and whatever
9 money any local government gave up that particular year,
10 they got back the next year. And then that was their
11 base, and then they basically got a growth factor applied
12 to that.

13 So, so as the revenue streams that they were dependent
14 on had historic growth to them, that was supposed to be
15 the growth factor that applied to their reimbursement. So
16 cities had a growth factor, counties had a growth factor,
17 schools had a growth factor, because they all had
18 different mixes of money that came to them.

19 You know, most of the school money, other than
20 equipment reimbursements, were vehicle money. Most of the
21 city money was vehicle money and gaming. And the county
22 money was vehicle money and whatever --

23 UNIDENTIFIED SPEAKER: Liquor.

24 MR. STORY: Liquor, yeah.

25 MR. BLATTIE: Robert.

1 You have two sheets that look like this (indicating).
2 They're orange. And one of them in the top left-hand
3 corner says County, it says Stillwater, and the other one
4 says Rosebud. I did the one for Stillwater County. I was
5 a commissioner in Stillwater at the time. The other one
6 Representative Custer did, so she might find some of that
7 familiar, in, in her former life as the clerk and
8 recorder. But, you know, the headings are self-
9 explanatory as to the moneys that went into the base
10 amount of the Entitlement Share.

11 MS. NICOSIA: So that was one of the questions
12 from the committee: How did the Legislature maintain
13 balance between the previous system and the new system?
14 These numbers were audited and they were provided. So if
15 my city or his (indicating) county or your county received
16 this amount of money from this source in the 2000 fiscal
17 year, along with the reimbursement, the property tax
18 reimbursement, then that was the amount that was set to be
19 reimbursed to each city and county.

20 So it was based -- Because remember, these were, these
21 were our local government revenues. These were our
22 revenues that were coming to us, including with the, with
23 the policy decision of the Legislature, to use other,
24 other income sources to reduce property taxes. It was
25 instrumental of the 1999 Legislature to recognize that

1 that sweeping -- In fact, that was the headline in the
2 "Missoulian," the sweeping tax reform. But with that,
3 they also knew that that was going to shift the taxes.
4 That was going to shift the taxes that somehow we had to
5 make up, utility and industrial, there were some cuts to
6 railroad as well, and all of those; that the growth was
7 going to take some time to get there.

8 So this was a very equitable system that was put into
9 place. And as the committee, as we worked on it
10 painstakingly over those two years to come up with this,
11 it was obvious that we needed to bundle it together; that
12 the, that the revenues that passed back and forth from the
13 State to the counties and the cities and county to the
14 city and the city to the State, let's roll this together.

15 But, but with this program, I think sometime -- well,
16 one, I did disagree with the name, "State Entitlement,"
17 because obviously it's a bullet now. Right? It's a
18 bullet for the Legislature and the finance office and
19 budget directors and governors to look at this large
20 number and say, "You know, if we cut this. Why are we
21 giving them this money?" well, it was our money. And if
22 you don't give us this money and I lose a third of the
23 revenue source for my \$3 million general fund budget, I
24 can't make that revenue up someplace else. So how do we
25 provide the services?

1 But this program, and that's why it was a 3,000-page
2 bill, State Entitlement, really can't be unbundled from
3 the 15-10-420 provisions. I mean, we literally rewrote
4 Title 7 and major sections of Title 15. Because then
5 with, with entitlement and with the levy at the time, with
6 the property tax revenue, we loosened up some provisions
7 for counties primarily. Cities already had a general
8 all-purpose levy. But counties still had you will levy
9 2 mills for weeds and 4 mills for this. So with this
10 program, though, it was how do we, how do we also look at
11 the property tax revenue? How do we allow for growth?

12 So it was a major project to look at and to work with
13 the Legislature to allow for the, the growth factor in
14 entitlement but then also an inflation factor for our
15 property tax, which this year was 1.02 percent. That was
16 \$10,000 to my city. And then with that came the
17 calculation of what do we get to do for growth? Right?
18 Because that's part of it. Your community grows, you
19 actually do see some growth, but how do you provide that
20 same level of service? So with that calculation, though,
21 came the newly taxable property.

22 This year, we had 7 million -- the equivalent of
23 7 million in newly taxable property that gave our city
24 \$23,000. So our 15-10-420 property tax, we got to raise,
25 if I can do that math, \$33,000 of new revenue. Now, yes,

1 our value went up, so our mills went down. That's all
2 part of that calculation. But they were part and parcel
3 together. They're woven together. The, the Entitlement
4 Program and how we calculated taxes from that time on was,
5 was a huge component for our committee and for our work.
6 So there was a, there's a big promise in here, right, that
7 here's our revenues.

8 One of the questions that we get asked is, you know,
9 why did you choose this system? Well, we chose this
10 system because it was very straightforward and equitable.
11 Here's the revenues. It did simplify things. I know in
12 the scheme of government, it might not look like it now,
13 but even at the Department of Revenue, Department of
14 Transportation, the treasurers' offices, and within city
15 offices, we were no longer moving nickles and dimes around
16 and it made it very straightforward.

17 Unfortunately, it also made it really straightforward
18 to say, "Look at this big number, and how can we access
19 that number and how do we get some of that back? How do
20 we reduce it?" But reducing that number now or, or
21 pulling some of that revenue back means that, that there
22 is no shift to our property taxpayers to make that up.
23 Right? Because that's not how the taxing formula -- so
24 when we talk about entitlement, it has to be bundled in
25 with how our property taxes are, are calculated.

1 MR. STORY: So this slide just shows you some of
2 the money that was out there in 2001 that the State
3 already collected, but basically just collected and
4 returned to local governments: The gaming revenue; the
5 alcohol taxes; there was a financial institution tax,
6 which was a bank tax, that kind of was in lieu of property
7 taxes.

8 And then there were some counties that if you were a
9 county that had over 6 percent state land, you also got a
10 state payment in lieu of tax. And there are, I don't
11 know, a dozen counties or so that were -- The largest
12 being Daniels, which you've probably all heard about. You
13 know, Daniels County has 23 percent state land. And so
14 PILT, state PILT payment to them was a big deal.

15 That came to light about two sessions ago when the
16 Legislature decided that they needed to take the school
17 block grants back, and so that really left the Scobey
18 School District in the lurch, because they lost basically
19 their entitlement money. It was called a block grant.
20 And nobody could figure out why they got so much. Well,
21 it was because that PILT program payment was rolled into
22 the Entitlement Share.

23 And so, so they basically lost all the state
24 reimbursement for the public lands the State owned in
25 Daniels County. They got I think a two-year reprieve on

1 that, but they don't get it anymore, so -- And there's a
2 couple other counties, Beaverhead and Chouteau, that have
3 a fair amount of state land also. But most, most counties
4 here are around 6 percent state land because it has to do
5 with 36 sections in a township and two of those sections,
6 by federal -- in the Federal Enabling Act, were for the
7 support of schools. So it's 2/36ths of your property is
8 state land in most counties.

9 The big issue, you know, as I said, was motor vehicle
10 fees and taxes and court fees that the counties collected,
11 and they kept some, they sent some to the State, they sent
12 some to the schools, they sent some to all the
13 miscellaneous districts. It was a pretty complex formula,
14 as the chart that Harold showed you was. And it's
15 starting to get complex again because every time the
16 Legislature meets, they change things and they kind of get
17 away from this concept.

18 But, but the whole point of this is, is other than the
19 reimbursement for tax cuts, all this revenue was collected
20 by the State and always given to the local governments.
21 You know, those revenue sources there were money that the
22 State collected and sent right back to the local
23 governments anyway, so it wasn't -- I mean, it was always
24 general fund money that was sent back out.

25 Don't need to spend much time on this, I guess. It

1 just basically put a lot of money in the general fund and
2 created the Entitlement Share Program, which has held
3 together pretty well for 20 years. The schools have been
4 phased out of it over the last two or three sessions.

