

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
52nd LEGISLATURE - 2nd SPECIAL SESSION

COMMITTEE ON EDUCATION & CULTURAL RESOURCES

Call to Order: By TED SCHYE, CHAIR, on July 14, 1992, at 1:30
p.m.

ROLL CALL

Members Present:

Ted Schye, Chairman (D)
Ervin Davis, Vice-Chairman (D)
Steve Benedict (R)
Ernest Bergsagel (R)
Vicki Cocchiarella (D)
Fred "Fritz" Daily (D)
Alvin Ellis, Jr. (R)
Gary Feland (R)
Gary Forrester (D)
Floyd "Bob" Gervais (D)
H.S. "Sonny" Hanson (R)
Dan Harrington (D)
Tom Kilpatrick (D)
Bea McCarthy (D)
Scott McCulloch (D)
Richard Simpkins (R)
Barry "Spook" Stang (D)
Norm Wallin (R)
Diana Wyatt (D)

Members Excused:

Rep. Robert Clark (R)

Staff Present: Andrea Merrill, Legislative Council
Lois O'Connor, Committee Secretary

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

EXECUTIVE ACTION ON HB 22

Motion: REPRESENTATIVE MCCARTHY moved HB 22 Do Not Pass.

Discussion:

REPRESENTATIVE NORM WALLIN agreed with REP. HOFFMAN in that HB 22
does save \$800,000 and that it does not hurt the local districts
too much.

REPRESENTATIVE SCOTT MCCULLOCH said that the Legislature can no longer pass taxes on to the taxpayers. HB 22 is nothing more than a cost switch.

Motion/Vote: **REP. MCCULLOCH** made a substitute motion that HB 22 be Tabled. Motion CARRIED 12 to 7 on a roll call vote. **EXHIBIT 1**

DISCUSSION ON PROPOSED COMMITTEE BILL

CHAIRMAN TED SCHYE said that this would be an open discussion from the Committee and all interested parties involved concerning the proposed Committee bill. **EXHIBIT 2**

REPRESENTATIVE WILLIAM BOHARSKI explained his amendments. He said that the Legislature would not leave Special Session 2 without taking money from K-12 education. The amendments were written to take money from education with the least amount of damage and least amount of money coming out of the classrooms. In traveling the state, he realized the amount of money that was sitting in the school district's reserve accounts. Many administrators and Legislators have said that the general fund money in the reserve accounts is their money. The fact is that any money in any fund is taxpayer's money.

The proposed Committee bill, which is an alternative to the 4 percent school foundation cut, would cap general fund operating reserves at 10 percent. General fund reserves are currently capped at 20, 30, or 35 percent of the general fund. There is still \$104 million sitting in school general fund reserve accounts. Some of this money, federal PL-874, is not subject to the cap. This money is called excess reserves. Districts can reserve beyond the 20 percent so long as the money can be identified as PL-874 money. The same thing is done with delinquent tax money, protested tax money, and bonus payments. If the excess money is deducted from the \$104 million, \$80.76 million would be left in reserves. This reserve money is spread differently around the state. The vast majority of school districts in the state have more than 10 percent in their reserve accounts.

Because HB 46 changes the way money will be distributed to the schools, they don't need large amounts of money in their general fund operating reserves to meet cash flow situations. School districts are asked to transfer the general fund reserve money and use it to offset local property taxes in the permissive range. If a district hits the top of the permissive range, the money would also be used to offset voted mills.

As a result, every time a district does not levy a permissive mill on the local level, the state isn't mandated to match it in guaranteed tax base (GTB) aid. The amendments simply say that the school districts spend the money that they have collected

from the local taxpayer before coming to the state for GTB aid to match the mills. This would save \$8.3 to \$8.5 million, in addition to the \$1.5 million in interest income from HB 46, for a total of \$10 million.

