

HOUSE BILL NO. 940

INTRODUCED BY WANZENRIED, PECK, JERGESON, B. BROWN, BIANCHI,
KADAS, NATHE, HAMMOND, GRINDE
BY REQUEST OF THE SUPERINTENDENT OF
PUBLIC INSTRUCTION

IN THE HOUSE

FEBRUARY 19, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON EDUCATION & CULTURAL RESOURCES.

 FIRST READING.

MARCH 23, 1991 COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

MARCH 25, 1991 PRINTING REPORT.

MARCH 27, 1991 ON MOTION, CONSIDERATION PASSED.

MARCH 28, 1991 SECOND READING, DO PASS.

 ENGROSSING REPORT.

 ON MOTION, RULES SUSPENDED TO ALLOW
TO PLACE ON THIRD READING

 THIRD READING, PASSED.
AYES, 56; NOES, 43.

 TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 28, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON EDUCATION & CULTURAL RESOURCES.

 FIRST READING.

APRIL 11, 1991 COMMITTEE RECOMMEND BILL BE
CONCURRED IN. REPORT ADOPTED.

APRIL 13, 1991 SECOND READING, CONCURRED IN.

APRIL 15, 1991 THIRD READING, CONCURRED IN.
AYES, 35; NOES, 13.

 RETURNED TO HOUSE.

IN THE HOUSE

APRIL 16, 1991

RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 HOUSE BILL NO. 940
 2 INTRODUCED BY WENDY RICE Rep. Ferguson Rep. Brown
 3 BY REQUEST OF THE SUPERINTENDENT OF NATH.
 4 Public Instruction
 5 PUBLIC INSTRUCTION

6 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR A
 7 RELIABLE CASH FLOW TO SCHOOL DISTRICTS BY ALLOWING STATE
 8 ADVANCES FOR REVENUE TO BE RAISED BY COUNTY EQUALIZATION
 9 LEVIES; AMENDING SECTIONS 20-9-212, 20-9-331, 20-9-333,
 10 20-9-334, 20-9-335, 20-9-344, 20-9-346, AND 20-9-347, MCA;
 11 AND PROVIDING AN EFFECTIVE DATE."
 12

STATEMENT OF INTENT

13
 14 A statement of intent is required for this bill because
 15 the superintendent of public instruction is granted
 16 rulemaking authority in 20-9-347(2) to adopt rules with
 17 regard to state advances to support the basic county tax and
 18 the basic special tax for county equalization for foundation
 19 program funding. The procedure is intended to ensure that
 20 the county equalization revenue is fully realized by school
 21 districts in a timely manner, regardless of delinquent or
 22 protested taxes. It is anticipated that the county
 23 superintendent of schools shall continue to calculate and
 24 report to the school districts the revenue generated in
 25 support of the elementary and high school basic county

1 equalization levies for foundation program funding.
 2
 3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 4 **Section 1.** Section 20-9-212, MCA, is amended to read:
 5 "20-9-212. Duties of county treasurer. The county
 6 treasurer of each county shall:
 7 (1) receive and hold all school money subject to
 8 apportionment and keep a separate accounting of its
 9 apportionment to the several districts which are entitled to
 10 a portion of the money according to the apportionments
 11 ordered--by calculations of the county superintendent. A
 12 separate accounting must be maintained for each county fund
 13 supported by a countywide levy for a specific, authorized
 14 purpose, including:
 15 (a) the basic county tax in support of the elementary
 16 foundation programs;
 17 (b) the basic special tax for high schools in support
 18 of the high school foundation programs;
 19 (c) the county tax in support of the county's high
 20 school transportation obligation;
 21 (d) the county tax in support of the elementary and
 22 high school district retirement obligations; and
 23 (e) any other county tax for schools, including the
 24 community colleges, which may be authorized by law and
 25 levied by the county commissioners;



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1 (2) whenever requested, notify the county
 2 superintendent and the superintendent of public instruction
 3 of the amount of county school money on deposit in each of
 4 the funds enumerated in subsection (1) of this section and
 5 the amount of any other school money subject to
 6 apportionment and apportion the county and other school
 7 money to the districts in accordance with the apportionment
 8 ordered by the county superintendent;

9 (3) keep a separate accounting of the expenditures for
 10 each budgeted fund included in the final budget of each
 11 district;

12 (4) keep a separate accounting of the receipts,
 13 expenditures, and cash balances for each budgeted fund
 14 included in the final budget of each district and for each
 15 nonbudgeted fund established by each district;

16 (5) except as otherwise limited by law, pay all
 17 warrants properly drawn on the county or district school
 18 money and properly endorsed by their holders;

19 (6) receive all revenue collected by and for each
 20 district and deposit these receipts in the fund designated
 21 by law or by the district if no fund is designated by law.
 22 Interest and penalties on delinquent school taxes shall be
 23 credited to the same fund and district for which the
 24 original taxes were levied.

25 (7) send all revenue received for a joint district,

1 part of which is situated in his county, to the county
 2 treasurer designated as the custodian of the revenue, no
 3 later than December 15 of each year and every 3 months
 4 thereafter until the end of the school fiscal year;

5 (8) at the direction of the trustees of a district,
 6 assist the district in the issuance and sale of tax and
 7 revenue anticipation notes as provided in Title 7, chapter
 8 6, part 11;

9 (9) register district warrants drawn on a budgeted fund
 10 in accordance with 7-6-2604 when there is insufficient money
 11 available in all funds of the district to make payment of
 12 the warrant. Redemption of registered warrants must be made
 13 in accordance with 7-6-2116, 7-6-2605, and 7-6-2606.

14 (10) invest the money of any district as directed by the
 15 trustees of the district within 3 working days of the
 16 direction;

17 (11) each month give to the trustees of each district an
 18 itemized report for each fund maintained by the district,
 19 showing the paid warrants, outstanding warrants, registered
 20 warrants, amounts and types of revenue received, and the
 21 cash balance;

22 (12) remit promptly to the state treasurer receipts for
 23 the county tax for a vocational-technical center when levied
 24 by the board of county commissioners under the provisions of
 25 20-16-202; and

1 (13) invest the money received from the basic county tax
 2 in support of the elementary foundation programs and the
 3 basic special tax in support of the high school foundation
 4 programs within 3 working days of receipt. The money must be
 5 invested until the working day before it is required to be
 6 distributed to school districts within the county or
 7 remitted to the state. Permissible investments are specified
 8 in 20-9-213(4). All investment income must be deposited, and
 9 credited proportionately, in the funds established to
 10 account for the taxes received for the purposes specified in
 11 subsections (1)(a) and (1)(b).

12 (14) remit to the state treasurer, no later than January
 13 5 and June 20 of the school fiscal year, the balance of the
 14 funds realized pursuant to subsections (1)(a) and (1)(b),
 15 including all interest earned, in repayment of a state
 16 advance for county equalization as prescribed in 20-9-347.
 17 Any funds in excess of a state advance must be used as
 18 required in 20-9-331(1)(b) and 20-9-333 (1)(a) and (1)(b)."

19 **Section 2.** Section 20-9-331, MCA, is amended to read:

20 "20-9-331. Basic county tax and other revenues for
 21 county equalization of the elementary district foundation
 22 program. (1) The county commissioners of each county shall
 23 levy an annual basic tax of 33 mills on the dollar of the
 24 taxable value of all taxable property within the county,
 25 except for property subject to a tax or fee under 23-2-517,

1 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204, for
 2 the purposes of local and state foundation program support.
 3 The revenue collected from this levy must be apportioned to
 4 the support of the foundation programs of the elementary
 5 school districts in the county and to the state special
 6 revenue fund, state equalization aid account, in the
 7 following manner:

8 (a) In order to determine the amount of revenue raised
 9 by this levy which is retained by the county, the sum of the
 10 estimated revenue identified in subsection (2) must be
 11 subtracted from the total of the foundation programs of all
 12 elementary districts of the county.

13 (b) If the basic levy prescribed by this section
 14 produces more revenue than is required to ~~finance the~~
 15 ~~difference determined in subsection (1)(a)~~ repay a state
 16 advance for county equalization, the county treasurer shall
 17 remit the surplus funds to the state treasurer for deposit
 18 to the state special revenue fund, state equalization aid
 19 account, immediately upon occurrence of a surplus balance
 20 and each subsequent month thereafter, with any final
 21 remittance due no later than June 20 of the fiscal year for
 22 which the levy has been set.

23 ~~(c) If revenue from the basic levy prescribed by this~~
 24 ~~section when combined with the other revenue from subsection~~
 25 ~~(2) is insufficient to fully fund the percentage determined~~

1 in---20-9-347(i)(b)--and--the--county--is--eligible--for--an
 2 apportionment-of-state-equalization-aid-under-the-provisions
 3 of-20-9-347(i)(c),-the-county--superintendent--shall--notify
 4 the--superintendent-of-public-instruction-of-the-deficiency:
 5 The-superintendent-of-public-instruction-shall-increase--the
 6 state--equalization--aid--payments--to--the-districts-in-the
 7 affected-county-to-offset-the-deficiency--A-payment-may--not
 8 be--made-under-this-subsection-(c)-that-allows-a-district-to
 9 receive--foundation-program-funding--in--excess---of---the
 10 foundation-program-amount-of-the-district:

11 (2) The revenue realized from the county's portion of
 12 the levy prescribed by this section and the revenue from the
 13 following sources must be used for the equalization of the
 14 elementary district foundation programs of the county as
 15 prescribed in 20-9-334, and a separate accounting must be
 16 kept of the revenue by the county treasurer in accordance
 17 with 20-9-212(1):

18 (a) the portion of the federal Taylor Grazing Act funds
 19 distributed to a county and designated for the common school
 20 fund under the provisions of 17-3-222;

21 (b) the portion of the federal flood control act funds
 22 distributed to a county and designated for expenditure for
 23 the benefit of the county common schools under the
 24 provisions of 17-3-232;

25 (c) all money paid into the county treasury as a result

1 of fines for violations of law, except money paid to a
 2 justice's court, and the use of which is not otherwise
 3 specified by law;

4 (d) any money remaining at the end of the immediately
 5 preceding school fiscal year in the county treasurer's
 6 accounts for the various sources of revenue established or
 7 referred to in this section;

8 (e) any federal or state money distributed to the
 9 county as payment in lieu of property taxation, including
 10 federal forest reserve funds allocated under the provisions
 11 of 17-3-213;

12 (f) gross proceeds taxes from coal under 15-23-703;

13 (g) net proceeds taxes for interim production and new
 14 production, as defined in 15-23-601, and local government
 15 severance taxes on any other production occurring after
 16 December 31, 1988; and

17 (h) anticipated revenue from property taxes and fees
 18 imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521,
 19 61-3-537, and 67-3-204."