5 And now the discussion, as you will remember from last
6 session, has to do with some of the programs that the
7 State assumed and whether they should be going back to the
8 counties and trying to recoup some money to help the State
9 pay for what are now state programs. I mean, they're
10 state programs, they're no longer local programs, and
11 they're owned by the State, run by the State, and that's
12 the way it works.

13 These are, again, the components of the Entitlement
14 Share. Again, the big thing being most of them were state
15 money flowing back to the local governments all the time
16 except for the reimbursements which were created to cover
17 the policy decisions made by the Legislature.

18 So again, some of the collection processes are still
19 the same. It's just the money comes to Helena then goes
20 back, and the counties distribute that Entitlement Share
21 Program down to the subdivisions, to the schools, to the
22 cities, to the -- well, to the schools, the miscellaneous
23 districts, and so on. I think the State cuts a check to
24 the cities probably.

25 Is that right, Susan?

1 MS. NICOSIA: It's wired in now. We've gone
2 paperless.

3 MR. STORY: Oh.

4 So Susan talked about, you know, all these revenue
5 streams had a growth factor. There were always more
6 motor vehicles every year, it got to be they were worth
7 more money. The taxes that you paid on them, up until
8 about 2000, were based on the value of the vehicle. They
9 were an ad valorem tax. Then the Legislature put a
10 referendum on the ballot in 2000 to go to the flat tax
11 system that we have now, and so now light vehicles are on
12 a flat tax. They're, you know, so much if it's one to
13 five years old and five to ten, and then after ten they're
14 a different rate.

15 There's been a few fees added since then by the
16 Legislature to generate some more money for the general
17 fund. I mean, it doesn't go back downhill, because
18 everything local governments get is based on what they
19 had, had in 2000. So, you know, the eastern Montana
20 counties were pretty happy with the Entitlement Program
21 during the early part of the century, and then when the
22 oil boom came, you know, then they didn't get the extra
23 money from the vehicle -- all the extra vehicles that
24 showed up. But during the bad times, they didn't see the
25 downturn either because of the, you know, gaming revenues

1 being lower and vehicle numbers being lower and things
2 like that.

3 So it actually stabilized a lot of rural Montana
4 through a tough time. And some of the -- you know,
5 Bozeman was never really a big fan of the whole program
6 because they knew they were going to grow and they didn't
7 think the growth factor would keep up with their natural
8 growth.

9 The growth factor is a complex thing, and I can't
10 explain it. The Department of Revenue calculates that,
11 and it really has a couple different components to it that
12 depends on your growth in population and that.

13 MS. NICOSIA: I will add that the counties'
14 growth factor was slightly different because they also got
15 to keep the, the mills for the assumed -- for the
16 expenditures that the State assumed for welfare and
17 district court.

18 MR. BLATTIE: Yes. So I, I hope this is the
19 appropriate time. I think it's really important --

20 MS. HENNEMAN: Harold, can you talk into the mic,
21 please.

22 MR. BLATTIE: I think it's really important to
23 know that there were three major bills passed in that
24 session. House Bill 124, which is what created the
25 Entitlement Share. It did a number of other things. But

1 also senate Bill 339, which was the state assumption of
2 welfare programs.

3 There were nine counties, I believe it was, in Montana
4 that had simply -- it was simply impossible for them to
5 fund their ongoing welfare, and the State had assumed
6 those counties in the past. So the county would levy
7 9 mills, and just whatever that brought in, they would
8 send to the State and then the State would pay for those
9 services.

10 The other was the state assumption of district courts,
11 and with that also went all of the fees that the counties
12 had collected and the fines and the forfeitures that was
13 formerly county money that then was -- now became state
14 money. So from this base that was created here
15 (indicating), this was the revenues that went into the
16 base. The 2001 actual costs for district court or welfare
17 or the 9 mills, if it was an assumed county, was
18 subtracted from this. And that's what the actual payment,
19 beginning payment was based upon.

20 As Robert had mentioned, the motor vehicle was a
21 component in there. And because of the timing of the
22 initiative to put motor vehicles on a flat fee, there was
23 an adjustment. And every one of the counties, the, the
24 factor was just a little bit different, and I'm not even
25 going to begin to suggest that I understand what magic

1 went on down the hall here in calculating that for each
2 county. But that was a component of -- but the state
3 assumption of those two programs was part and parcel of
4 this whole thing.

5 House Bill 124 was the vehicle that took care of the
6 money. The policy decisions were in the other bills, but
7 the money was handled in House Bill 124.

8 MS. NICOSIA: The report also recognized that the
9 growth factor would be reviewed, which we did a few years
10 ago. The first time it was reviewed was at about the
11 ten-year mark.

12 I, I can't thank the Legislature enough for creating
13 this committee. Because in order to really look at the
14 issue, I don't see how it can have any justice during the
15 legislative session. I think the, the nickname of the
16 sausage-maker for the legislative session is very
17 accurate. That in order to really look at all of these
18 factors and all of these numbers that come forward, in
19 order to really look at the, at the data and where it came
20 from and, you know, do you use these three years of
21 calculation in how you get it, I think that it is
22 important that we review it.

23 I also think that the spreadsheets from Department of
24 Revenue where -- And they're doing their job. They're
25 saying this is where the revenues are and this is how much

1 we put into the entitlement. But these spreadsheets
2 just -- these numbers aren't intended to show that the
3 program is making money or, or losing money. It doesn't
4 really reflect a financial position. It's only reflecting
5 the data: Here was the revenues; here, here are vehicle
6 taxes; here's video gambling revenues.

7 It doesn't reflect the 76 to \$100 million payback.
8 Right? That was part of the legislative budget. That's
9 House Bill 2. So it's not -- that's not necessarily
10 reflected here (indicating). The fact that the first
11 couple of years of the program looked like it was positive
12 kind of lends itself to the larger cities and counties
13 that said, "Our revenues would have been growing at a
14 faster rate, you sold us out." But we didn't sell it out.
15 Right?

16 This was, this was -- And I call it a handshake. We
17 shook hands. We agreed on this program. And, and with
18 it, then it was originally a statutory appropriation, that
19 this can't be pierced. Right? It can't -- your money is
20 safe. You have a handshake, you have a statute that says
21 here's your Entitlement Share. It was pierced. And I
22 hope, through this committee -- I'd kind of like to see a
23 bubble around it again. Right?

24 I want to protect it. I'm like a parent. My name is,
25 my name is on that. It has been 20 years. Government

1 changes things slowly. Sometimes they change things too,
2 too quickly. But we still need to protect this program.
3 And we never would have guessed, we certainly didn't
4 discuss, that there could potentially be a bill introduced
5 that would -- and I'm going to pick on the county mental
6 health, that the bill, the bill basically said if this
7 isn't in House Bill 2, we're going to take it out of this
8 Entitlement Share in 15-1-121.

9 Boy, I wish I could do that. I wish I could adopt a
10 budget that says if this is not in the city's general fund
11 budget, Flathead County is going to pay it. Right? But
12 there isn't any provision in statute for me to do that.

13 I think it's important, my ask of this committee is
14 how do we come back? we have -- yes, we have the history.
15 The history is important. And I appreciate the
16 opportunity, one committee meeting at a time, to, to
17 educate legislators and, and new department folks.

18 Term limits has not been kind to this program, as many
19 others, I understand that, nor have retirements, because
20 then when you look at data and you want to know how did we
21 get here. well, I appreciate being able to tell you how
22 we got here. I am just as concerned with how do we move
23 forward. And again, it comes back to this, this committee
24 and how much time do we have. How do we put the bubble
25 back around it? How do we, how do we protect the

1 2001 handshake and how do we move forward?