Questions from the Committee:

REPRESENTATIVE ALVIN ELLIS said that he had asked for comparisons of general fund budgets and actual money spent from the school districts so that the Committee could determine the districts that dump their reserves. He asked **Madalyn Quinlan, OPI** what schools fit into that category. **Ms. Quinlan** said she doesn't have the numbers with her, but she could get them for the Committee's review.

REPRESENTATIVE DICK SIMPKINS said if the foundation payment schedule is cut 4 percent, as in HB 21, all the school districts are cut 4 percent. In this case, the money is shifted, laundered, and being raided from the school district reserves. **REP. BOHARSKI** said Flathead County districts have been building their reserves for over the years. Flathead County also receives GTB aid. Part of the money in that reserve account is state money; it is not all local taxpayer money. **REP. SIMPKINS** said that Great Falls has been decreasing its reserves over the same period of time. Therefore, it is not state money. When it comes down to it, most of the money sitting in the school district reserves is local tax dollars.

REP. ELLIS said the proposed bill would tell the school districts to spend their reserves on their schools before they come to the state for GTB to supplement a levy to do the same thing. It bothers him, however, that some schools have dumped their reserves into their general fund. Thus, the state is rewarding the schools that didn't play it straight with HB 28. The argument cannot be made that the state is raiding the reserves. The state is making the school districts spend their reserves before they levy additional money.

REPRESENTATIVE SCOTT MCCULLOCH asked **Steve Brown, Indian Impact Schools of Montana**, if he saw any problems with this treatment of PL-874 money. **Mr. Brown** said yes. This is a substantial change in how PL-874 funds are treated. The language in the amendments and proposed bill would require the expenditure of those funds when the state does not have a state funding system in place that meets the federal test for equalizing state and PL-874 aid.

REPRESENTATIVE VICKI COCCHIARELLA said that in **REP. BOHARSKI'S** testimony of the previous day, he stated that 52 of the 56 counties will possibly lower property taxes as a result of the proposed legislation. She asked if this statement was correct. **REP. BOHARSKI** said that he didn't think the count would be that high. It is more district by district rather than county by county. According to his report that was prepared by the LFA, in

REP. COCCHIARELLA'S county, 10 or 12 districts would have a reduction and 6 or 7 do not.

Eric Feaver, MEA, said that his association supports the concept of the proposed legislation. It is far more appropriate to go through the reserve than it is to underfund the schedules by 2 percent or 4 percent, an unprecedented and very dangerous thing for the Legislature to be contemplating. The most important issue is the districts with PL-874 money. The Legislature is not going to be able to appropriate PL-874 money until the state has a system that is equitable. He urged the Committee to look at the language concerning the PL-874 money and consider amendments to them.

Gregg Groepper, OPI, said the Committee must ask whether it is going to take **REP. BARDANOUVE'S** approach (HB 12) or **REP. PECK'S** HB-46 concept to receiving tax revenue at the year's end. The Committee should not want both. The Committee must also ask what it is going to do with PL-874 money. Depending how it answers that question, it may or may not have an impact on the amount of cash in the proposed legislation.

The \$16 million that **REP. BOHARSKI** alluded to (PL-874 and protested taxes money) is money that school districts have in excess to the reserve limits. The question is, in a district that has identified PL-874 excess reserves and, in addition, has 20 percent reserves in their operating reserve; how much, if any, does the state want to spend through the GTB concept. More importantly, for a Native American district, of that 20 percent operating reserve, how much of that amount is PL-874 money. The state knows how much is excess reserve because the districts have reported it to OPI; but it has no way of knowing, within the operating reserve of 20 percent, how much is PL-874 money. OPI would like the Committee to tell them how they would like **REP. BOHARSKI'S** concept implemented for the amount of reserve that operating and not excess reserve. OPI can then help write the language needed.