20 **Section 3.** Section 20-9-333, MCA, is amended to read:

21 "20-9-333. Basic special levy and other revenues for
 22 county equalization of high school district foundation
 23 program. (1) The county commissioners of each county shall
 24 levy an annual basic special tax for high schools of 22
 25 mills on the dollar of the taxable value of all taxable

1 property within the county, except for property subject to a
 2 tax or fee under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521,
 3 61-3-537, and 67-3-204, for the purposes of local and state
 4 foundation program support. The revenue collected from this
 5 levy must be apportioned to the support of the foundation
 6 programs of high school districts in the county and to the
 7 state special revenue fund, state equalization aid account,
 8 in the following manner:

9 (a) In order to determine the amount of revenue raised
 10 by this levy which is retained by the county, the sum of the
 11 estimated revenue identified in subsection (2) must be
 12 subtracted from the sum of the county's high school tuition
 13 obligation and the total of the foundation programs of all
 14 high school districts of the county.

15 (b) If the basic levy prescribed by this section
 16 produces more revenue than is required to ~~finance the~~
 17 ~~difference determined in subsection (1)(a)~~ repay a state
 18 advance for county equalization, the county treasurer shall
 19 remit the surplus funds to the state treasurer for deposit
 20 to the state special revenue fund, state equalization aid
 21 account, immediately upon occurrence of a surplus balance
 22 and each subsequent month thereafter, with any final
 23 remittance due no later than June 20 of the fiscal year for
 24 which the levy has been set.

25 ~~(c) if revenue from the basic levy prescribed by this~~

1 ~~section when combined with the other revenue from subsection~~
 2 ~~(2) is insufficient to fully fund the percentage determined~~
 3 ~~in 20-9-347(1)(b) and the county is eligible for an~~
 4 ~~apportionment of state equalization aid under the provisions~~
 5 ~~of 20-9-347(1)(c), the county superintendent shall notify~~
 6 ~~the superintendent of public instruction of the deficiency.~~
 7 ~~The superintendent of public instruction shall increase the~~
 8 ~~state equalization aid payments to the districts in the~~
 9 ~~affected county to offset the deficiency. A payment may not~~
 10 ~~be made under this subsection (c) that allows a district to~~
 11 ~~receive foundation program funding in excess of the~~
 12 ~~foundation program amount of the district.~~

13 (2) The revenue realized from the county's portion of
 14 the levy prescribed in this section and the revenue from the
 15 following sources must be used for the equalization of the
 16 high school district foundation programs of the county as
 17 prescribed in 20-9-334, and a separate accounting must be
 18 kept of the revenue by the county treasurer in accordance
 19 with 20-9-212(1):

20 (a) any money remaining at the end of the immediately
 21 preceding school fiscal year in the county treasurer's
 22 accounts for the various sources of revenue established in
 23 this section;

24 (b) any federal or state money distributed to the
 25 county as payment in lieu of property taxation, including

1 federal forest reserve funds allocated under the provisions
2 of 17-3-213;

3 (c) gross proceeds taxes from coal under 15-23-703;

4 (d) net proceeds taxes for interim production and new
5 production, as defined in 15-23-601, and local government
6 severance taxes on any other production occurring after
7 December 31, 1988; and

8 (e) anticipated revenue from property taxes and fees
9 imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521,
10 61-3-537, and 67-3-204."

11 **Section 4.** Section 20-9-334, MCA, is amended to read:

12 **"20-9-334. Apportionment of county equalization moneys**
13 **by county superintendent.** The county superintendent shall
14 separately apportion the revenues--deposited---in state
15 advances for the basic county tax account and the revenues
16 deposited-in state advances for the basic special tax for
17 high schools account, as prescribed in 20-9-347, to the
18 several districts of the county on a monthly basis. The
19 apportionments shall be known as "county equalization
20 moneys". Before the revenues are apportioned, the county
21 superintendent ~~makes-the-monthly-apportionments,~~ he shall:

22 (1) deduct from the revenues available in the basic
23 county tax account the amount required for the month to pay
24 the county's obligation for elementary transportation
25 reimbursements; and

1 (2) deduct from the revenues available in the basic
2 special tax for high schools account the amount required for
3 the month to pay the county's obligation for high school
4 out-of-county tuition."

5 **Section 5.** Section 20-9-335, MCA, is amended to read:

6 **"20-9-335. Formula for apportionment calculation of**
7 **county equalization moneys.** (1) After making such deductions
8 prescribed in 20-9-334, the county superintendent shall
9 apportion--the--remaining--amount--of--moneys calculate and
10 report county apportionment and revenue available in the
11 basic county tax account to the ~~several-public~~ elementary
12 school districts of the county and in the basic special tax
13 for high schools account to the ~~several public-secondary~~
14 high school districts of the county in proportion to their
15 needs under the foundation program in accordance with the
16 following procedure:

17 (a) determine the percentage that the county
18 equalization moneys available for the support of the
19 foundation programs of the public elementary school
20 districts in the county is of the total amount of the
21 foundation programs of all public elementary school
22 districts;

23 (b) multiply the foundation program amount of each
24 public elementary school district by the percentage
25 determined in subsection (1)(a) above to determine the

1 portion of the county equalization moneys available to each
2 ~~public~~ elementary school district.

3 (2) The above procedure shall also be applied for
4 ~~public-secondary~~ high school districts.

5 (3) ~~No-territory~~ Territory situated within a county
6 shall may not be excluded from the ~~apportionment~~
7 calculations of the county equalization moneys under this
8 section solely because ~~such~~ the territory lies within the
9 boundaries of a joint district. Cash balances to the credit
10 of any district at the end of a school fiscal year shall may
11 not be considered in the ~~apportionment~~ procedure prescribed
12 in this section.

13 (4) The county equalization moneys ~~apportioned reported~~
14 under these procedures shall-constitute are the first source
15 of revenue in calculating the financing of the ~~public~~
16 elementary and ~~secondary~~ high school district foundation
17 program. The county superintendent shall use the
18 ~~apportionment~~ procedure prescribed in this section in
19 computing the estimated revenues for the financing of the
20 ensuing year's foundation program for budgeting purposes."

21 **Section 6.** Section 20-9-344, MCA, is amended to read:

22 "20-9-344. Purpose of state equalization aid and duties
23 of the board of public education for distribution --
24 conditions of first payment. (1) The money available for
25 state equalization aid must be distributed and apportioned

1 to provide an annual minimum operating revenue for the
2 elementary and high schools in each county, exclusive of
3 revenues required for debt service and for the payment of
4 any costs and expense incurred in connection with any adult
5 education program, recreation program, school food services
6 program, new buildings and grounds, and transportation.

7 (2) The board of public education shall administer and
8 distribute the state equalization aid and state advances for
9 county equalization in the manner and with the powers and
10 duties provided by law. To this end, the board of public
11 education shall:

12 (a) adopt policies for regulating the distribution of
13 state equalization aid in accordance with the provisions of
14 law and in a manner that provides for state advances for
15 county equalization and monthly distribution to each
16 district of its foundation program amount and to each county
17 and district distribution of its guaranteed tax base aid;

18 (b) have the power to require reports from the county
19 superintendents, budget boards, county treasurers, and
20 trustees as it considers necessary; and

21 (c) order the superintendent of public instruction to
22 distribute the state equalization aid on the basis of each
23 district's annual entitlement to the aid as established by
24 the superintendent of public instruction. In ordering the
25 distribution of state equalization aid, the board of public

1 education may not increase or decrease the state
 2 equalization aid distribution to any district on account of
 3 any difference that may occur during the school fiscal year
 4 between budgeted and actual receipts from any other source
 5 of school revenue.

6 (3) The board of public education may order the
 7 superintendent of public instruction to withhold
 8 distribution of state equalization aid or order the county
 9 superintendent of schools to withhold county equalization
 10 money from a district when the district fails to:

11 (a) submit reports or budgets as required by law or
 12 rules adopted by the board of public education; or

13 (b) maintain accredited status.

14 (4) Prior to any proposed order by the board of public
 15 education to withhold distribution of state equalization aid
 16 or county equalization money, the district is entitled to a
 17 contested case hearing before the board of public education,
 18 as provided under the Montana Administrative Procedure Act.

19 (5) If a district or county receives more state
 20 equalization aid than it is entitled to, the county
 21 treasurer shall return the overpayment to the state upon the
 22 request of the superintendent of public instruction in the
 23 manner prescribed by the department of commerce.

24 (6) (a) The first foundation program payment and
 25 guaranteed tax base aid payment must be based on an estimate

1 of 20% of the entitlement of each district or county and
 2 distributed by July 15 of the school fiscal year.

3 (b) Each subsequent monthly payment must be at least 7%
 4 of the entitlement of each district or county."

5 **Section 7.** Section 20-9-346, MCA, is amended to read:

6 **"20-9-346. Duties of the superintendent of public**
 7 **instruction for state equalization aid distribution.** The
 8 superintendent of public instruction shall administer the
 9 distribution of the state equalization aid by:

10 (1) establishing the annual entitlement of each
 11 district and county to state equalization aid, based on the
 12 data reported in the retirement and general fund budgets for
 13 each district that have been duly adopted for the current
 14 school fiscal year and verified by the superintendent of
 15 public instruction and by applying the verified data under
 16 the provisions of the state equalization aid allocation
 17 procedure prescribed in 20-9-347;

18 (2) recommending to the board of public education the
 19 entitlement of all districts and counties to state
 20 equalization aid to enable the board of public education to
 21 order the distribution of state equalization aid and state
 22 advances for county equalization;

23 (3) distributing by state warrant or electronic
 24 transfer the state equalization aid and state advances for
 25 county equalization, for each district or county entitled to

1 the aid, to the county treasurer of the respective county or
2 county where the district is located, in accordance with the
3 distribution ordered by the board of public education;

4 (4) keeping a record ~~in-his--office~~ of the full and
5 complete data concerning money available for state
6 equalization aid, state advances for county equalization,
7 and the entitlements for state equalization aid of the
8 districts of the state;

9 (5) reporting to the board of public education the
10 estimated amount that will be available for state
11 equalization aid; and

12 (6) reporting to both houses of the state legislature
13 in any year when a session is convened:

14 (a) the figures and data available in his office
15 concerning distributions of state equalization aid during
16 the preceding 2 school fiscal years;

17 (b) the amount of state equalization aid then
18 available;

19 (c) the apportionment made of the available money but
20 not yet distributed; and

21 (d) the latest estimate of accruals of money available
22 for state equalization aid; and

23 (e) the amount of state advances and repayment for
24 county equalization."