2 Obviously, we have to look at the growth factor as we
3 move. Are these revenues growing at this rate? Does the
4 state budget support, support these numbers? But I'm very
5 cautious with don't look at this to determine whether or
6 not it's making or losing money, because you'd have to add
7 in the backfill on, on the tax revenue. But from my
8 perspective, other than a few holes that, that somehow got
9 in, it is working the way it's supposed to. For cities
10 and counties, we get quarterly revenues. Right? And
11 they're stable and they're not volatile and they're not
12 political.

13 One of the biggest chunks of money for cities was
14 video gambling, which was tied to the Department of
15 Revenue to the, to the alcohol permits. We didn't create
16 that. But I can tell you in the early 2000s, that
17 whenever a casino wanted to come in, local governments
18 were accused of, of encouraging gambling to line our
19 pockets. After the Entitlement Program, you didn't hear
20 that. And I don't believe you heard it at the legislative
21 level either, that you were encouraging gambling, you were
22 pushing revenues, you were trying to line your pocket.

23 So there was a lot of give-and-take in this process,
24 but I'm really concerned about how it moves forward and,
25 and particularly at how easily the school block grant

1 money was diverted. And we have -- I call them a tax. I
2 tell my city council and mayor I have to come to Helena
3 and fight for the State Entitlement Program. And I'm more
4 than willing to come and fight for it because my name is
5 on it because I believed in it. And I think that this
6 system can work. I just want to make sure there's not
7 holes and that the, that the message is that these are
8 local government revenues and we had a partnership.

9 And when there's a policy decision that affects these
10 revenues, and I'll pick on the OPD, the let's-take-some-
11 of-this-money because it's obviously the cities and
12 counties that, that created this. The spreadsheet that I
13 saw would have taken away \$21,000 from my little city. My
14 increase in entitlement this year was \$25,000. I don't
15 know what the 21,000 exactly is based on because that was
16 more than some of the small counties. And, and cities do
17 minor, you know, little misdemeanors. We had, out of
18 1100 citations, we had -- that the prosecutor has to look
19 at, there were seven bench trials and one jury trial in a
20 year.

21 So the, the you-need-to-pony-up-some-more-money, I
22 don't know, I'd be looking at that budget. But -- and I
23 know that we need to talk about that, because that's one
24 of those you're piercing this and you're going to pull
25 money out, but is that really what should happen? Because

1 we don't have a say in how it's funded, how it's budgeted,
2 what level of service, but it will affect our ability to
3 provide a level of service.

4 And then with the other mechanism, we don't have a way
5 to make up that lost revenue. We're at our -- we are at
6 our maximum tax.

7 MR. BURTON: I would just add, this (indicating)
8 is the executive summary of the local government funding
9 and structure committee, a simplification in the
10 21st Century. This is the executive summary. And I would
11 say that I wasn't sitting on the committee with these
12 three fine folks, but I was a young city manager in
13 Helena, and Senator Bob Story carried House Bill 124,
14 which is this (indicating). And that's why we call it the
15 big bill. And it was comprehensive, it was well-thought
16 through at both the state, city, towns, and county level.

17 20 years has passed, and it has worked as a stable
18 funding source. And really what it did was a couple
19 things like Mr. Story pointed out. It backfilled tax cuts
20 that were policy decisions at the State, and it created a
21 more effective way to collect existing general fund taxes
22 and redistribute it out to the local governments. Those
23 are the two major gains which simplified everybody's life.

24 what I, what I really want you to know, and it's
25 already been said, but that these were always general fund

1 dollars that went to local government. Today, that
2 entitlement distribution goes right into our general fund.
3 15-10-420 and property tax is off to the side. So when we
4 get the growth rate cut or we get money reallocated out of
5 the Entitlement Share, then that comes right out of the
6 local government general fund, not to be backfilled.

7 And what do we fund first out of the local government
8 general fund? When cities, mayors, and council people sit
9 down every year, they're going to fund the police
10 department, the fire department, the city administration
11 functions, and then what is left over may get some park
12 and rec allocations. So really, it makes it very
13 difficult for us to maintain public safety services when
14 the Entitlement Share is cut.

15 The other conversations that become difficult is when
16 we trued up all this revenue through accounting and said,
17 "Okay, that's the fair deal, the State gets this and we'll
18 redistribute it back to you at this level and we'll add in
19 the effect that these tax cut policies would have to make
20 you whole." Since that time, a lot of policy decisions
21 have taken place at the state level -- permanent license
22 plates on vehicles, for instance, which reduces state
23 revenues; a lot of decisions in terms of the Office of
24 Public Defender in terms of increasing cost; and now,
25 particularly last session and the session before, we're in

1 discussions where here's the percent you paid back in
2 2000, now you're paying less percent, we need to take the
3 Entitlement Share to fill the gap -- when, in fact, those
4 policy decisions didn't involve us. But that's the
5 difficulty of term limits. It's the difficulty of time.

6 But then that's a direct cut to our general fund and a
7 challenge to fund public health and safety services. So I
8 think it's important that we understand that this isn't a
9 revenue sharing program. This was to clean up the tax
10 structure and how it's collected, how it's distributed.
11 And for significant policy tax decisions that were made
12 here, it was let's make the local governments whole so
13 that they don't raise property on houses and residential
14 and commercial businesses.

15 There were some recommendations out of this.
16 Obviously, the big bill -- That was, that was a, that was
17 a major coming together to pass something like this
18 (indicating) through the House and the Senate and get the
19 Governor to sign it. It was work well done. People
20 identified the problem, they defined the problem, they
21 looked at the options, they picked the solutions, and then
22 they implemented, monitored, and adjusted.

23 So with, with that being said, I think that knowing
24 that it's not a revenue sharing program -- But we're
25 perfectly willing to talk about what is the growth rate

1 now, is this working or not working for local government,
2 rather than getting into discussions that:

3 You used to pay 12 percent of the Office of Public
4 Defender. There's a whole bunch of decisions that have
5 taken place within that organization and there have been
6 tax cuts through motor vehicle and other arenas. And now
7 you're only -- and, and the cost is increasing
8 exponentially. So your historical 12 percent, which was
9 part of the discussion in the beginning and then the deal
10 was done, is now, let's say for the sake of conversation,
11 6 percent, so we really want you to pick up the additional
12 6 percent. Which then would come out of our police and
13 fire departments.

14 And the State, the policymakers should have the
15 ability and do have the ability to make those policy
16 decisions. But if it's going to affect our general fund
17 revenues, we should also be a part of that discussion up
18 front rather than one, two, or three sessions down the
19 road.

20 MR. STORY: I want to run through the rest, and
21 then I think it would be better if we just had a
22 discussion here as opposed to you guys letting us yack all
23 the time.

24 So these are some of the most recent changes to the --
25 I mean, the Entitlement Program was set up to deal with

1 adjustments, as Mr. Burton said. So when the Legislature,
2 in 2011 and 2013, decided that they wanted to reduce
3 business equipment taxes more, then they had a vehicle to
4 put that money back into the local governments and schools
5 so that, again, you wouldn't have to increase the mill
6 levies, increase property taxes to pay for a decision that
7 was made by the Legislature in Helena.

8 The times got tough a couple times and the growth
9 factors were suspended and they were reduced. And those
10 were kind of ad hoc decisions that were made in the
11 Legislature during the session. They weren't done in an
12 interim where you could sit down with the folks who were
13 involved and have a discussion and come to a reasoned
14 number about how that should happen.

15 CHAIR MacDONALD: Excuse me, Mr. Story.

16 Representative Dunwell.

17 REPRESENTATIVE DUNWELL: Thank you. Madam Chair,
18 panel, I'm really trying hard to track here. So I just
19 want to clarify, if I may, Madam Chair.

20 The recent changes that were made, all of this, there
21 was no backfill made to balance the imbalance?

22 MR. STORY: There were with the business
23 equipment reductions. There was additional money put in.
24 You know, wherever that equipment was, they got more money
25 in both '11 and '13 to deal with that.