REP. BOHARSKI referred to p. 4 of the proposed Committee bill. (See Exhibit 2) He said the same problem exists with bonus payments, protested taxes, and delinquent taxes. He asked if anyone could comment on whether they think there is a problem of requiring a school to spend protested tax money in the current year. **Bruce Moerer, School Boards Association**, spoke on his concern relative to the protested taxes. He said he interprets the language in the proposed legislation to read that if a district is in the BPA powerline protest and it receives a large sum of money, the district could carry it over as excess for 1 year. The following year it would have to be spent because it was a protested tax received in the current year. This would force the district to spend the money received in the next year or reappropriate the cash. If this is done, it will drive the permissive levy down. The following year it will come back up which creates a rollercoaster affect. It also takes away the

ability to plan on how the school districts are going to spend the money over a period of time.

REPRESENTATIVE BARRY STANG said this has been one of the bones-of-contention in the BPA districts that he represents. Some of the schools receive a large amount of money, and the taxpayers do not want the school districts to spend the money frivolously in a year. They say if the money is going to be used, find a good reason to use it even if it takes 3 or 4 years. If the school districts cannot find something to spend the money on, the money still belongs to the local taxpayers. It doesn't belong to the state of Montana.

REPRESENTATIVE BOB GERVAIS asked **Lynda Brannon, Impact Aid Districts**, if she had anything to add to the PL-874 discussion. **Ms. Brannon** said the revenue that is received in PL-874 is approximately \$22 million. If this money is touched in a way that is not consistent with the federal law, regardless of what is done by the Legislature, the federal government will cut off the money to the schools. The money flows directly from the federal government to the schools. She added that, in theory, many school districts have set their reserves, but many are waiting until after Special Session 2. It was never required that the districts had to account for the money that was in the reserves by revenue source. To go back and say that the money in the reserves is local, state, or county money is unfair to the school districts.

REPRESENTATIVE SONNY HANSON said there are statutes to control the excess in the reserve fund. He asked **Mr. Moerer** what would happen if the excess is taken from the protested tax money and deposited into next years operating budget. **Mr. Moerer** said he didn't think that would be allowed because protested taxes can be carried over for one year. Since the protested taxes weren't received in the current fiscal year, they would have to be reappropriated cash into the permissive levy in one lump sum the next year. If the protested taxes are put into the district's budget, it would reach the 104 percent cap. There is no way to carry it over in the budget with the 104 percent cap.

REP. MCCULLOCH asked **Mr. Groepper** how PL-874 and protested tax money was handled under HB 28. **Mr. Groepper** said when HB 28 went into affect, the school districts budgeted to spend their reserves. The following year they identified an amount of the cash they had on hand as excess reserves because the revenue source was PL-874 or protested taxes. **Ms. Brannon** said the reason there were no law suits after the implementation of HB 28 was because the PL-874 districts were allowed to put the money into excess. School districts don't have a separate account and call it reserves. On June 30, a district could have \$500,000 sitting in their reserve. On July 1, it could have a \$500,000 payroll which wipes out the reserve. Districts then hope that the revenues they have anticipated will be received through the year to replenish the reserve. Many time, the revenues do not

come in. The PL-874 districts have the option of utilizing that money by either putting it into excess reserves, by reappropriating it and reducing some of the permissive levies, or putting it against their voted levies. Districts have the full options to use that money as they see fit. Currently, there is PL-874 money within the 20 percent. However, the law says that districts do not have to identify anything that is not in excess.

REP. BOHARSKI said short of an audit, there is no way for OPI to know whether or not school districts were being accurate with the reference to the money. He asked if it was possible for the school districts to say that all of the money is PL-874 money.

Ms. Brannon unless revenues are tracked by revenue source, even a good audit will not show that.

REPRESENTATIVE FRITZ DAILY asked **Mr. Moerer** how long a district can keep excess reserves at present. **Mr. Moerer** said if excess reserves are identified, districts can keep them until they make plans to get a budget amendment or reappropriate the money over a period of years. **REP. DAILY** asked if there were specific statutes that deal with excess reserves. **Mr. Moerer** said the original language, without the amendments, deals with the excess reserves. When the language "current school year" is added, this is the language that does not allow districts to carry over excess reserves.