25 **Section 8.** Section 20-9-347, MCA, is amended to read:

1 *20-9-347. Formula for state equalization aid
2 apportionment in support of foundation program -- state
3 advances. (1) The superintendent of public instruction shall
4 apportion the state equalization aid available for support
5 of the foundation program, individually for the elementary
6 districts of a county or the high school districts of a
7 county, in accordance with 20-9-346 and on the basis of the
8 following procedure:

9 (a) Determine the percentage that the total funds
10 available to all counties in the state in support of the
11 foundation program (including the state money available for
12 state equalization aid in support of the foundation program)
13 is of the total amount of the foundation programs of all
14 counties.

15 (b) Determine the percentage that the total funds
16 available in each county in support of the foundation
17 programs in the county (excluding state money available for
18 state equalization aid in support of the foundation program)
19 is of the total amount of the foundation programs of all
20 districts of the county.

21 (c) Counties in which the percentage determined in
22 subsection (1)(b) exceeds the percentage determined in
23 subsection (1)(a) are not entitled to an apportionment of
24 the state equalization aid in support of the foundation
25 program.

1 (d) After elimination of the counties referred to in
 2 subsection (1)(c), determine the percentage that the total
 3 money available to all remaining counties in support of the
 4 foundation program (including the state money available for
 5 state equalization aid in support of the foundation program)
 6 is of the total amount of the foundation programs of all
 7 remaining counties.

8 (e) Each district of each remaining county is entitled
 9 to an apportionment of the state equalization aid in support
 10 of the foundation program equal to the difference between
 11 the percentage determined in subsection (1)(d) and the
 12 percentage determined for the county in subsection (1)(b)
 13 multiplied by the foundation program amount for the
 14 district.

15 (2) The superintendent of public instruction shall:

16 (a) supply the county treasurer and the county
 17 superintendent with a report of the apportionments of state
 18 equalization aid in support of the foundation program of
 19 each district of the county, and the state equalization aid
 20 in support of the foundation program must be apportioned to
 21 the districts in accordance with the report;

22 (b) in the manner described in 20-9-344, provide for a
 23 state advance to each county in an amount that is no less
 24 than the amount anticipated to be raised for the basic
 25 county tax fund in 20-9-331 and the basic special tax fund

1 in 20-9-333. The county treasurer shall remit repayment for
 2 the state advances solely from the revenue available to the
 3 funds in 20-9-212(1)(a) and (1)(b).

4 (c) adopt rules to implement the provisions of
 5 subsection (2)(b)."

6 **NEW SECTION. Section 9. Effective date.** [This act] is
 7 effective July 1, 1991.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0940, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to provide for a reliable cash flow to school districts by allowing state advances for revenue to be raised by county equalization levies; amending various sections, and providing an effective date

ASSUMPTIONS:

1. Short term interest rates are 7.71 percent in FY92 and 8.13 percent in FY93 as contained in HB0384.
2. The state can sell TANS at 2 percent below the short term rate.
3. As a result of advancing to the districts their county equalization funds the state can increase its issue of TANS by \$40 million. These TANS are sold the first day of the fiscal year and retired the last.
4. The net interest loss to the state of borrowing thru the issuance of TANS, advancing a portion to districts, and investing the remainder is \$1,092,000 in FY92 and \$1,193,000 in FY93.
5. Districts invest the advanced funds at the short term interest rates received by the state.
6. 22% of the additional interest earnings of districts are used to reduce state permissive GTB costs by \$687,000 in FY92 and \$725,000 in FY93.
7. State advances are made July 15, and the last day of each succeeding month in the minimum 7% amount allowed.

FISCAL IMPACT:

Office of Public Instruction:

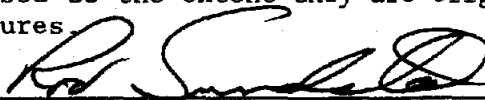
| | FY '92 | | | FY '93 | | |
|---------------------------|--------------------|--------------------|-------------|--------------------|--------------------|-------------|
| | Current Law | Proposed Law | Difference | Current Law | Proposed Law | Difference |
| <u>Expenditures:</u> | | | | | | |
| School Foundation and GTB | 393,797,000 | 393,110,000 | (687,000) | 393,325,000 | 392,600,000 | (725,000) |
| <u>Funding:</u> | | | | | | |
| General Fund | 102,511,000 | 101,824,000 | (687,000) | 129,831,000 | 129,106,000 | (725,000) |
| School Equalization (02) | <u>291,286,000</u> | <u>291,286,000</u> | <u>0</u> | <u>263,494,000</u> | <u>263,494,000</u> | <u>0</u> |
| Total funding | 393,797,000 | 393,110,000 | (687,000) | 393,325,000 | 392,600,000 | (725,000) |
| <u>Revenues:</u> | | | | | | |
| General Fund | 562,288,000 | 561,196,000 | (1,092,000) | 579,601,000 | 578,408,000 | (1,193,000) |

Net Impact:

The net impact of this proposal on the general fund will be to reduce the fund balance by \$405,000 in FY92 and \$469,000 in FY93.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

School districts will receive county equalization funds sooner and as a result will earn additional interest earnings which may be used to the extent they are eligible to reduce their cost of permissive, permissive GTB, voted levies, or increase expenditures.

 3-7-91
 ROD SUNDSTED, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

DAVID E. WANZENRIED, PRIMARY SPONSOR DATE

Fiscal Note for HB0940, as introduced

HB 940

APPROVED BY COMM. ON EDUCATION AND CULTURAL RESOURCES

HOUSE BILL NO. 940

INTRODUCED BY WANZENRIED, PECK, JERGESON, B. BROWN, BIANCHI, KADAS, NATHE, HAMMOND, GRINDE BY REQUEST OF THE SUPERINTENDENT OF

PUBLIC INSTRUCTION

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR A RELIABLE CASH FLOW TO SCHOOL DISTRICTS BY ALLOWING STATE ADVANCES FOR REVENUE TO BE RAISED BY COUNTY EQUALIZATION LEVIES; AMENDING SECTIONS 20-9-212, 20-9-331, 20-9-333, 20-9-334, 20-9-335, 20-9-344, 20-9-346, AND 20-9-347, MCA; AND PROVIDING AN EFFECTIVE DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because the superintendent of public instruction is granted rulemaking authority in 20-9-347(2) to adopt rules with regard to state advances to support the basic county tax and the basic special tax for county equalization for foundation program funding. The procedure is intended to ensure that the county equalization revenue is fully realized by school districts in a timely manner, regardless of delinquent or protested taxes. It is anticipated that the county superintendent of schools shall continue to calculate and report to the school districts the revenue generated in

support of the elementary and high school basic county equalization levies for foundation program funding.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 20-9-212, MCA, is amended to read:

"20-9-212. Duties of county treasurer. The county treasurer of each county shall:

(1) receive and hold all school money subject to apportionment and keep a separate accounting of its apportionment to the several districts which are entitled to a portion of the money according to the apportionments ordered--by calculations of the county superintendent. A separate accounting must be maintained for each county fund supported by a countywide levy for a specific, authorized purpose, including:

(a) the basic county tax in support of the elementary foundation programs;

(b) the basic special tax for high schools in support of the high school foundation programs;

(c) the county tax in support of the county's high school transportation obligation;

(d) the county tax in support of the elementary and high school district retirement obligations; and

(e) any other county tax for schools, including the community colleges, which may be authorized by law and



1 levied by the county commissioners;

2 (2) whenever requested, notify the county
3 superintendent and the superintendent of public instruction
4 of the amount of county school money on deposit in each of
5 the funds enumerated in subsection (1) of this section and
6 the amount of any other school money subject to
7 apportionment and apportion the county and other school
8 money to the districts in accordance with the apportionment
9 ordered by the county superintendent;

10 (3) keep a separate accounting of the expenditures for
11 each budgeted fund included in the final budget of each
12 district;

13 (4) keep a separate accounting of the receipts,
14 expenditures, and cash balances for each budgeted fund
15 included in the final budget of each district and for each
16 nonbudgeted fund established by each district;

17 (5) except as otherwise limited by law, pay all
18 warrants properly drawn on the county or district school
19 money and properly endorsed by their holders;

20 (6) receive all revenue collected by and for each
21 district and deposit these receipts in the fund designated
22 by law or by the district if no fund is designated by law.
23 Interest and penalties on delinquent school taxes shall be
24 credited to the same fund and district for which the
25 original taxes were levied.

1 (7) send all revenue received for a joint district,
2 part of which is situated in his county, to the county
3 treasurer designated as the custodian of the revenue, no
4 later than December 15 of each year and every 3 months
5 thereafter until the end of the school fiscal year;

6 (8) at the direction of the trustees of a district,
7 assist the district in the issuance and sale of tax and
8 revenue anticipation notes as provided in Title 7, chapter
9 6, part 11;

10 (9) register district warrants drawn on a budgeted fund
11 in accordance with 7-6-2604 when there is insufficient money
12 available in all funds of the district to make payment of
13 the warrant. Redemption of registered warrants must be made
14 in accordance with 7-6-2116, 7-6-2605, and 7-6-2606.