1 The growth factors weren't.

2 And the block grant, the whole block grant issue was
3 dealt with basically in the legislative process and, and,
4 you know, the schools were really even involved in that
5 discussion. And they may have been split on how they
6 liked that, because some, some were winners and some were
7 losers when you rolled those block grants up. Because you
8 took money out of -- as I said earlier, out of districts
9 that got a lot of block grant money and maybe didn't have
10 a lot of kids and moved it to districts that had a lot of
11 kids and maybe not a lot of block grant money.

12 Because we tried, when we did the bill, to put the
13 school money back through the existing formula, either
14 through guaranteed tax base or through direct state aid.
15 But the problem with either of those is the money didn't
16 go back to where the tax reductions were. The money went
17 to where the kids were, and lots of times that wasn't
18 where the property was. So we couldn't grasp that. We
19 couldn't get it worked out when we did that. So we just
20 created the block grants, which many people thought
21 probably wouldn't stand the court test because it wasn't
22 equal distribution of state money, as is required. But
23 nobody complained, so it worked. It worked for 10 or
24 15 years that way.

25 It was the Legislature that decided that they -- and

1 it really had more to do, I believe, with not equalizing
2 the distribution of money, it was how do we fund our share
3 of the state without raising property taxes or taking,
4 raising state taxes or taking money from one program and
5 giving it to another. We'll just take it from this school
6 district and give it to that school district and let these
7 guys raise their property taxes up so that they're made
8 whole.

9 And that's really what these folks are trying to say,
10 is, you know, the Legislature is getting in the mindset
11 that this is money out there that they can attach and use
12 to fund state programs and let the locals fund their own
13 programs with a different source of revenue. Which the
14 only one they have is property taxes.

15 CHAIR MacDONALD: So you've, you've got still
16 more presentation to go through?

17 MR. STORY: That's it.

18 CHAIR MacDONALD: Okay. Okay. So then we are at
19 the go-ahead -- but then we'll, we'll have the committee
20 get some opportunity to ask questions of clarification,
21 or -- you know, there's, there's a lot packed into this
22 that we, that we need to understand better, so...

23 MR. STORY: You have one person left in the
24 Legislature that was here in 2001 when this passed, and
25 he's sitting right there (indicating).

1 MR. BLATTIE: I, I think it's really important,
2 and Bob mentioned the word, he used the word
3 de-earmarking. And when you look on these revenue matrix
4 (indicating), you'll see all of these different revenues,
5 that they were split differently, and by statute. They
6 were local government money, but some had to go to roads,
7 some to public safety, some to this program, some to --
8 And the mill levies were limited, as Susan mentioned. A
9 county's maximum levy for welfare was 9 mills, district
10 court was 9 mills, road was either 18 or 20, depending on
11 the taxable value of the county, bridges were 8.

12 And the Legislature, in effect, made the decision and
13 said, "why are we muddling around telling you where to
14 spend your money? I-105 put a property tax limit in
15 place. And so as the Legislature, we're going to tell you
16 what -- your maximum that you can levy for countywide
17 levies, but we're not going to tell you where to spend
18 it." And so that freed that up and de-earmarked that so
19 counties, in the Entitlement Share payment, received that
20 as quarterly payments.

21 The only obligation that a county has is to make
22 special districts whole, because special district money
23 was collected in here too. So counties have an allocation
24 that goes to each of the special districts that was in
25 existence at the time, but then they can use the

1 Entitlement Share dollars as they choose. If they want to
2 put it all in the general fund, they can do that. If they
3 want to apportion it out to the fair fund and the library
4 fund and, you know, all of the other various funds, they
5 can do that. And most of them do. Most of them do that,
6 and certainly that's split. I don't know any that keeps
7 it whole.

8 But that was a, a significant thing that took place a
9 little bit kind of behind the scenes, was the Legislature
10 saying, "Why are we meddling around with how you spend
11 your money? We're going to tell you how much is the
12 maximum you can spend, and that's under 15-10-420 and the
13 allowable float, but then you decide how you're going to
14 spend it." And so that was I think one of the most
15 significant policy decisions that was made in here and
16 certainly one of the most welcome.

17 CHAIR MacDONALD: Okay. Members of the
18 committee, there's been a lot shared here, and I'm
19 wondering if you have any questions before we go to public
20 comment, and then there will be questions after public
21 comment. So Representative Fern, and then we'll get to
22 Senator Ellsworth.

23 REPRESENTATIVE FERN: Thank you, Madam Chair. I
24 just wanted to beat Senator Ellsworth to the punch. So
25 Madam Chair, I'll ask Susan Nicosia a question.

1 You used the term "pierced" as if -- going from that
2 base year of 2001 up to present, over that time period
3 various elements -- pierced, I mean probably taken away.
4 And then Mr. Story reviewed three elements. So when you
5 say "pierced" and when Mr. Story shows those
6 three elements, are we saying the same thing or do you
7 have other things in mind historically that have slowly
8 been removed from the Legislature?

9 And I'll finish off by saying I think it would be
10 helpful, as we'll spend a lot of time with this, of trying
11 to figure out -- or seeing this illustrated some way of
12 what exactly has been pierced. And then I'll ask one
13 follow-up.

14 MS. NICOSIA: Madam Chairman, Representative
15 Fern, the, the slide does not depict all of the piercing.

16 REPRESENTATIVE FERN: I figured not.

17 MS. NICOSIA: And yes, I use that as money was
18 taken out. And I'm sure that Mr. Blattie has the bill
19 number for the, for the mental health that was in the
20 2017 session, or '15, where -- '17 session. They all kind
21 of roll together after a while. But that was a -- and,
22 and very similar to the OPD proposal to let's take --
23 you're not paying enough, let's just take it out of this
24 share before it goes back to the local government.

25 Because even, even our growth factor is adjusted

1 mid-legislative session with -- And I consider that a
2 piercing. That if, if we're relying on a 2 percent or
3 3 percent growth that's embodied in the statute and then
4 that gets pierced during the legislative session, those
5 are real dollars. Those are real dollars to us that we
6 have to figure out how to make them up.

7 So it's a combination of adjustments to growth factors
8 and then pulling money out of the Entitlement Share before
9 it comes to us; I embody all of that into piercing our
10 funds and using them elsewhere.

11 REPRESENTATIVE FERN: And just as one quick
12 follow-up, Madam Chair.

13 I guess you've kind of touched on this, Susan, as far
14 as the growth factor goes, but there seems to be, amongst
15 all of you, a sort of -- relaying sort of a secretive
16 nature among the complexities deep in the Department of
17 Revenue of how this growth factor works. And I think it
18 would be helpful eventually for this committee -- I don't
19 think we have to understand how it works, but at least see
20 what these numbers are and historically how they've worked
21 and what logic there is. And reflect a bit on the base
22 year of whatever it is, 2000 or 2001, and then at some
23 point see how much, how far we've gone afar from that to
24 try to figure out clearly what the problem is in dollars
25 and cents.

1 And I guess the last thing is, is the whole 15-10-420,
2 that I sense that if we're reluctant to move the cap on
3 15-10-420 and we keep on slowly piercing the entitlements,
4 that's why we're here today. So...

5 MR. BLATTIE: If I might, Madam Chair. Could I
6 maybe respond to --

7 CHAIR MacDONALD: Go ahead.

8 MR. BLATTIE: So House Bill 124 and the
9 Entitlement Share was intended to be a vehicle to
10 facilitate changes, policy changes made by the
11 Legislature. So an example was the state assumption of
12 the public defender program. There was a reduction in the
13 Entitlement Share. That's fair.

14 When the Legislature increased the -- or decreased the
15 rate on business equipment, there was an increase to the
16 Entitlement Share. That's fair. That's working just
17 exactly as it was intended to.

18 What I believe that Susan is talking about is when,
19 during executive action on a bill at the last minute, with
20 no public comment, an amendment is done that steals, and
21 I'll use the word "steals," Entitlement Share dollars to
22 fund, it was House Bill 33, to fund mental health. That's
23 not the way it was intended to work.