REP. ELLIS said historically, the reserves were to allow schools to fund themselves while they were waiting for tax revenues. Schools are no longer required to have such large reserves. It is immaterial whether the reserves come from PL-874 or protested tax money because if it is put in operating reserves, they were committed for the schools to fund themselves in the interim. If the Legislature allows schools to play games with the Committee bill, as they did with HB 28, then he thinks the Committee bill is totally unworkable. If the Committee bill is to be used, the state must treat reserves like they are committed to the budget.

REPRESENTATIVE THOMAS KILPATRICK referred to p. 2, line 23 of Exhibit 2. He said the Committee must consider the estimated payment of all money belonging to the state. The county treasurer in his district called him and was upset because money was being estimated, therefore, districts are giving money that it does not no for sure that it is going to receive. **REP. KILPATRICK** asked **Mr. Groepper** if **REP. BARDANOUVE'S** bill (HB 12) would take care of this problem. **Mr. Groepper** said yes. The language is not needed in both places. Since **REP. BARDANOUVE'S** bill has already had a hearing, it seems the least objectionable bill to accomplish getting the cash to the state at the end of the year. The section being referred to could also be stricken from the Committee bill or HB 46.

REP. BOHARSKI referred to p. 4 of Exhibit 2. He said one of the concerns raised by this section is the issue of protested taxes. He asked **Madalyn Quinlan, OPI**, if the language said that

protested tax payment received in excess of 10 percent must be spent within the next year, within the current year, or does it lose its identity after that? **Ms. Quinlan** said the way the Committee bill is drafted at present states that a school district receiving protested tax money would have to spend it within one full school year after receiving it. For example, if a district received a BPA settlement in FY 1992, it could set it aside in excess reserves in FY 1993 and carry it through that school year; but at the end of the 1993 school year, it would then either have to give property taxpayer relief or spend it in their budget. **REP. BOHARSKI** asked if the Committee returned to the original language of the section, would there be any difference in the amount of revenue that the state would see in savings in GTB. **Ms. Quinlan** said if the original language were returned to, districts could continue to place the money in excess reserves over time. It would also reduce the \$8.5 million estimate in GTB savings from the Committee bill. **REP. BOHARSKI** asked how and why. **Ms. Quinlan** said districts that already have money in excess reserves could continue to keep it there, whereas, the Committee bill says that the excess reserves are reestablished every year and it's only the amount of PL-874 or protested money that were received in the previous year. A district does not get to accumulate over time. At the end of one year, a district would have to put the money into its budget. **REP. BOHARSKI** asked what would happen if the Committee bill were to tell the districts to keep the money and spend it over 15 years. **Ms. Quinlan** said the language in the Committee bill would not allow a district to go back and identify money that was not identified as excess reserves by revenue sources.

REP. STANG asked if there was any language that could be used to prevent districts from taking past money because that money has not been identified. **Ms. Quinlan** said that there could be temporary language in the bill that said that any money that has qualified as operating reserves in the past would now be moved into the permissive area and not touch the excess reserves.

REP. SIMPKINS said in essence, what has been said is that once PL-874 money is committed, it leaves the protection of PL-874. If a district moves PL-874 money, it can spend it any way it wants to. If a school district receives PL-874 money in the future, it would be crazy to put it in their operating reserves because if it does, it becomes general fund money. **Ms. Quinlan** still thought that temporary language could be drafted that makes sure the money that is intended gets put through the permissive, and yet, the excess reserves still have the protection. **REPRESENTATIVE BOB GERVAIS** recommended that the PL 874 money be left completely out of the Committee bill.