15 (10) invest the money of any district as directed by the
16 trustees of the district within 3 working days of the
17 direction;

18 (11) each month give to the trustees of each district an
19 itemized report for each fund maintained by the district,
20 showing the paid warrants, outstanding warrants, registered
21 warrants, amounts and types of revenue received, and the
22 cash balance;

23 (12) remit promptly to the state treasurer receipts for
24 the county tax for a vocational-technical center when levied
25 by the board of county commissioners under the provisions of

1 20-16-202; and
 2 (13) invest the money received from the basic county tax
 3 in support of the elementary foundation programs and the
 4 basic special tax in support of the high school foundation
 5 programs within 3 working days of receipt. The money must be
 6 invested until the working day before it is required to be
 7 distributed to school districts within the county or
 8 remitted to the state. Permissible investments are specified
 9 in 20-9-213(4). All investment income must be deposited, and
 10 credited proportionately, in the funds established to
 11 account for the taxes received for the purposes specified in
 12 subsections (1)(a) and (1)(b).

13 (14) AFTER JULY 1, 1991, remit to the state treasurer,
 14 no later than January 5 and June 20 of the school fiscal
 15 year, the balance of the funds realized pursuant to
 16 subsections (1)(a) and (1)(b), including all interest
 17 earned, in repayment of a state advance for county
 18 equalization as prescribed in 20-9-347. Any funds in excess
 19 of a state advance must be used as required in
 20 20-9-331(1)(b) and 20-9-333 (1)(a) and (1)(b)."

21 **Section 2.** Section 20-9-331, MCA, is amended to read:

22 "20-9-331. Basic county tax and other revenues for
 23 county equalization of the elementary district foundation
 24 program. (1) The county commissioners of each county shall
 25 levy an annual basic tax of 33 mills on the dollar of the

1 taxable value of all taxable property within the county,
 2 except for property subject to a tax or fee under 23-2-517,
 3 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204, for
 4 the purposes of local and state foundation program support.
 5 The revenue collected from this levy must be apportioned to
 6 the support of the foundation programs of the elementary
 7 school districts in the county and to the state special
 8 revenue fund, state equalization aid account, in the
 9 following manner:

10 (a) In order to determine the amount of revenue raised
 11 by this levy which is retained by the county, the sum of the
 12 estimated revenue identified in subsection (2) must be
 13 subtracted from the total of the foundation programs of all
 14 elementary districts of the county.

15 (b) If the basic levy prescribed by this section
 16 produces more revenue than is required to ~~finance the~~
 17 ~~difference-determined-in-subsection--(1)(a)~~ repay a state
 18 advance for county equalization, the county treasurer shall
 19 remit the surplus funds to the state treasurer for deposit
 20 to the state special revenue fund, state equalization aid
 21 account, immediately upon occurrence of a surplus balance
 22 and each subsequent month thereafter, with any final
 23 remittance due no later than June 20 of the fiscal year for
 24 which the levy has been set.

25 ~~(c)--if--revenue--from--the--basic--levy--prescribed--by--this~~

~~section when combined with the other revenue from subsection (2) is insufficient to fully fund the percentage determined in 20-9-347(1)(b) and the county is eligible for an apportionment of state equalization aid under the provisions of 20-9-347(1)(c); the county superintendent shall notify the superintendent of public instruction of the deficiency. The superintendent of public instruction shall increase the state equalization aid payments to the districts in the affected county to offset the deficiency. A payment may not be made under this subsection (c) that allows a district to receive foundation program funding in excess of the foundation program amount of the district.~~

(2) The revenue realized from the county's portion of the levy prescribed by this section and the revenue from the following sources must be used for the equalization of the elementary district foundation programs of the county as prescribed in 20-9-334, and a separate accounting must be kept of the revenue by the county treasurer in accordance with 20-9-212(1):

(a) the portion of the federal Taylor Grazing Act funds distributed to a county and designated for the common school fund under the provisions of 17-3-222;

(b) the portion of the federal flood control act funds distributed to a county and designated for expenditure for the benefit of the county common schools under the

provisions of 17-3-232;

(c) all money paid into the county treasury as a result of fines for violations of law, except money paid to a justice's court, and the use of which is not otherwise specified by law;

(d) any money remaining at the end of the immediately preceding school fiscal year in the county treasurer's accounts for the various sources of revenue established or referred to in this section;

(e) any federal or state money distributed to the county as payment in lieu of property taxation, including federal forest reserve funds allocated under the provisions of 17-3-213;

(f) gross proceeds taxes from coal under 15-23-703;

(g) net proceeds taxes for interim production and new production, as defined in 15-23-601, and local government severance taxes on any other production occurring after December 31, 1988; and

(h) anticipated revenue from property taxes and fees imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204."

Section 3. Section 20-9-333, MCA, is amended to read:

"20-9-333. Basic special levy and other revenues for county equalization of high school district foundation program. (1) The county commissioners of each county shall

1 levy an annual basic special tax for high schools of 22
 2 mills on the dollar of the taxable value of all taxable
 3 property within the county, except for property subject to a
 4 tax or fee under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521,
 5 61-3-537, and 67-3-204, for the purposes of local and state
 6 foundation program support. The revenue collected from this
 7 levy must be apportioned to the support of the foundation
 8 programs of high school districts in the county and to the
 9 state special revenue fund, state equalization aid account,
 10 in the following manner:

11 (a) In order to determine the amount of revenue raised
 12 by this levy which is retained by the county, the sum of the
 13 estimated revenue identified in subsection (2) must be
 14 subtracted from the sum of the county's high school tuition
 15 obligation and the total of the foundation programs of all
 16 high school districts of the county.

17 (b) If the basic levy prescribed by this section
 18 produces more revenue than is required to finance--the
 19 ~~difference--determined--in--subsection--(1)(a)~~ repay a state
 20 advance for county equalization, the county treasurer shall
 21 remit the surplus funds to the state treasurer for deposit
 22 to the state special revenue fund, state equalization aid
 23 account, immediately upon occurrence of a surplus balance
 24 and each subsequent month thereafter, with any final
 25 remittance due no later than June 20 of the fiscal year for

1 which the levy has been set.

2 ~~(c)--if-revenue-from-the-basic-levy-prescribed--by--this~~
 3 ~~section-when-combined-with-the-other-revenue-from-subsection~~
 4 ~~(2)--is-insufficient-to-fully-fund-the-percentage-determined~~
 5 ~~in--20-9-347(1)(b)--and--the--county--is--eligible--for--an~~
 6 ~~apportionment-of-state-equalization-aid-under-the-provisions~~
 7 ~~of--20-9-347(1)(c),--the--county-superintendent-shall-notify~~
 8 ~~the-superintendent-of-public-instruction-of-the--deficiency-~~
 9 ~~The--superintendent-of-public-instruction-shall-increase-the~~
 10 ~~state-equalization-aid-payments--to--the--districts--in--the~~
 11 ~~affected--county-to-offset-the-deficiency--A-payment-may-not~~
 12 ~~be-made-under-this-subsection-(c)-that-allows-a-district--to~~
 13 ~~receive---foundation---program--funding--in--excess--of--the~~
 14 ~~foundation-program-amount-of-the-district;~~

15 (2) The revenue realized from the county's portion of
 16 the levy prescribed in this section and the revenue from the
 17 following sources must be used for the equalization of the
 18 high school district foundation programs of the county as
 19 prescribed in 20-9-334, and a separate accounting must be
 20 kept of the revenue by the county treasurer in accordance
 21 with 20-9-212(1):

22 (a) any money remaining at the end of the immediately
 23 preceding school fiscal year in the county treasurer's
 24 accounts for the various sources of revenue established in
 25 this section;

1 (b) any federal or state money distributed to the
 2 county as payment in lieu of property taxation, including
 3 federal forest reserve funds allocated under the provisions
 4 of 17-3-213;

5 (c) gross proceeds taxes from coal under 15-23-703;

6 (d) net proceeds taxes for interim production and new
 7 production, as defined in 15-23-601, and local government
 8 severance taxes on any other production occurring after
 9 December 31, 1988; and

10 (e) anticipated revenue from property taxes and fees
 11 imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521,
 12 61-3-537, and 67-3-204."

13 **Section 4.** Section 20-9-334, MCA, is amended to read:

14 "20-9-334. **Apportionment of county equalization moneys**
 15 **by county superintendent.** The county superintendent shall
 16 separately apportion the ~~revenues--deposited---~~ state
 17 advances for the basic county tax account and the ~~revenues~~
 18 ~~deposited-in state advances for~~ the basic special tax for
 19 high schools account, as prescribed in 20-9-347, to the
 20 several districts of the county on a monthly basis. The
 21 apportionments shall be known as "county equalization
 22 moneys". Before the revenues are apportioned, the county
 23 superintendent ~~makes-the-monthly-apportionments,~~ he shall:

24 (1) deduct from the revenues available in the basic
 25 county tax account the amount required for the month to pay

1 the county's obligation for elementary transportation
 2 reimbursements; and

3 (2) deduct from the revenues available in the basic
 4 special tax for high schools account the amount required for
 5 the month to pay the county's obligation for high school
 6 out-of-county tuition."

7 **Section 5.** Section 20-9-335, MCA, is amended to read:

8 "20-9-335. **Formula for apportionment calculation of**
 9 **county equalization moneys.** (1) After making such deductions
 10 prescribed in 20-9-334, the county superintendent shall
 11 apportion--the--remaining--amount--of--moneys calculate and
 12 report county apportionment and revenue available in the
 13 basic county tax account to the ~~several public~~ elementary
 14 school districts of the county and in the basic special tax
 15 for high schools account to the ~~several public-secondary~~
 16 high school districts of the county in proportion to their
 17 needs under the foundation program in accordance with the
 18 following procedure:

19 (a) determine the percentage that the county
 20 equalization moneys available for the support of the
 21 foundation programs of the ~~public~~ elementary school
 22 districts in the county is of the total amount of the
 23 foundation programs of all ~~public~~ elementary school
 24 districts;

25 (b) multiply the foundation program amount of each

1 public elementary school district by the percentage
2 determined in subsection (1)(a) above to determine the
3 portion of the county equalization moneys available to each
4 public elementary school district.

5 (2) The above procedure shall also be applied for
6 public-secondary high school districts.

7 (3) ~~No-territory~~ Territory situated within a county
8 ~~shall may not~~ be excluded from the apportionment
9 calculations of the county equalization moneys under this
10 section solely because such the territory lies within the
11 boundaries of a joint district. Cash balances to the credit
12 of any district at the end of a school fiscal year ~~shall may~~
13 not be considered in the apportionment procedure prescribed
14 in this section.