24 I would also add that when the Legislature has chosen
25 to freeze the Entitlement Share growth, freeze it for a

1 biennium, that is not only taking away the growth dollars,
2 but it's taking away the growth of the growth dollars
3 forever. So that amount that was lost keeps exponentially
4 increasing over time. And so when there is a -- the
5 Legislature actually makes a reduction, that's dollars
6 that are not only lost then, but they're lost forever and
7 the growth is lost forever.

8 The growth factor isn't that complicated. It
9 originally was based upon the, I believe it was the
10 gross state product, a combination, and the Legislature, a
11 few sessions ago, changed it and tied it to specific
12 general fund revenues. And that was one of the very early
13 original intents of the whole thing of House Bill 124, is
14 to allow local governments to participate in the revenue
15 fortunes or failures of the general fund.

16 We agreed to that. That concept was presented to us,
17 and I know that, at the time, Alec Hansen was the
18 executive director of the League of Towns, and we sat down
19 and we looked through it and we could see, well, okay,
20 we're going to hurt for a while but we can see in the out
21 years it probably will end up being more beneficial. But
22 it really was I think tying it to what the original intent
23 was; to participate in the fortunes, if you will, of the
24 general fund.

25 MR. STORY: I think one other thing on the growth

1 factor was it, it created -- the growth factor is really a
2 pool of money, and that pool of money, by statute, is
3 divided two ways. Part of it is distributed on population
4 and part of it is distributed on the, on the base. So, so
5 it was made to adjust. If you were a growing city, you
6 would end up with a little bit of bump because of that.

7 I don't know how it ever worked with, you know, if you
8 were a city growing into the county and the county was
9 getting smaller and the city was getting bigger, how that
10 tradeoff happened. But, but that's what I say, that's all
11 over in the Department of Revenue that does that
12 calculation.

13 MR. BLATTIE: And while each -- while the overall
14 growth factor is statutorily set or determined by formula,
15 each jurisdiction's growth factor ends up being a bit
16 different because of how the allocation is done and their
17 contribution to the base amount. And this (indicating)
18 spreadsheet is posted on the MACo website, if you want to
19 look at the history of it, from 2004 forward.

20 MS. NICOSIA: Madam Chair, there is some mystery
21 to those calculations.

22 CHAIR MacDONALD: Okay. We'll now go to
23 Senator Ellsworth.

24 SENATOR ELLSWORTH: Yes, I do like to interject
25 myself now and again.

1 So Mr. Story, this actually -- Madam Chair, this is
2 for Mr. Story.

3 So hindsight's a beautiful thing. In looking at the
4 legislation that you passed, do you believe that there's
5 actually a potential to -- And I understand what you're
6 talking about by piercing it. So I get that. So is the
7 legislation so perfect that it shouldn't be played with
8 and that it shouldn't be adjusted? Or with hindsight, is
9 there legislation that potentially could make that better?
10 I guess that's, that's the big question.

11 MR. STORY: Well, thank you, Senator. And as a
12 legislator, never apologize for asking questions, because
13 I find too many legislators don't ask enough questions to
14 be well-informed. So -- They used to tell me to shut up
15 after a while because I'd ask questions, but...

16 All right. Is the bill perfect? No. No bill is.
17 Can it be improved? Probably but marginally. The
18 question is how should it be, how should it be modified?
19 Should it be modified at the eleventh hour in executive
20 session of a committee or should it be modified through
21 two years of discussion in front of this committee?

22 And I think that's what we're telling you as a group,
23 that this committee needs to take ownership of this
24 program. If you want to modify it, modify it, but bring
25 the players to the table that are involved, have that

1 discussion, have a well-thought-out plan to modify it, and
2 then take that forward. Don't -- and if someone tries to
3 do the end run around it, be the ones that say, no, slow
4 that down; you know, it maybe needs to be done, but do it
5 the right way. I think that would be my suggestion.

6 You know, it was complex. It wasn't easy to pass,
7 but -- because most people didn't understand what was in
8 the bill. You know, you've been there long enough, all of
9 you, to know that if somebody brings in a bill the size
10 Mr. Burton has, its chances of passing are slim to none
11 because there's too many ways it can be -- holes can be
12 found in it.

13 I will tell you we passed this bill on a philosophy
14 concept: "We will guarantee the bill is mechanically
15 sound." And it was. "This is just a philosophy. You, as
16 a legislator, can you support the philosophy that we're
17 trying to do here of keeping the reimbursements whole,
18 simplifying the process, freeing local governments to
19 spend their money how they choose to spend it?" That
20 concept sold to the Legislature.

21 You know, the, the mechanics of the bill have been
22 adjusted, as everyone here said, never through an
23 organized process, always pretty much ad hoc by some bill
24 coming in front of a finance committee or an
25 appropriations committee who have not sat on the policy

1 side of the issue.

2 CHAIR MacDONALD: Mr. Burton.

3 MR. BURTON: Thank you, Madam Chair.

4 Senator, I'd also like to add to what Mr. Story just
5 stated, in that we would love this committee to own this
6 discussion and this policy moving forward. And I just
7 want to point out that one of the recommendations in this
8 study from 1999 was to create a Local Government Interim
9 Committee. We were able to achieve that last session and
10 now have a permanent committee. And it wasn't always the
11 top priority for us either, but it did take a number of
12 years to be sitting here today in front of a committee
13 that was recommended to be created back in 1999.

14 CHAIR MacDONALD: That's 20 years.

15 And I have a, I have a follow-up question too. So I
16 guess what, what I would like to have one of you do, maybe
17 Mr. Blattie, is walk, walk through for us on a more
18 granular level how that -- was it House Bill 33, what
19 happened in executive action and how specifically did it
20 pierce the understanding. Because I've heard it
21 referenced, but I don't quite understand in detail how
22 that unfolded and what, what the implications were and how
23 it violated that philosophy that we had just heard
24 articulated I thought very concisely.

25 MR. BLATTIE: Madam Chair, without naming

1 names -- I'm really tempted to since -- But there was a
2 ongoing dispute between a few counties, a handful of
3 counties over mental health funding. There, years before,
4 was a nursing home bed tax put in place that was used to
5 leverage federal dollars; and some of the local folks got
6 the bright idea they could probably spend those dollars
7 better at home, so they weren't really forthcoming, and
8 I'm saying a handful, and a small handful, in remitting
9 the money to the State.

10 And so House Bill 33, what it did is it effectively
11 just swept all of that, took the dollars that were needed
12 to fund that reimbursement program, and, interestingly
13 enough, also took it from cities and counties. And I have
14 to quip that, well, geez, that didn't, maybe partly didn't
15 hurt my feelings all that bad because before, cities
16 weren't responsible for mental health funding. But it was
17 how it was done. And you saw some of the same things in
18 subsequent sessions.

19 That was my first taste of things happening like that.
20 You know, just at the eleventh hour, and, as Mr. Story
21 said, without vetting, without having the parties that are
22 affected having the opportunity to participate in the
23 decision. Whether they liked the answer or not, but there
24 wasn't any opportunity to participate in it.

25 CHAIR MacDONALD: So that -- just so I can be

1 clear, there was a nursing home bed tax, which not every
2 county or city necessarily had a nursing home, but that
3 money was taken and swept into the general fund without
4 any, without any expansion then of the formula?

5 MR. BLATTIE: And Madam Chair, at that time, that
6 legislative session, Senator Esp was actually assisting
7 the Montana Association of Counties and he was -- I
8 assigned him to that whole ball of wax. I can assure you
9 he can answer your question --

10 CHAIR MacDONALD: Okay.

11 MR. BLATTIE: -- much, much better than I can.

12 CHAIR MacDONALD: I guess I'll be buying him a
13 Pepsi or something.

14 MS. NICOSIA: Madam Chair, I would like to add
15 that that was a county expenditure. Right? County mental
16 health. And then with the, with the, on the application
17 side -- It's pretty easy in a bill to say if it's not in
18 House Bill 2, take it out of the State Entitlement Share.
19 But on the application side, then because cities have a
20 larger percentage of the pool, when the, I don't know,
21 Department of Revenue or -- Is that who would have taken
22 it out? Whichever state department then said, okay, we
23 take this out of the State Entitlement, the largest share
24 of a county program came out of cities because of the
25 method they use in their spreadsheet.