CHAIRMAN SCHYE said the Committee bill would be heard on July 15. He said the Committee bill is an option and asked all those interested in working on it to contact **Andrea Merrill, Staff Researcher, Legislative Council.**

ADJOURNMENT

Adjournment: 3:00 p.m.



TED SCHYE, Chair



LOIS O'CONNOR, Secretary

TS/lao

HOUSE OF REPRESENTATIVES

EDUCATION AND CULTURAL RESOURCES COMMITTEE

ROLL CALL

DATE

7-14-92

NAME	PRESENT	ABSENT	EXCUSED
REP. TED SCHYE, CHAIRMAN	X		
REP. ERVIN DAVIS, VICE-CHAIRMAN	X		
REP. STEVE BENEDICT	X		
REP. ERNEST BERGSAGEL	X		
REP. ROBERT CLARK	XXXX		X
REP. VICKI COCCHIARELLA	X		
REP. FRED "FRITZ" DAILY	X		
REP. ALVIN ELLIS, JR.	X		
REP. GARY FELAND	X		
REP. GARY FORRESTER	X		
REP. FLOYD "BOB" GERVAIS	X		
REP. H.S. "SONNY" HANSON	X		
REP. DAN HARRINGTON	X		
REP. TOM KILPATRICK	X		
REP. BEA MCCARTHY	X		
REP. SCOTT MCCULLOCH	X		
REP. RICHARD SIMPKINS	X		
REP. BARRY "SPOOK" STANG	X		
REP. NORM WALLIN	X		
REP. DIANA WYATT	X		

EXHIBIT 1
DATE 7-14-92

HB-22

Special Session 2
Education Committee

HOUSE OF REPRESENTATIVES

EDUCATION AND CULTURAL RESOURCES COMMITTEE

ROLL CALL VOTE

DATE 7-14-92 BILL NO. HB-22 NUMBER _____

MOTION: Table HB-22

NAME	AYE	NO
REP. TED SCHYE, CHAIRMAN	X	
REP. ERVIN DAVIS, VICE-CHAIRMAN	X	
REP. STEVE BENEDICT		X
REP. ERNEST BERGSAGEL		X
REP. ROBERT CLARK		
REP. VICKI COCCHIARELLA	X	
REP. FRED "FRITZ" DAILY	X	
REP. ALVIN ELLIS, JR.		X
REP. GARY FELAND		X
REP. GARY FORRESTER	X	
REP. FLOYD "BOB" GERVAIS	X	
REP. H. S. "SONNY" HANSON		X
REP. DAN HARRINGTON	X	
REP. TOM KILPATRICK	X	
REP. BEA MCCARTHY	X	
REP. SCOTT MCCULLOCH	X	
REP. RICHARD SIMPKINS		X
REP. BARRY "SPOOK" STANG	X	
REP. NORM WALLIN		X
REP. DIANA WYATT	X	
TOTAL	12	7

EXHIBIT 2
DATE 7-14-92

~~Proposed~~ Proposed Committee
Special Session 2 Bill

1 _____ BILL NO. _____

2 INTRODUCED BY _____

3 BY REQUEST OF THE HOUSE EDUCATION

4 AND CULTURAL RESOURCES COMMITTEE

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A
7 RELIABLE CASH FLOW TO SCHOOL DISTRICTS BY ALLOWING STATE
8 ADVANCES FOR COUNTY EQUALIZATION COLLECTIONS; REQUIRING THE
9 STATE TREASURER TO ASSESS COUNTIES AN INTEREST CHARGE OF 10
10 PERCENT A YEAR ON ALL MONEY NOT REMITTED TO THE STATE BY THE
11 20TH DAY OF EACH MONTH; REDUCING THE LEVEL OF ALLOWABLE
12 SCHOOL DISTRICT GENERAL FUND OPERATING RESERVES TO 10
13 PERCENT; AMENDING SECTIONS 15-1-504, 20-9-104, 20-9-212,
14 20-9-331, 20-9-333, 20-9-334, 20-9-335, 20-9-344, 20-9-346,
15 AND 20-9-347, MCA; AND PROVIDING EFFECTIVE DATES AND
16 RETROACTIVE APPLICABILITY DATES."