15 (4) The county equalization moneys apportioned reported
16 under these procedures ~~shall-constitute~~ are the first source
17 of revenue in calculating the financing of the public
18 elementary and secondary high school district foundation
19 program. The county superintendent shall use the
20 apportionment procedure prescribed in this section in
21 computing the estimated revenues for the financing of the
22 ensuing year's foundation program for budgeting purposes."

23 **Section 6.** Section 20-9-344, MCA, is amended to read:

24 "20-9-344. Purpose of state equalization aid and duties
25 of the board of public education for distribution --

1 conditions of first payment. (1) The money available for
2 state equalization aid must be distributed and apportioned
3 to provide an annual minimum operating revenue for the
4 elementary and high schools in each county, exclusive of
5 revenues required for debt service and for the payment of
6 any costs and expense incurred in connection with any adult
7 education program, recreation program, school food services
8 program, new buildings and grounds, and transportation.

9 (2) The board of public education shall administer and
10 distribute the state equalization aid and state advances for
11 county equalization in the manner and with the powers and
12 duties provided by law. To this end, the board of public
13 education shall:

14 (a) adopt policies for regulating the distribution of
15 state equalization aid in accordance with the provisions of
16 law and in a manner that provides for state advances for
17 county equalization and monthly distribution to each
18 district of its foundation program amount and to each county
19 and district distribution of its guaranteed tax base aid;

20 (b) have the power to require reports from the county
21 superintendents, budget boards, county treasurers, and
22 trustees as it considers necessary; and

23 (c) order the superintendent of public instruction to
24 distribute the state equalization aid on the basis of each
25 district's annual entitlement to the aid as established by

1 the superintendent of public instruction. In ordering the
2 distribution of state equalization aid, the board of public
3 education may not increase or decrease the state
4 equalization aid distribution to any district on account of
5 any difference that may occur during the school fiscal year
6 between budgeted and actual receipts from any other source
7 of school revenue.

8 (3) The board of public education may order the
9 superintendent of public instruction to withhold
10 distribution of state equalization aid or order the county
11 superintendent of schools to withhold county equalization
12 money from a district when the district fails to:

13 (a) submit reports or budgets as required by law or
14 rules adopted by the board of public education; or

15 (b) maintain accredited status.

16 (4) Prior to any proposed order by the board of public
17 education to withhold distribution of state equalization aid
18 or county equalization money, the district is entitled to a
19 contested case hearing before the board of public education,
20 as provided under the Montana Administrative Procedure Act.

21 (5) If a district or county receives more state
22 equalization aid than it is entitled to, the county
23 treasurer shall return the overpayment to the state upon the
24 request of the superintendent of public instruction in the
25 manner prescribed by the department of commerce.

1 (6) (a) The first foundation program payment and
2 guaranteed tax base aid payment must be based on an estimate
3 of 20% of the entitlement of each district or county and
4 distributed by July 15 of the school fiscal year.

5 (b) Each subsequent monthly payment must be at least 7%
6 of the entitlement of each district or county."

7 **Section 7.** Section 20-9-346, MCA, is amended to read:

8 **"20-9-346. Duties of the superintendent of public**
9 **instruction for state equalization aid distribution.** The
10 superintendent of public instruction shall administer the
11 distribution of the state equalization aid by:

12 (1) establishing the annual entitlement of each
13 district and county to state equalization aid, based on the
14 data reported in the retirement and general fund budgets for
15 each district that have been duly adopted for the current
16 school fiscal year and verified by the superintendent of
17 public instruction and by applying the verified data under
18 the provisions of the state equalization aid allocation
19 procedure prescribed in 20-9-347;

20 (2) recommending to the board of public education the
21 entitlement of all districts and counties to state
22 equalization aid to enable the board of public education to
23 order the distribution of state equalization aid and state
24 advances for county equalization;

25 (3) distributing by state warrant or electronic

1 transfer the state equalization aid and state advances for
 2 county equalization, for each district or county entitled to
 3 the aid, to the county treasurer of the respective county or
 4 county where the district is located, in accordance with the
 5 distribution ordered by the board of public education;

6 (4) keeping a record ~~in his office~~ of the full and
 7 complete data concerning money available for state
 8 equalization aid, state advances for county equalization,
 9 and the entitlements for state equalization aid of the
 10 districts of the state;

11 (5) reporting to the board of public education the
 12 estimated amount that will be available for state
 13 equalization aid; and

14 (6) reporting to both houses of the state legislature
 15 in any year when a session is convened:

16 (a) the figures and data available in his office
 17 concerning distributions of state equalization aid during
 18 the preceding 2 school fiscal years;

19 (b) the amount of state equalization aid then
 20 available;

21 (c) the apportionment made of the available money but
 22 not yet distributed; ~~and~~

23 (d) the latest estimate of accruals of money available
 24 for state equalization aid; and

25 (e) the amount of state advances and repayment for

1 county equalization."

2 **Section 8.** Section 20-9-347, MCA, is amended to read:

3 "20-9-347. Formula for state equalization aid
 4 apportionment in support of foundation program -- state
 5 advances. (1) The superintendent of public instruction shall
 6 apportion the state equalization aid available for support
 7 of the foundation program, individually for the elementary
 8 districts of a county or the high school districts of a
 9 county, in accordance with 20-9-346 and on the basis of the
 10 following procedure:

11 (a) Determine the percentage that the total funds
 12 available to all counties in the state in support of the
 13 foundation program (including the state money available for
 14 state equalization aid in support of the foundation program)
 15 is of the total amount of the foundation programs of all
 16 counties.

17 (b) Determine the percentage that the total funds
 18 available in each county in support of the foundation
 19 programs in the county (excluding state money available for
 20 state equalization aid in support of the foundation program)
 21 is of the total amount of the foundation programs of all
 22 districts of the county.

23 (c) Counties in which the percentage determined in
 24 subsection (1)(b) exceeds the percentage determined in
 25 subsection (1)(a) are not entitled to an apportionment of

1 the state equalization aid in support of the foundation
2 program.

3 (d) After elimination of the counties referred to in
4 subsection (1)(c), determine the percentage that the total
5 money available to all remaining counties in support of the
6 foundation program (including the state money available for
7 state equalization aid in support of the foundation program)
8 is of the total amount of the foundation programs of all
9 remaining counties.

10 (e) Each district of each remaining county is entitled
11 to an apportionment of the state equalization aid in support
12 of the foundation program equal to the difference between
13 the percentage determined in subsection (1)(d) and the
14 percentage determined for the county in subsection (1)(b)
15 multiplied by the foundation program amount for the
16 district.

17 (2) The superintendent of public instruction shall:

18 (a) supply the county treasurer and the county
19 superintendent with a report of the apportionments of state
20 equalization aid in support of the foundation program of
21 each district of the county, and the state equalization aid
22 in support of the foundation program must be apportioned to
23 the districts in accordance with the report;

24 (b) in the manner described in 20-9-344, provide for a
25 state advance to each county in an amount that is no less

1 than the amount anticipated to be raised for the basic
2 county tax fund in 20-9-331 and the basic special tax fund
3 in 20-9-333. The county treasurer shall remit repayment for
4 the state advances solely from the revenue available to the
5 funds in 20-9-212(1)(a) and (1)(b).

6 (c) adopt rules to implement the provisions of
7 subsection (2)(b)."

8 NEW SECTION. Section 9. Effective date. [This act] is
9 effective July 1, 1991.

-End-

1 HOUSE BILL NO. 940

2 INTRODUCED BY WANZENRIED, PECK, JERGESON, B. BROWN, BIANCHI,

3 KADAS, NATHE, HAMMOND, GRINDE

4 BY REQUEST OF THE SUPERINTENDENT OF

5 PUBLIC INSTRUCTION

6
7 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR A
8 RELIABLE CASH FLOW TO SCHOOL DISTRICTS BY ALLOWING STATE
9 ADVANCES FOR REVENUE TO BE RAISED BY COUNTY EQUALIZATION
10 LEVIES; AMENDING SECTIONS 20-9-212, 20-9-331, 20-9-333,
11 20-9-334, 20-9-335, 20-9-344, 20-9-346, AND 20-9-347, MCA;
12 AND PROVIDING AN EFFECTIVE DATE."
13

14 STATEMENT OF INTENT

15 A statement of intent is required for this bill because
16 the superintendent of public instruction is granted
17 rulemaking authority in 20-9-347(2) to adopt rules with
18 regard to state advances to support the basic county tax and
19 the basic special tax for county equalization for foundation
20 program funding. The procedure is intended to ensure that
21 the county equalization revenue is fully realized by school
22 districts in a timely manner, regardless of delinquent or
23 protested taxes. It is anticipated that the county
24 superintendent of schools shall continue to calculate and
25 report to the school districts the revenue generated in

There are no changes in this bill,
and will not be reprinted. Please
refer to yellow copy for complete
text.



HOUSE BILL NO. 940

INTRODUCED BY WANZENRIED, PECK, JERGESON, B. BROWN, BIANCHI, KADAS, NATHE, HAMMOND, GRINDE BY REQUEST OF THE SUPERINTENDENT OF

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support of the elementary and high school basic county equalization levies for foundation program funding.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 20-9-212, MCA, is amended to read:

"20-9-212. Duties of county treasurer. The county treasurer of each county shall:

(1) receive and hold all school money subject to apportionment and keep a separate accounting of its apportionment to the several districts which are entitled to a portion of the money according to the apportionments ordered--by calculations of the county superintendent. A separate accounting must be maintained for each county fund supported by a countywide levy for a specific, authorized purpose, including:

(a) the basic county tax in support of the elementary foundation programs;

(b) the basic special tax for high schools in support of the high school foundation programs;

(c) the county tax in support of the county's high school transportation obligation;

(d) the county tax in support of the elementary and high school district retirement obligations; and

(e) any other county tax for schools, including the community colleges, which may be authorized by law and



1 levied by the county commissioners;

2 (2) whenever requested, notify the county
3 superintendent and the superintendent of public instruction
4 of the amount of county school money on deposit in each of
5 the funds enumerated in subsection (1) of this section and
6 the amount of any other school money subject to
7 apportionment and apportion the county and other school
8 money to the districts in accordance with the apportionment
9 ordered by the county superintendent;

10 (3) keep a separate accounting of the expenditures for
11 each budgeted fund included in the final budget of each
12 district;

13 (4) keep a separate accounting of the receipts,
14 expenditures, and cash balances for each budgeted fund
15 included in the final budget of each district and for each
16 nonbudgeted fund established by each district;

17 (5) except as otherwise limited by law, pay all
18 warrants properly drawn on the county or district school
19 money and properly endorsed by their holders;

20 (6) receive all revenue collected by and for each
21 district and deposit these receipts in the fund designated
22 by law or by the district if no fund is designated by law.
23 Interest and penalties on delinquent school taxes shall be
24 credited to the same fund and district for which the
25 original taxes were levied.