1 So when cities pointed out that we shouldn't
2 have had -- take it out of the county pot of money, it
3 shouldn't have come out of our pot, that was never
4 corrected. Because of the method, then the -- okay, they
5 have a, Department of Revenue has a spreadsheet, here's
6 the plusses and minuses. So while we are very polite to
7 one another and we've never come to fisticuffs, the cities
8 shouldn't have paid for a county program. But it's just
9 the mechanism of the entitlement.

10 MR. BURTON: Yeah.

11 CHAIR MacDONALD: Okay. Mr. Burton and then
12 Senator Esp also --

13 MR. BURTON: I would just --

14 CHAIR MacDONALD: And then I see the queue is
15 forming, so I've got you down.

16 And then just before -- I want to just quickly ask,
17 because we have 20 minutes left in this section, how many
18 people in the, in the room are going to be giving public
19 comment? would you raise your hands if you're planning
20 to -- Oh, okay. So that allows us to have a little more
21 back-and-forth up here.

22 So Mr. Burton and then we'll get to Senator Esp and on
23 through the queue.

24 MR. BURTON: Madam Chair, I just wanted to add a
25 little context to what Ms. Nicosia had, had talked about.

1 And it's not that cities don't pay for mental health
2 services. City residents, city property taxpayers within
3 the city pay the county health levy. And so -- and when
4 Mr. Blattie says "the eleventh hour," it was either the
5 second or the last night of the legislative session where
6 this was done in executive session. We found out about it
7 the next morning. And you can create public policy that
8 way, but it's usually not the best way to make informed
9 decisions.

10 CHAIR MacDONALD: Okay. Senator Esp.

11 SENATOR ESP: Thank you, Madam Chair. And I was
12 going to suggest that maybe we ask staff to prepare a,
13 kind of a flow chart about what happened that night in
14 that bill, and then it would be easier for us to see.

15 The other thing I was thinking, that if we look at
16 this further sometime, is to look at the 15-10-420. And
17 the original intent to allow counties flexibility within
18 their caps and to say there were certain limited levies
19 that you could levy without a vote but if you wanted to
20 levy any additional levies, you'd have to go to the vote
21 of the people, that has been pierced slightly too. And we
22 may go into some of that discussion too later on in the
23 biennium maybe or...

24 CHAIR MacDONALD: Thank you. Good, good
25 suggestion.

1 Is that something that you could follow through?

2 Thank you.

3 I had -- Representative Sheldon-Galloway had her hand
4 up, and then I had Representative Dunwell. Anyone else?
5 And then Senator Malek. Okay.

6 REPRESENTATIVE SHELDON-GALLOWAY: Thank you,
7 Madam Chair.

8 I like simple things, so big -- big question here:
9 What if property tax was 100% given to the counties and
10 the cities? How is that different than this bill, and
11 would the State of Montana really be hurting if you, if we
12 gave everything to the counties and cities, including --
13 or all property tax would go to counties, cities, and
14 schools?

15 MR. STORY: Madam Chairman, Representative
16 Sheldon-Galloway, in effect, that already happens. I
17 mean, the State collects 95 mills -- If you discount the
18 6 mills to the University system, the State collects
19 95 mills and they basically roll that back into the school
20 funding formula, and that goes back to schools anyway.
21 So, you know, if you, if the State gave up that 95 mills,
22 that's \$300 million a year that they would have to come up
23 with out of some other source to put into schools.

24 So you could take all the entitlement money and fund
25 schools with it and give the 95 mills to the cities and

1 counties. The problem being is the shift regionally. You
2 know, you'd have really big tax increases in some places
3 and not much in others, and, and then your whole school
4 funding formula would be more dependent upon the general
5 fund stream of revenue, which is all, you know, basically
6 income tax, natural resource taxes. You know, the
7 property tax is a stable source of revenue for the State
8 also.

9 So, I mean, you could mess around with things and
10 adjust things and get dollars to come out even in the
11 state general fund, but the effect at the local level -- I
12 mean, that would be a spreadsheet to see. I mean, it
13 would be, it would be different. I mean, it wouldn't be a
14 dollar-for-dollar fix.

15 REPRESENTATIVE SHELDON-GALLOWAY: Follow-up?

16 Okay. So I was talking with Utah state legislators,
17 and in Utah, 100 percent of income tax goes to schools.
18 100 percent income tax goes to their school program. So
19 their property tax and their sales tax pays everything
20 else in the state.

21 So that's what got me thinking what if 100 percent of
22 property tax was, you know, just given to the counties,
23 cities, and schools, and the State lived off of, in our
24 22 agencies, income tax? So what I'm hearing is we
25 couldn't do that. It doesn't, income tax doesn't bring in

1 enough money to pay for our agencies and allowing schools
2 and counties and cities to live off of property tax.

3 MR. STORY: Madam Chairman, Representative, I
4 don't know exactly if that -- the numbers would balance
5 out. We know, we know the Entitlement Share Program is
6 north of \$200 million with the reimbursements and the
7 gaming and the vehicle money. I don't know what the total
8 number is. Somebody probably has it on one of these
9 sheets. We know that the property -- the 95 mills is
10 about \$300 million a year.

11 And so you've got a deficit there that you would have
12 to -- If you, if you were going to fund all state programs
13 the same, I mean, you could say, fine, the State is not
14 going to fund, I don't know, the 60 percent of the
15 K-12 system that it currently funds through income tax and
16 property taxes and natural resource taxes, that's all
17 going to go back to property taxpayers.

18 I mean, I think you could have staff, some staff work
19 those numbers and see what would happen. I just think
20 that once you've looked at where the taxes were going to
21 go up and where they were going to go down, you know,
22 politically you would find that that's probably not a
23 solution you want to do. But I can't tell you for sure
24 that there wouldn't a trade-in.

25 I mean, the problem we're always talking about here is

1 the Legislature's job is to hold the state general fund
2 and manage that, and they tend to forget that local
3 governments have the same, same job to fund their
4 operations. They just don't have the sources of revenue
5 that the State does. They have the property tax. And the
6 Legislature always wants to keep dabbling in that too. So
7 it's, it's just one of the divisions of labor thing. You
8 need to kind of understand what -- how that works.

9 CHAIR MacDONALD: And I would add as an
10 additional kind of point for all of us to kind of keep in
11 the back of our minds is that House Joint 35, that interim
12 study, is very much kind of looking at those juxtaposition
13 of that state and local, and those are the issues that are
14 kind of unfolding, and that's happening in the revenue
15 committee.

16 So hopefully in January when we're all together,
17 that's the kind of, I think, hope of having that big
18 gathering in January, is that we can sit in on some of
19 that and engage with that revenue committee around some of
20 these larger philosophical questions about how we organize
21 this.

22 But I think I have Representative Dunwell next.

23 REPRESENTATIVE DUNWELL: Thank you, Madam Chair.

24 So this is for anybody on the committee. Again, I
25 want to make sure I'm on track here and, and understand

1 what you're telling us. You know, I want to say I don't
2 think you should be able to steal or freeze money that
3 is -- the Entitlement Share that is money, local funds.
4 Why we don't just call it "local source share" or
5 something like that. "Entitlement" has an interesting
6 connotation, but --

7 So perhaps in addition to how are we going to put on a
8 suit of armor to prevent the piercing of the Entitlement
9 Share, probably in addition to that, we could helicopter
10 up a little bit and look about -- look at the bigger
11 problem in our legislative process: what allows us to
12 legislate like that, without public vetting, at the
13 eleventh hour when nobody knows about it, and, surprise,
14 you find out in the morning? To me, that's a problem with
15 our democracy.