17
18 STATEMENT OF INTENT

19 A statement of intent is required for this bill because
20 the superintendent of public instruction is granted
21 rulemaking authority in 20-9-347(2) to adopt rules with
22 regard to state advances to support the county equalization
23 collections for foundation program funding under 20-9-331
24 and 20-9-333. The procedure is intended to ensure that the
25 county equalization revenue is fully realized by school

1 districts in a timely manner, regardless of delinquent or
2 protested taxes. It is anticipated that the county
3 superintendent of schools will continue to calculate and
4 report to the school districts the revenue generated in
5 support of elementary and high school county equalization
6 for foundation program funding.

7

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

9 **Section 1.** Section 15-1-504, MCA, is amended to read:

10 "15-1-504. Settlement of county treasurer with state
11 treasurer. (1) The county treasurer, between the 1st and
12 20th days of each month, shall remit to the state treasurer
13 all money belonging to the state that was collected by the
14 county treasurer during the preceding month. The remittance
15 must be accompanied by a detailed report upon a form that
16 the state treasurer prescribes. The state treasurer may
17 shall assess counties an interest charge of 10% a year on
18 all money not remitted ~~within--5--days--from~~ by the time
19 required by this section. Any interest collected under this
20 subsection must be deposited in the state general fund.

21 (2) The remittance required by June 20 of each fiscal
22 year under the provisions of 20-9-212(14) and subsection (1)
23 of this section must include an estimated payment of all
24 money belonging to the state, plus accumulated interest,
25 that is anticipated to be collected in June."

1 **Section 2.** Section 20-9-104, MCA, is amended to read:

2 "20-9-104. General fund operating reserve. (1) At the
3 end of each school fiscal year, the trustees of each
4 district shall designate the portion of the general fund
5 end-of-the-year fund balance that is to be earmarked as
6 operating reserve for the purpose of paying general fund
7 warrants issued by the district from July 1 to November 30
8 of the ensuing school fiscal year. Except as provided in
9 subsections (5) and (6), the amount of the general fund
10 balance that is earmarked as operating reserve may not
11 exceed the-following-percentages 10% of the final general
12 fund budget for the ensuing school fiscal year:

13 ~~(a)--35%--for--a--district--that--did--not--receive--state~~
14 ~~equalization-aid-during-the-current-school-fiscal-year;~~

15 ~~(b)--30%--for--a--district--that--received--state--equalization~~
16 ~~aid--equal--to--25%--or--less--of--its--foundation--program--schedule~~
17 ~~entitlement--in--the--current--school--fiscal--year;--and~~

18 ~~(c)--20%--for--a--district--that--received--state--equalization~~
19 ~~aid--equal--to--more--than--25%--of--its--foundation--program~~
20 ~~schedule--entitlement--in--the--current--school--fiscal--year.~~

21 (2) The amount held as operating reserve may not be
22 used for property tax reduction in the manner permitted by
23 20-9-141(1)(b) for other receipts.

24 (3) Any unreserved fund balance that is equal to or
25 less than the prior year's excess reserves as provided in

1 subsection (5) may be used to reduce the permissive levy
2 provided by 20-9-145 or to reduce the voted levy provided by
3 20-9-353.

4 (4) Any portion of the general fund end-of-the-year
5 fund balance that is not reserved under subsection (2) or
6 reappropriated under subsection (3) is fund balance
7 reappropriated and must be used for property tax reduction
8 as provided in 20-9-141(1)(b)(iii).