1 (7) send all revenue received for a joint district,
2 part of which is situated in his county, to the county
3 treasurer designated as the custodian of the revenue, no
4 later than December 15 of each year and every 3 months
5 thereafter until the end of the school fiscal year;

6 (8) at the direction of the trustees of a district,
7 assist the district in the issuance and sale of tax and
8 revenue anticipation notes as provided in Title 7, chapter
9 6, part 11;

10 (9) register district warrants drawn on a budgeted fund
11 in accordance with 7-6-2604 when there is insufficient money
12 available in all funds of the district to make payment of
13 the warrant. Redemption of registered warrants must be made
14 in accordance with 7-6-2116, 7-6-2605, and 7-6-2606.

15 (10) invest the money of any district as directed by the
16 trustees of the district within 3 working days of the
17 direction;

18 (11) each month give to the trustees of each district an
19 itemized report for each fund maintained by the district,
20 showing the paid warrants, outstanding warrants, registered
21 warrants, amounts and types of revenue received, and the
22 cash balance;

23 (12) remit promptly to the state treasurer receipts for
24 the county tax for a vocational-technical center when levied
25 by the board of county commissioners under the provisions of

1 20-16-202; and

2 (13) invest the money received from the basic county tax
3 in support of the elementary foundation programs and the
4 basic special tax in support of the high school foundation
5 programs within 3 working days of receipt. The money must be
6 invested until the working day before it is required to be
7 distributed to school districts within the county or
8 remitted to the state. Permissible investments are specified
9 in 20-9-213(4). All investment income must be deposited, and
10 credited proportionately, in the funds established to
11 account for the taxes received for the purposes specified in
12 subsections (1)(a) and (1)(b).

13 (14) AFTER JULY 1, 1991, remit to the state treasurer,
14 no later than January 5 and June 20 of the school fiscal
15 year, the balance of the funds realized pursuant to
16 subsections (1)(a) and (1)(b), including all interest
17 earned, in repayment of a state advance for county
18 equalization as prescribed in 20-9-347. Any funds in excess
19 of a state advance must be used as required in
20 20-9-331(1)(b) and 20-9-333 (1)(a) and (1)(b)."

21 **Section 2.** Section 20-9-331, MCA, is amended to read:

22 "20-9-331. Basic county tax and other revenues for
23 county equalization of the elementary district foundation
24 program. (1) The county commissioners of each county shall
25 levy an annual basic tax of 33 mills on the dollar of the

1 taxable value of all taxable property within the county,
2 except for property subject to a tax or fee under 23-2-517,
3 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204, for
4 the purposes of local and state foundation program support.
5 The revenue collected from this levy must be apportioned to
6 the support of the foundation programs of the elementary
7 school districts in the county and to the state special
8 revenue fund, state equalization aid account, in the
9 following manner:

10 (a) In order to determine the amount of revenue raised
11 by this levy which is retained by the county, the sum of the
12 estimated revenue identified in subsection (2) must be
13 subtracted from the total of the foundation programs of all
14 elementary districts of the county.

15 (b) If the basic levy prescribed by this section
16 produces more revenue than is required to finance the
17 ~~difference determined in subsection (1)(a)~~ repay a state
18 advance for county equalization, the county treasurer shall
19 remit the surplus funds to the state treasurer for deposit
20 to the state special revenue fund, state equalization aid
21 account, immediately upon occurrence of a surplus balance
22 and each subsequent month thereafter, with any final
23 remittance due no later than June 20 of the fiscal year for
24 which the levy has been set.

25 ~~(c) If revenue from the basic levy prescribed by this~~

~~1 section when combined with the other revenue from subsection
 2 (2) is insufficient to fully fund the percentage determined
 3 in 20-9-347(i)(b) and the county is eligible for an
 4 apportionment of state equalization aid under the provisions
 5 of 20-9-347(i)(c), the county superintendent shall notify
 6 the superintendent of public instruction of the deficiency.
 7 The superintendent of public instruction shall increase the
 8 state equalization aid payments to the districts in the
 9 affected county to offset the deficiency. A payment may not
 10 be made under this subsection (c) that allows a district to
 11 receive foundation program funding in excess of the
 12 foundation program amount of the district.~~

(2) The revenue realized from the county's portion of
 the levy prescribed by this section and the revenue from the
 following sources must be used for the equalization of the
 elementary district foundation programs of the county as
 prescribed in 20-9-334, and a separate accounting must be
 kept of the revenue by the county treasurer in accordance
 with 20-9-212(1):

(a) the portion of the federal Taylor Grazing Act funds
 distributed to a county and designated for the common school
 fund under the provisions of 17-3-222;

(b) the portion of the federal flood control act funds
 distributed to a county and designated for expenditure for
 the benefit of the county common schools under the

provisions of 17-3-232;

(c) all money paid into the county treasury as a result
 of fines for violations of law, except money paid to a
 justice's court, and the use of which is not otherwise
 specified by law;

(d) any money remaining at the end of the immediately
 preceding school fiscal year in the county treasurer's
 accounts for the various sources of revenue established or
 referred to in this section;

(e) any federal or state money distributed to the
 county as payment in lieu of property taxation, including
 federal forest reserve funds allocated under the provisions
 of 17-3-213;

(f) gross proceeds taxes from coal under 15-23-703;

(g) net proceeds taxes for interim production and new
 production, as defined in 15-23-601, and local government
 severance taxes on any other production occurring after
 December 31, 1988; and

(h) anticipated revenue from property taxes and fees
 imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521,
 61-3-537, and 67-3-204."

Section 3. Section 20-9-333, MCA, is amended to read:

"20-9-333. **Basic special levy and other revenues for
 county equalization of high school district foundation
 program.** (1) The county commissioners of each county shall

1 levy an annual basic special tax for high schools of 22
 2 mills on the dollar of the taxable value of all taxable
 3 property within the county, except for property subject to a
 4 tax or fee under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521,
 5 61-3-537, and 67-3-204, for the purposes of local and state
 6 foundation program support. The revenue collected from this
 7 levy must be apportioned to the support of the foundation
 8 programs of high school districts in the county and to the
 9 state special revenue fund, state equalization aid account,
 10 in the following manner:

11 (a) In order to determine the amount of revenue raised
 12 by this levy which is retained by the county, the sum of the
 13 estimated revenue identified in subsection (2) must be
 14 subtracted from the sum of the county's high school tuition
 15 obligation and the total of the foundation programs of all
 16 high school districts of the county.

17 (b) If the basic levy prescribed by this section
 18 produces more revenue than is required to finance--the
 19 difference--determined--in--subsection--(1)(a) repay a state
 20 advance for county equalization, the county treasurer shall
 21 remit the surplus funds to the state treasurer for deposit
 22 to the state special revenue fund, state equalization aid
 23 account, immediately upon occurrence of a surplus balance
 24 and each subsequent month thereafter, with any final
 25 remittance due no later than June 20 of the fiscal year for

1 which the levy has been set.

2 ~~(c) If revenue from the basic levy prescribed by this~~
 3 ~~section when combined with the other revenue from subsection~~
 4 ~~(2) is insufficient to fully fund the percentage determined~~
 5 ~~in 20-9-347(1)(b) and the county is eligible for an~~
 6 ~~apportionment of state equalization aid under the provisions~~
 7 ~~of 20-9-347(1)(c), the county superintendent shall notify~~
 8 ~~the superintendent of public instruction of the deficiency.~~
 9 ~~The superintendent of public instruction shall increase the~~
 10 ~~state equalization aid payments to the districts in the~~
 11 ~~affected county to offset the deficiency. A payment may not~~
 12 ~~be made under this subsection (c) that allows a district to~~
 13 ~~receive foundation program funding in excess of the~~
 14 ~~foundation program amount of the district.~~

15 (2) The revenue realized from the county's portion of
 16 the levy prescribed in this section and the revenue from the
 17 following sources must be used for the equalization of the
 18 high school district foundation programs of the county as
 19 prescribed in 20-9-334, and a separate accounting must be
 20 kept of the revenue by the county treasurer in accordance
 21 with 20-9-212(1):

22 (a) any money remaining at the end of the immediately
 23 preceding school fiscal year in the county treasurer's
 24 accounts for the various sources of revenue established in
 25 this section;

1 (b) any federal or state money distributed to the
2 county as payment in lieu of property taxation, including
3 federal forest reserve funds allocated under the provisions
4 of 17-3-213;

5 (c) gross proceeds taxes from coal under 15-23-703;

6 (d) net proceeds taxes for interim production and new
7 production, as defined in 15-23-601, and local government
8 severance taxes on any other production occurring after
9 December 31, 1988; and

10 (e) anticipated revenue from property taxes and fees
11 imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521,
12 61-3-537, and 67-3-204."

13 **Section 4.** Section 20-9-334, MCA, is amended to read:

14 "20-9-334. Apportionment of county equalization moneys
15 by county superintendent. The county superintendent shall
16 separately apportion the revenues--deposited---in state
17 advances for the basic county tax account and the revenues
18 deposited-in state advances for the basic special tax for
19 high schools account, as prescribed in 20-9-347, to the
20 several districts of the county on a monthly basis. The
21 apportionments shall be known as "county equalization
22 moneys". Before the revenues are apportioned, the county
23 superintendent ~~makes-the-monthly-apportionments~~, he shall:

24 (1) deduct from the revenues available in the basic
25 county tax account the amount required for the month to pay

1 the county's obligation for elementary transportation
2 reimbursements; and

3 (2) deduct from the revenues available in the basic
4 special tax for high schools account the amount required for
5 the month to pay the county's obligation for high school
6 out-of-county tuition."