16 So, you know, Madam Chair, I would -- you know, I
17 don't know if this is the committee to take that up or if
18 legislative council or the legislative finance committee
19 that's looking at the budgeting process would be
20 appropriate, but I would encourage you to talk about that
21 too to them.

22 So there was a question here: so your ask to us is
23 making sure this can't be frozen, this, this can't be
24 changed in any way that it deprives local governments of
25 their money similar to, am I correct, similar to the

1 principal on the coal trust? We can't touch that. So I
2 guess is that --

3 MS. NICOSIA: Uh-huh.

4 REPRESENTATIVE DUNWELL: So I, I wonder if you
5 could elaborate on how do we do that? What would
6 legislation look like to do that?

7 And I have follow-up, if I may.

8 CHAIR MacDONALD: Pardon me?

9 REPRESENTATIVE DUNWELL: And I have a follow-up
10 if there's time.

11 CHAIR MacDONALD: Okay.

12 MR. STORY: Well, I guess I differ from -- I
13 don't know if that's really what this group is asking,
14 that they're asking that this is forever impenetrable.
15 That wouldn't be my ask.

16 My ask would be if you're going to do it, do it in a
17 thoughtful, logical way that's justifiable. You know, not
18 just do it because we need some more money to make the
19 general fund balance. Do it because there's a reason to
20 do it.

21 Now, I'm certain, from Susan and Tim's perspective,
22 that, yeah, that would be great if there was a
23 constitutional lockdown that, you know, this money was
24 always there and you couldn't take it away with a
25 super-majority -- You know, we had a super-majority vote

1 in the bill, but it was just in the bill, so it only took
2 a majority to get rid of the super-majority, and then you,
3 then you could get the money with the majority vote, you
4 know. And we knew that going in. But, you know, that...

5 CHAIR MACDONALD: And you had a follow-up --

6 Oh, I'm sorry. Ms. Nicosia, did you want to respond
7 to that?

8 MS. NICOSIA: well, I was, I was going to respond
9 too, because part of the handshake was that super-majority
10 that didn't make it through the legislative process. The
11 armor was in the original intent as far as cities and
12 counties were, were concerned. So we know in that
13 handshake. But that is our ask, is that this, this be
14 protected and that it come through a committee process.

15 We recognize that, yes, we should evaluate over time
16 is this the right growth factor, does this match the
17 intent. But it has to be done -- You know, there's a
18 reason that, that we had 18 of those books before the
19 summary, because it's, it's not simple. And, and we
20 condensed it, we made it as simple as possible. But
21 there's a lot of moving parts and factors. So now with,
22 with updating it, it takes time and, and evaluation and
23 objectivity and not on-the-fly let's freeze this because,
24 because we want, we want more revenues.

25 So I am asking for a process, a protection of this.

1 And I absolutely agree with the name change, and I liked
2 your suggestion, Representative Dunwell.

3 CHAIR MacDONALD: I think Mr. Burton, and then,
4 and then I think you have one more question.

5 MR. BURTON: Thank you, Madam Chair. I just
6 wanted to build off of the responses that you're hearing.
7 And I agree with Mr. Story; we're not asking that this
8 never be reviewed. The members that I represent are very
9 interested in what's in the best interest of the state of
10 Montana and the communities that they represent, and facts
11 change over time.

12 We also know, and you've heard me probably say it
13 many, many times, that we're facing a multibillion-dollar
14 infrastructure deficit, which the Entitlement Share is not
15 going to solve. That's the reason why we pursued
16 House Bill 35 with the revenue committee this session, was
17 it's been 20 years since we've done this. Let's do
18 something similar in terms of where the tax base has been,
19 where it is, and where we think it needs to go based upon
20 the best information that we have today.

21 And so we're fully engaged, and I'm sitting on the
22 committee with the revenue depart -- or committee. And we
23 modeled that bill after this process that took place
24 20 years ago. It's not exactly the same, but it's very
25 similar. And it includes members of the legislative body,

1 but it also includes folks outside the Legislature that
2 have knowledge in business and managing local governments.

3 CHAIR MacDONALD: Thank you.

4 And Representative Dunwell, did you have --

5 REPRESENTATIVE DUNWELL: I'll let the other one
6 go in the interest of time.

7 CHAIR MacDONALD: So I think the next person was
8 Senator Malek, and then I have Senator --

9 SENATOR MALEK: Thank you, Madam Chairman. I'll
10 try not to be too wordy here, but I have to say that the
11 mental health cuts were more than mental health cuts.
12 They were now we have more people in jail, now we have
13 more people in the hospital, now -- You know, it's a huge
14 impact to our city and county.

15 And I, I agree that -- I was talking to one of the
16 members of the panel before we started that we have voted
17 in our cities for more services, a new jail, a new
18 library, more open space. But this -- they're either
19 essential or they're important to the economic viability
20 of our communities and we need them. And the large -- Our
21 communities are important to the economy of Montana. If
22 we don't have them, then we have a problem.

23 I have four areas of tax that I -- we probably can't
24 address today, but I'd like you to maybe come back and
25 talk about. And one is new construction. So we have all

1 this new building going on in Missoula, but we can't tax
2 them for some period of time. That's a problem.

3 The corporate tax appeal. I've, I've put down
4 50 bucks and I can appeal my corporate taxes? That's all
5 I'm charged? I might as well appeal.

6 And the business equipment taxes, have we actually
7 studied to see that they've made a difference to our
8 economy? Are we just doing that and saying, well, that's
9 just what we want to do, or do we have some evidence that
10 they've actually improved our economy?

11 And of course, the last issue is local option sales
12 tax. We need help in our communities. I will say that
13 people are going to be taxed out of their houses. We just
14 can't keep doing this in our communities, and we need new
15 tax sharing for our local communities.

16 So I don't know that you want to respond today, but
17 those are my issues that I hope we'll address as we move
18 forward.

19 CHAIR MacDONALD: So does anyone wish to respond?
20 Okay.

21 Senator Esp, did you have your hand up?

22 Oh, I'm sorry. Yeah, I'm sorry. Representative Fern.

23 REPRESENTATIVE FERN: Thank you, Madam Chair.
24 I'm just reflecting a couple, a couple -- the last interim
25 committee. I'm trying to think of, like, how do we get

1 from what we're hearing to trying to get closer to solving
2 the issues before us? And I can think about housing,
3 where we had a couple model bills developed from folks who
4 know housing well and then we started to vet that process.

5 And though it's later in our time that we deal with,
6 with solutions, this is such a big, complicated issue, you
7 know, that these (indicating) four folks, one, two, three,
8 four, you know, have a lot of experience and understand
9 the history of this very well, along with Senator Esp.

10 And so maybe it's worth considering the thought of trying
11 to put together something that would address some of the
12 problems being presented with plenty of time -- almost
13 like a working subcommittee that can come back to us and
14 look at, okay, how do we deal with the growth factor? I
15 mean, here's how the growth factor works, it's not enough,
16 we're going to make an adjustment.

17 At the same time, we don't know what the interim
18 committee on, on revenue will be dealing with, and maybe
19 some of it will dovetail with I think our assignment to
20 kind of deal with this small entity, relatively speaking,
21 of our, of our budget and come up with some solutions.

22 So I guess maybe, you know, we have, we have a core
23 group of folks who might be able to assist this committee
24 with ideas.

25 CHAIR MacDONALD: Thank you, Representative.

1 And I think you all can respond to his thoughts there
2 if you have any. I saw some nods around the fact that we
3 do have a dovetailing process in HJ 35, so we don't want
4 to be stepping on that. But are there some nuggets or
5 some specific pieces that have been alluded to in terms of
6 protecting the Entitlement Share that make some sense from
7 this committee without shading into the work
8 responsibilities of the revenue committee?