9 (5) The limitation of subsection (1) does not apply
10 when the amount in excess of the limitation is equal to or
11 less than one or more of the following:

12 (a) any amount received under Public Law 81-874 in the
13 current school fiscal year in excess of the amount
14 anticipated in the general fund budget for the current
15 school fiscal year;

16 (b) the unused balance of any amount received in the
17 current school fiscal year:

18 (i) in settlement of tax payments protested in a prior
19 school fiscal year;

20 (ii) in taxes from a prior school fiscal year as a
21 result of a tax audit by the department of revenue or its
22 agents; and

23 (iii) in delinquent taxes from a prior school fiscal
24 year; or

25 (c) any amount received in the current school fiscal

1 year as a general bonus payment under 20-6-401.

2 (6) The limitation of subsection (1) does not apply
3 when the amount earmarked as operating reserve is \$10,000 or
4 less."

5 **Section 3.** Section 20-9-212, MCA, is amended to read:

6 "20-9-212. Duties of county treasurer. The county
7 treasurer of each county shall:

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

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

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

20 (c) the county tax in support of the transportation
21 schedules;

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

24 (e) any other county tax for schools, including the
25 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) remit on a monthly basis to the state treasurer, in
14 accordance with the provisions of 15-1-504, all county
15 equalization revenue received under the provisions of
16 20-9-331 and 20-9-333 for elementary and high school
17 district foundation program support, including all interest
18 earned and excluding any amount required for high school
19 out-of-county tuition under the provisions of 20-9-334, in
20 repayment of the state advance for county equalization
21 prescribed in 20-9-347. Any funds in excess of a state
22 advance must be used as required in 20-9-331(1)(b) and
23 20-9-333(1)(b)."

24 **Section 4.** Section 20-9-331, MCA, is amended to read:

25 "20-9-331. Basic county tax and other revenues for

1 county equalization of the elementary district foundation
2 program. (1) The county commissioners of each county shall
3 levy an annual basic tax of 33 mills on the dollar of the
4 taxable value of all taxable property within the county,
5 except for property subject to a tax or fee under 23-2-517,
6 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204, for
7 the purposes of local and state foundation program support.
8 The revenue collected from this levy must be apportioned to
9 the support of the elementary foundation programs of the
10 elementary school districts in the county and to the state
11 special revenue fund, state equalization aid account, in the
12 following manner:

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

18 (b) If the basic levy and other revenue prescribed by
19 this section produces more revenue than is required to
20 ~~finance-the-difference-determined-in-subsection-(1)-(a)~~ repay
21 a state advance for county equalization, the county
22 treasurer shall remit the surplus funds to the state
23 treasurer for deposit to the state special revenue fund,
24 state equalization aid account, immediately upon occurrence
25 of a surplus balance and each subsequent month thereafter,

1 with any final remittance due no later than June 20 of the
2 fiscal year for which the levy has been set.

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

16 (2) The revenue realized from the county's portion of
17 the levy prescribed by this section and the revenue from the
18 following sources must be used for the equalization of the
19 elementary district foundation programs program entitlement
20 of the county as prescribed in 20-9-334 20-9-335, and a
21 separate accounting must be kept of the revenue by the
22 county treasurer in accordance with 20-9-212(1):

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

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

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

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

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

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

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

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

24 **Section 5.** Section 20-9-333, MCA, is amended to read:

25 "20-9-333. Basic special levy and other revenues for

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

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

19 (b) If the basic levy and other revenue prescribed by
20 this section produces ~~produce~~ more revenue than is required
21 ~~to finance-the-difference-determined--in--subsection--(1)(a)~~
22 repay a state advance for county equalization, the county
23 treasurer shall remit the surplus funds to the state
24 treasurer for deposit to the state special revenue fund,
25 state equalization aid account, immediately upon occurrence

1 of a surplus balance and each subsequent month thereafter,
2 with any final remittance due no later than June 20 of the
3 fiscal year for which the levy has been set.