7 **Section 5.** Section 20-9-335, MCA, is amended to read:

8 "20-9-335. Formula for apportionment calculation of
9 county equalization moneys. (1) After making such deductions
10 prescribed in 20-9-334, the county superintendent shall
11 apportion--the--remaining--amount--of--moneys calculate and
12 report county apportionment and revenue available in the
13 basic county tax account to the ~~several public~~ elementary
14 school districts of the county and in the basic special tax
15 for high schools account to the ~~several public~~ secondary
16 high school districts of the county in proportion to their
17 needs under the foundation program in accordance with the
18 following procedure:

19 (a) determine the percentage that the county
20 equalization moneys available for the support of the
21 foundation programs of the ~~public~~ elementary school
22 districts in the county is of the total amount of the
23 foundation programs of all ~~public~~ elementary school
24 districts;

25 (b) multiply the foundation program amount of each

1 public elementary school district by the percentage
2 determined in subsection (1)(a) above to determine the
3 portion of the county equalization moneys available to each
4 public elementary school district.

5 (2) The above procedure shall also be applied for
6 public-secondary high school districts.

7 (3) No-territory Territory situated within a county
8 shall may not be excluded from the apportionment
9 calculations of the county equalization moneys under this
10 section solely because such the territory lies within the
11 boundaries of a joint district. Cash balances to the credit
12 of any district at the end of a school fiscal year shall may
13 not be considered in the apportionment procedure prescribed
14 in this section.

15 (4) The county equalization moneys apportioned reported
16 under these procedures shall-constitute are the first source
17 of revenue in calculating the financing of the public
18 elementary and secondary high school district foundation
19 program. The county superintendent shall use the
20 apportionment procedure prescribed in this section in
21 computing the estimated revenues for the financing of the
22 ensuing year's foundation program for budgeting purposes."

23 **Section 6.** Section 20-9-344, MCA, is amended to read:
24 "20-9-344. Purpose of state equalization aid and duties
25 of the board of public education for distribution --

1 conditions of first payment. (1) The money available for
2 state equalization aid must be distributed and apportioned
3 to provide an annual minimum operating revenue for the
4 elementary and high schools in each county, exclusive of
5 revenues required for debt service and for the payment of
6 any costs and expense incurred in connection with any adult
7 education program, recreation program, school food services
8 program, new buildings and grounds, and transportation.

9 (2) The board of public education shall administer and
10 distribute the state equalization aid and state advances for
11 county equalization in the manner and with the powers and
12 duties provided by law. To this end, the board of public
13 education shall:

14 (a) adopt policies for regulating the distribution of
15 state equalization aid in accordance with the provisions of
16 law and in a manner that provides for state advances for
17 county equalization and monthly distribution to each
18 district of its foundation program amount and to each county
19 and district distribution of its guaranteed tax base aid;

20 (b) have the power to require reports from the county
21 superintendents, budget boards, county treasurers, and
22 trustees as it considers necessary; and

23 (c) order the superintendent of public instruction to
24 distribute the state equalization aid on the basis of each
25 district's annual entitlement to the aid as established by

1 the superintendent of public instruction. In ordering the
 2 distribution of state equalization aid, the board of public
 3 education may not increase or decrease the state
 4 equalization aid distribution to any district on account of
 5 any difference that may occur during the school fiscal year
 6 between budgeted and actual receipts from any other source
 7 of school revenue.

8 (3) The board of public education may order the
 9 superintendent of public instruction to withhold
 10 distribution of state equalization aid or order the county
 11 superintendent of schools to withhold county equalization
 12 money from a district when the district fails to:

13 (a) submit reports or budgets as required by law or
 14 rules adopted by the board of public education; or

15 (b) maintain accredited status.

16 (4) Prior to any proposed order by the board of public
 17 education to withhold distribution of state equalization aid
 18 or county equalization money, the district is entitled to a
 19 contested case hearing before the board of public education,
 20 as provided under the Montana Administrative Procedure Act.

21 (5) If a district or county receives more state
 22 equalization aid than it is entitled to, the county
 23 treasurer shall return the overpayment to the state upon the
 24 request of the superintendent of public instruction in the
 25 manner prescribed by the department of commerce.

1 (6) (a) The first foundation program payment and
 2 guaranteed tax base aid payment must be based on an estimate
 3 of 20% of the entitlement of each district or county and
 4 distributed by July 15 of the school fiscal year.

5 (b) Each subsequent monthly payment must be at least 7%
 6 of the entitlement of each district or county."

7 **Section 7.** Section 20-9-346, MCA, is amended to read:

8 **"20-9-346. Duties of the superintendent of public**
 9 **instruction for state equalization aid distribution. The**
 10 **superintendent of public instruction shall administer the**
 11 **distribution of the state equalization aid by:**

12 (1) establishing the annual entitlement of each
 13 district and county to state equalization aid, based on the
 14 data reported in the retirement and general fund budgets for
 15 each district that have been duly adopted for the current
 16 school fiscal year and verified by the superintendent of
 17 public instruction and by applying the verified data under
 18 the provisions of the state equalization aid allocation
 19 procedure prescribed in 20-9-347;

20 (2) recommending to the board of public education the
 21 entitlement of all districts and counties to state
 22 equalization aid to enable the board of public education to
 23 order the distribution of state equalization aid and state
 24 advances for county equalization;

25 (3) distributing by state warrant or electronic

1 transfer the state equalization aid and state advances for
 2 county equalization, for each district or county entitled to
 3 the aid, to the county treasurer of the respective county or
 4 county where the district is located, in accordance with the
 5 distribution ordered by the board of public education;

6 (4) keeping a record in-his--office of the full and
 7 complete data concerning money available for state
 8 equalization aid, state advances for county equalization,
 9 and the entitlements for state equalization aid of the
 10 districts of the state;

11 (5) reporting to the board of public education the
 12 estimated amount that will be available for state
 13 equalization aid; and

14 (6) reporting to both houses of the state legislature
 15 in any year when a session is convened:

16 (a) the figures and data available in his office
 17 concerning distributions of state equalization aid during
 18 the preceding 2 school fiscal years;

19 (b) the amount of state equalization aid then
 20 available;

21 (c) the apportionment made of the available money but
 22 not yet distributed; and

23 (d) the latest estimate of accruals of money available
 24 for state equalization aid; and

25 (e) the amount of state advances and repayment for

1 county equalization."

2 **Section 8.** Section 20-9-347, MCA, is amended to read:

3 "20-9-347. Formula for state equalization aid
 4 apportionment in support of foundation program -- state
 5 advances. (1) The superintendent of public instruction shall
 6 apportion the state equalization aid available for support
 7 of the foundation program, individually for the elementary
 8 districts of a county or the high school districts of a
 9 county, in accordance with 20-9-346 and on the basis of the
 10 following procedure:

11 (a) Determine the percentage that the total funds
 12 available to all counties in the state in support of the
 13 foundation program (including the state money available for
 14 state equalization aid in support of the foundation program)
 15 is of the total amount of the foundation programs of all
 16 counties.

17 (b) Determine the percentage that the total funds
 18 available in each county in support of the foundation
 19 programs in the county (excluding state money available for
 20 state equalization aid in support of the foundation program)
 21 is of the total amount of the foundation programs of all
 22 districts of the county.

23 (c) Counties in which the percentage determined in
 24 subsection (1)(b) exceeds the percentage determined in
 25 subsection (1)(a) are not entitled to an apportionment of

1 the state equalization aid in support of the foundation
2 program.

3 (d) After elimination of the counties referred to in
4 subsection (1)(c), determine the percentage that the total
5 money available to all remaining counties in support of the
6 foundation program (including the state money available for
7 state equalization aid in support of the foundation program)
8 is of the total amount of the foundation programs of all
9 remaining counties.

10 (e) Each district of each remaining county is entitled
11 to an apportionment of the state equalization aid in support
12 of the foundation program equal to the difference between
13 the percentage determined in subsection (1)(d) and the
14 percentage determined for the county in subsection (1)(b)
15 multiplied by the foundation program amount for the
16 district.

17 (2) The superintendent of public instruction shall:

18 (a) supply the county treasurer and the county
19 superintendent with a report of the apportionments of state
20 equalization aid in support of the foundation program of
21 each district of the county, and the state equalization aid
22 in support of the foundation program must be apportioned to
23 the districts in accordance with the report;

24 (b) in the manner described in 20-9-344, provide for a
25 state advance to each county in an amount that is no less

1 than the amount anticipated to be raised for the basic
2 county tax fund in 20-9-331 and the basic special tax fund
3 in 20-9-333. The county treasurer shall remit repayment for
4 the state advances solely from the revenue available to the
5 funds in 20-9-212(1)(a) and (1)(b).

6 (c) adopt rules to implement the provisions of
7 subsection (2)(b)."

8 NEW SECTION. Section 9. Effective date. (This act) is
9 effective July 1, 1991.

-End-



State of Montana
Office of the Governor
Helena, Montana 59620
406-444-3111

STAN STEPHENS
GOVERNOR

April 24, 1991

The Honorable Hal Harper
Speaker of the House
House of Representatives
Capitol Station
Helena, Montana 59620

The Honorable Joseph P. Mazurek
President
Montana State Senate
Capitol Station
Helena, Montana 59620

Dear Speaker Harper and President Mazurek:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby veto the adoption of House Bill 940, "AN ACT TO PROVIDE FOR A RELIABLE CASH FLOW TO SCHOOL DISTRICTS BY ALLOWING STATE ADVANCES FOR REVENUE TO BE RAISED BY COUNTY EQUALIZATION LEVIES; AMENDING SECTIONS 20-9-212, 20-9-331, 20-9-333, 20-9-334, 20-9-335, 20-9-344, 20-9-346, AND 20-9-347, MCA; AND PROVIDING AN EFFECTIVE DATE.

House Bill 940 appears to facilitate school district cash flow. It is bad business practice for schools and for the state of Montana. I have been advised by the Office of Budget and Program Planning and numerous legislators, that the arbitrage plan would, indeed, have a cost. Using money earmarked for the education of our children to fund an ill-conceived investment plan is not a sound business practice nor good public policy.

School district cash flows have historically been protected by cash reserve accounts. Recent changes to accelerate state payments have increased that protection. With these changes and reasonable planning, school district officials have the mechanisms to avoid the problem this bill purports to solve.

I cannot risk the financial integrity of our school financing system to resolve an issue that has not been demonstrated to be a significant public policy issue.

I therefore veto House Bill 940.

Sincerely,

A handwritten signature in cursive script, appearing to read "Stan Stephens".