9 MR. STORY: Thank you, Madam Chairman. I guess
10 I'd go back to my point that I made a little bit ago
11 about, you know, this whole program was passed on the
12 philosophy, not on the mechanics.

13 And so, I mean, the first point is does the
14 Legislature still support that philosophy; you know, that
15 policy decisions made at the state level that affect local
16 revenue should be dealt with some way? You know,
17 reimbursements or whatever. If the State takes over
18 programs, as they did, you know, how long does the local
19 obligation to fund those go on? You know, once they give
20 up control of the program, you know, is that the end of
21 it?

22 So there's those things -- So I think this, this
23 committee just needs to, you know, think about that. So
24 then when some other group gets together and comes with a
25 bill that is counter to that philosophy, do you -- do

1 legislators have some knowledge, I mean, to weigh in and
2 try to, you know, impact that decision? That's hard to do
3 because, as has been alluded to here many times, those
4 decisions are made in the appropriations committees, which
5 are kind of a world unto their own that most of us don't
6 get to participate in and, and don't get to see what
7 happens behind that curtain.

8 So, you know, I think that's a difficult thing for
9 legislators to do, to stand up in caucuses or in
10 leadership and say, no, we don't want to go that way
11 because that affects our constituents, our taxpayers. You
12 know, sure, it's great for the state programs, but what's
13 it do for the -- I've, I've said this many times, and I
14 haven't said it in this committee, but, you know, if you
15 think about you as a state legislator and the policy
16 decisions you make, what constituency do you serve?

17 You don't serve the average man on the street. State
18 programs don't touch the average taxpayer. Your
19 constituents are people in prison, people in institutions,
20 people on government assistance. Those are what state
21 programs touch. Medicaid, Medicare. You know, services
22 to the people that are voting for you are provided by the
23 cities, the counties, and the schools.

24 And so when you decide to fund state programs at the
25 expense of local programs, you're deciding that it's more

1 important to fund these people than it is to fund these
2 people. That's just a decision you make. I mean, that's
3 your job as a legislator. But you need -- I think you
4 need to understand that so that when you make those
5 decisions, you're allocating scarce resources.

6 Is it more important the State have the money to fund
7 their budget if it takes it away from the local
8 governments that are funding local budgets, whether it be
9 the school, the city, or the county? That's really the
10 decision you're making. And the appropriators that sit on
11 finance and claims and appropriations, I mean, they're
12 focused on making the state budget work. The other 80 of
13 you in the House and, you know, 30 of you in the Senate,
14 you're focused more on how you make all these other
15 programs work that come through your individual
16 committees.

17 So I think that's just, you know, a decision
18 individual legislators have to make. And this committee
19 needs to kind of think about it as your role as the Local
20 Government Committee. You know, what's your, what's your
21 job, to make the state budget work or help local
22 governments make their programs work?

23 CHAIR MacDONALD: Thank you. That's very
24 helpful.

25 Senator Esp.

1 Okay. Any, any last words here before this august
2 body gets done?

3 MR. BLATTIE: Madam Chair and members of the
4 committee, you know, you've acknowledged and recognized
5 the fact that those of us that were involved in this whole
6 thing are diminishing in numbers. I have no intention of
7 coming back to visit you again. It's not that I don't
8 like you, but I'm really trying to retire.

9 But as, as fewer and fewer people that were actually
10 involved, the history gets lost or the history gets
11 modified, worse yet. And so I guess one of the things
12 that I would hope that the committee would do is that you
13 would have a group of you that become educated and
14 understand how this is so that you can help us tell the
15 story. Because somehow we have to transfer that history
16 to the new folks that are, that are taking our place.

17 I, I would like to close with the first sentence out
18 of the vision statement in Senate Bill 184 that created
19 the committee that had not only legislators but local
20 officials as members of the committee. And it reads: "We
21 are dedicated to a partnership among state, county, city,
22 and school districts that is based on mutual trust and
23 respect for local authority." And I think that's a pretty
24 profound statement.

25 CHAIR MacDONALD: Thank you.

1 And Mr. Burton.

2 MR. BURTON: Madam Chair, just very quickly, I'd
3 like to thank you and the committee. I'm very pleased
4 that you're in existence. It's been many -- a couple
5 decades where we've actually had an hour and a half in
6 front of a local government committee. This is I think
7 critically important to the institutional memories of your
8 legislative body, but it also allows us to talk at a level
9 of detail with you about policies, opportunities, and
10 challenges that we haven't had for most of my career.

11 CHAIR MacDONALD: Thank you very much.

12 Ms. Nicosia.

13 MS. NICOSIA: Thank you. I would just say thank
14 you as well and will certainly work with this committee
15 and provide any information and assistance.

16 CHAIR MacDONALD: Okay. And Senator Esp.

17 SENATOR ESP: So Madam Chair, the one thing I was
18 going to point out, and staff can look this up, but -- So
19 they worked all interim developing a bill in a program,
20 and then we spent many, many nights during the session
21 with another special committee that met to work on the
22 mechanics and philosophy and things before we brought it
23 out to the House floor. So you might see how many
24 meetings we had and how long they were.

25 But the point is, I guess, it was a very thoughtful

1 process, and it involved many hands on it and many -- many
2 perspectives. And I think that was what my friend,
3 Robert Story, Jr., was trying to tell you, and he did it
4 very well.

5 CHAIR MacDONALD: Representative Fern.

6 REPRESENTATIVE FERN: Thank you, Madam Chair.
7 May I ask a question for Senator Esp?

8 CHAIR MacDONALD: We are past our time, but you
9 may.

10 REPRESENTATIVE FERN: Senator Esp, from what
11 you're hearing and what you just said about all the time
12 put into it, are we heading to something as a committee
13 where we would try -- is it appropriate to try some
14 prescriptive measures to correct some of the problems
15 we're hearing about today and we may hear about moving
16 forward, maintaining the same philosophy and sort of a
17 similar structure but modernizing it or adjusting numbers?

18 SENATOR ESP: well, Madam Chair, Representative
19 Fern, I think, number one, you have to decide, is that
20 still a philosophy that we should pursue? And if it is,
21 then how do we mechanically do it that would maybe make it
22 better or how can we improve on the mechanics of it?

23 But you have to, you have to buy into the philosophy
24 in the first place. And if you do, then, then we move
25 forward with working on mechanics and, and adjustments. A

1 lot of things have happened since it was first developed.

2 CHAIR MacDONALD: And I guess I will take the
3 opportunity to weigh in here as we close this section,
4 which is: I think some of this is conveying, in the
5 orientation of our new members and of our existing
6 members, really, kind of the underlying philosophy that
7 drives this, which I think is profound. And I'm not sure
8 that, in the mechanics of, of the growth factor and this,
9 this flow sheet and that flow sheet and this tax and that
10 tax that got rolled into everything, that we hit that high
11 level kind of commitment that was made in 1999-2001 in the
12 big bill. And how do we, how do we kind of pound that in,
13 if you will, to our current legislative body in a way that
14 helps us kind of continue to, to maintain that covenant or
15 that handshake that was, that was made back when almost
16 none of us were here?

17 So that's, that's a challenge to me too. And it may
18 not be legislative. It might be a matter of education and
19 inculcation and mentorship and, and also the culture of
20 this committee. So there are, there are a number of ways
21 we do that.

22 But with that, I would thank you all for, for your
23 excellent presentation and for the really good feedback.

24 And thanks to the committee for their thoughtful
25 engagement as well.

STATE OF MONTANA)
) ss.
COUNTY OF LEWIS AND CLARK)

That the foregoing proceedings were transcribed into typewriting by me from a streamed video recording; and that the -65- pages contain a true record of the proceedings to the best of my ability, taking into consideration the quality of the recording.

/s/Cheryl A. Romsa
CHERYL A. ROMSA