STAN STEPHENS
Governor

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0941, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act allowing members of the Sheriffs' Retirement System to purchase an additional year of service for every 5 years of creditable service; limiting the combined purchase of service to 5 years.

ASSUMPTIONS:

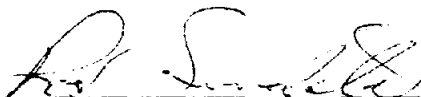
1. Members of the Sheriff's Retirement System (SRS) would be eligible to purchase an additional year of service for each five years of creditable service, up to a combined maximum purchase of five years of service. This service purchased will be used for reaching retirement eligibility and for calculating the retirement benefit.
2. Since the bill provides that the member will pay the total actuarial cost of purchasing the service, there will be no actuarial cost to the retirement system. Each individual member will pay the entire cost of his/her increased benefit (which will be more than the total employer and employee contribution rate) and no increased contributions will be required from employers or other employees. Therefore, there is no financial impact to the state or to local government (county) employers.
3. While SRS pension trust fund revenues will increase by amounts paid to purchase this service and pension benefits paid out will increase because of the service purchased, the actual impact during the next biennium can not be estimated at this time. The cost of purchasing each year of service under this legislation will be significant and it is not expected that more than a few members will actually purchase the service.

FISCAL IMPACT:

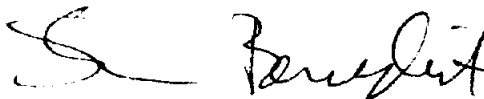
None.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Since the member must pay the full actuarial cost of providing the benefit enhancement, few members are expected to take advantage of this proposal.



ROD SUNDSTED, BUDGET DIRECTOR DATE
Office of Budget and Program Planning



STEVE BENEDICT, PRIMARY SPONSOR DATE
Fiscal Note for HB0941, as introduced HB 941

1 *HOUSE* BILL NO. *941*
 2 INTRODUCED BY *Burdett Oneal* *Spencer*
 3 *[Signature]*

4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING MEMBERS OF THE
 5 SHERIFFS' RETIREMENT SYSTEM TO PURCHASE AN ADDITIONAL YEAR
 6 OF SERVICE FOR EVERY 5 YEARS OF CREDITABLE SERVICE; LIMITING
 7 THE COMBINED PURCHASE OF SERVICE TO 5 YEARS; AMENDING
 8 SECTION 19-7-310, MCA; AND PROVIDING AN EFFECTIVE DATE."

9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 NEW SECTION. **Section 1.** Election to purchase
 12 additional service. (1) Except as provided in subsection
 13 (6), at any time before retirement, a member may make a
 14 written election with the board to purchase 1 additional
 15 year of service for every 5 years of creditable service.

16 (2) Service purchased under this section must be
 17 credited for the purpose of meeting retirement eligibility
 18 and for calculating retirement benefits.

19 (3) To qualify this service, a member shall:

20 (a) make a written election with the board to qualify
 21 the service; and

22 (b) contribute to the retirement fund the actuarial
 23 cost of granting the service in the sheriffs' retirement
 24 system, as determined by the board, based on:

25 (i) the member's compensation for the 12 months

1 immediately preceding the date of his election to cover the
 2 service under the sheriffs' retirement system; and

3 (ii) the total contribution rate in effect at the time
 4 the service is purchased.

5 (4) Contributions to qualify service under this section
 6 may be made in a lump-sum payment or in installments as
 7 agreed upon by the member and the board. Payments must be
 8 completed prior to retirement.

9 (5) Service qualified under this section may not be:

10 (a) credited in any other retirement system under Title
 11 19; or

12 (b) used to qualify for the purchase of military
 13 service under 19-7-310.

14 (6) The combined total of additional years of service
 15 purchased under the provisions of 19-7-310 and this section
 16 may not exceed 5 years.

17 **Section 2.** Section 19-7-310, MCA, is amended to read:

18 "19-7-310. Election to qualify previous military
 19 service. (1) A member with 15 years or more of service may,
 20 at any time prior to his retirement, make a written election
 21 with the board to qualify all or any portion of his active
 22 service in the armed forces of the United States for the
 23 purpose of calculating retirement benefits, up to a maximum
 24 of 5 years, except as provided in subsection (3), if he is
 25 not otherwise eligible to receive credit. To qualify

1 military service, he must contribute to the account the
 2 actuarial cost of granting the service, to be determined by
 3 the board based on his compensation and normal contribution
 4 rate as of his 16th year and as many succeeding years as are
 5 required to qualify this service, plus accrued interest.
 6 Interest accrues from the date on which the member has
 7 completed the number of service years in excess of 15 needed
 8 to qualify the military service to the date he contributes.
 9 He may not qualify more of his military service than he has
 10 service in the sheriffs' retirement system in excess of 15
 11 years. Military service purchased under this section may not
 12 be used in determining eligibility for a service retirement.

13 (2) If a member has retired from active duty in the
 14 armed forces of the United States with normal service
 15 retirement benefits, he may not qualify his military service
 16 under subsection (1). However, a member who is serving or
 17 has served in the military reserves with the expectation of
 18 receiving a military service pension may qualify his active
 19 military service under subsection (1) if his active duty in
 20 the armed forces of the United States is not more than 25%
 21 of the total of all his years of military service, including
 22 reserve and active duty time.

23 (3) The combined total purchase of additional years of
 24 service under the provisions of [section 1] and this section
 25 may not exceed 5 years."

1 NEW SECTION. **Section 3. Codification instruction.**
 2 [Section 1] is intended to be codified as an integral part
 3 of Title 19, chapter 7, part 3, and the provisions of Title
 4 19, chapter 7, part 3, apply to [section 1].
 5 NEW SECTION. **Section 4. Effective date.** [This act] is
 6 effective July 1, 1991.

-End-

1 *HOUSE* BILL NO. *941*
 2 INTRODUCED BY *Benedict Oneal*
 3 *[Signature]*

4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING MEMBERS OF THE
 5 SHERIFFS' RETIREMENT SYSTEM TO PURCHASE AN ADDITIONAL YEAR
 6 OF SERVICE FOR EVERY 5 YEARS OF CREDITABLE SERVICE; LIMITING
 7 THE COMBINED PURCHASE OF SERVICE TO 5 YEARS; AMENDING
 8 SECTION 19-7-310, MCA; AND PROVIDING AN EFFECTIVE DATE."

9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 NEW SECTION. **Section 1.** Election to purchase
 12 additional service. (1) Except as provided in subsection
 13 (6), at any time before retirement, a member may make a
 14 written election with the board to purchase 1 additional
 15 year of service for every 5 years of creditable service.

16 (2) Service purchased under this section must be
 17 credited for the purpose of meeting retirement eligibility
 18 and for calculating retirement benefits.

19 (3) To qualify this service, a member shall:

20 (a) make a written election with the board to qualify
 21 the service; and

22 (b) contribute to the retirement fund the actuarial
 23 cost of granting the service in the sheriffs' retirement
 24 system, as determined by the board, based on:

25 (i) the member's compensation for the 12 months

1 immediately preceding the date of his election to cover the
 2 service under the sheriffs' retirement system; and

3 (ii) the total contribution rate in effect at the time
 4 the service is purchased.

5 (4) Contributions to qualify service under this section
 6 may be made in a lump-sum payment or in installments as
 7 agreed upon by the member and the board. Payments must be
 8 completed prior to retirement.

9 (5) Service qualified under this section may not be:

10 (a) credited in any other retirement system under Title
 11 19; or

12 (b) used to qualify for the purchase of military
 13 service under 19-7-310.

14 (6) The combined total of additional years of service
 15 purchased under the provisions of 19-7-310 and this section
 16 may not exceed 5 years.

17 **Section 2.** Section 19-7-310, MCA, is amended to read:

18 "19-7-310. Election to qualify previous military
 19 service. (1) A member with 15 years or more of service may,
 20 at any time prior to his retirement, make a written election
 21 with the board to qualify all or any portion of his active
 22 service in the armed forces of the United States for the
 23 purpose of calculating retirement benefits, up to a maximum
 24 of 5 years, except as provided in subsection (3), if he is
 25 not otherwise eligible to receive credit. To qualify



THIRD READING
 HB 941
 CONSENT CALENDAR

1 military service, he must contribute to the account the
 2 actuarial cost of granting the service, to be determined by
 3 the board based on his compensation and normal contribution
 4 rate as of his 16th year and as many succeeding years as are
 5 required to qualify this service, plus accrued interest.
 6 Interest accrues from the date on which the member has
 7 completed the number of service years in excess of 15 needed
 8 to qualify the military service to the date he contributes.
 9 He may not qualify more of his military service than he has
 10 service in the sheriffs' retirement system in excess of 15
 11 years. Military service purchased under this section may not
 12 be used in determining eligibility for a service retirement.

13 (2) If a member has retired from active duty in the
 14 armed forces of the United States with normal service
 15 retirement benefits, he may not qualify his military service
 16 under subsection (1). However, a member who is serving or
 17 has served in the military reserves with the expectation of
 18 receiving a military service pension may qualify his active
 19 military service under subsection (1) if his active duty in
 20 the armed forces of the United States is not more than 25%
 21 of the total of all his years of military service, including
 22 reserve and active duty time.

23 (3) The combined total purchase of additional years of
 24 service under the provisions of [section 1] and this section
 25 may not exceed 5 years."

1 NEW SECTION. Section 3. Codification instruction.
 2 [Section 1] is intended to be codified as an integral part
 3 of Title 19, chapter 7, part 3, and the provisions of Title
 4 19, chapter 7, part 3, apply to [section 1].
 5 NEW SECTION. Section 4. Effective date. [This act] is
 6 effective July 1, 1991.

-End-

1 HOUSE BILL NO. 941

2 INTRODUCED BY BENEDICT, D. BROWN, SQUIRES, STRIZICH

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING MEMBERS OF THE
5 SHERIFFS' RETIREMENT SYSTEM TO PURCHASE AN ADDITIONAL YEAR
6 OF SERVICE FOR EVERY 5 YEARS OF CREDITABLE SERVICE; LIMITING
7 THE COMBINED PURCHASE OF SERVICE TO 5 YEARS; AMENDING
8 SECTION 19-7-310, MCA; AND PROVIDING AN EFFECTIVE DATE."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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