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

17 (2) The revenue realized from the county's portion of
18 the levy prescribed in this section and the revenue from the
19 following sources must be used for the equalization of the
20 high school district foundation programs program entitlement
21 of the county as prescribed in 20-9-334 20-9-335, and a
22 separate accounting must be kept of the revenue by the
23 county treasurer in accordance with 20-9-212(1):

24 (a) any money remaining at the end of the immediately
25 preceding school fiscal year in the county treasurer's

1 accounts for the various sources of revenue established in
2 this section;

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

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

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

11 (e) anticipated revenue from property taxes and fees
12 imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521,
13 61-3-537, and 67-3-204."

14 **Section 6.** Section 20-9-334, MCA, is amended to read:

15 "20-9-334. Apportionment of county equalization moneys
16 by---county---superintendent -- high school out-of-county
17 tuition obligations. (1) The county superintendent shall
18 separately--apportion--the calculate the apportionment of
19 revenues deposited in the basic county tax account and the
20 revenues deposited in the basic special tax for high schools
21 account to the several districts of the county on-a-monthly
22 basis. The apportionments shall be known as "county
23 equalization moneys". Before-the

24 (2) The county superintendent makes--the--monthly
25 apportionments, he shall direct the county treasurer to

1 deduct from the revenues available in the basic special tax
2 for high schools account, prior to remittance of the funds
3 to the state treasurer under the provisions of 15-1-504 and
4 20-9-212, the amount required for the month to pay the
5 county's obligation for high school out-of-county tuition."

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

7 "20-9-335. Formula for apportionment of county
8 equalization moneys. (1) ~~After--making--such---deductions~~
9 ~~prescribed--in-20-9-3347--the~~ The county superintendent shall
10 ~~apportion-the--remaining--amount--of--moneys~~ calculate the
11 apportionment of revenue available in the basic county tax
12 ~~account to-the-several-public-elementary--districts--of--the~~
13 ~~county~~ and in the basic special tax for high schools account
14 ~~to--the--several-public-secondary-districts-of-the-county-in~~
15 ~~proportion-to-their-needs-under-the--foundation--program~~ in
16 accordance with the following procedure:

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

24 (b) multiply the elementary foundation program
25 entitlement amount of each ~~public-elementary~~ district by the

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

4 (2) The above procedure shall also be applied for
5 ~~public---secondary--districts~~ the high school foundation
6 program entitlement after the deduction of the county's
7 obligation for high school out-of-county tuition.

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

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

24 **Section 8.** Section 20-9-344, MCA, is amended to read:

25 "20-9-344. Purpose of state equalization aid and duties

Ex. 2
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1 of board of public education for distribution ----conditions
2 of---first---payment. (1) The money available for state
3 equalization aid must be distributed and apportioned to
4 provide:

5 (a) an annual minimum operating revenue for the
6 elementary and high schools in each county, exclusive of
7 revenues required for debt service and for the payment of
8 any costs and expense incurred in connection with any adult
9 education program, recreation program, school food services
10 program, new buildings and grounds, and transportation; and

11 (b) the Montana educational telecommunications network
12 as provided in 20-32-101.

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

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

24 (b) have the power to require reports from the county
25 superintendents, budget boards, county treasurers, and

1 trustees as it considers necessary; and

2 (c) order the superintendent of public instruction to
3 distribute the state equalization aid on the basis of each
4 district's annual entitlement to the aid as established by
5 the superintendent of public instruction. In ordering the
6 distribution of state equalization aid, the board of public
7 education may not increase or decrease the state
8 equalization aid distribution to any district on account of
9 any difference that may occur during the school fiscal year
10 between budgeted and actual receipts from any other source
11 of school revenue.

12 (3) The board of public education may order the
13 superintendent of public instruction to withhold
14 distribution of state equalization aid or order the county
15 superintendent of schools to withhold county equalization
16 money from a district when the district fails to:

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

19 (b) maintain accredited status.

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

25 (5) If a district or county receives more state

1 equalization aid than it is entitled to, the county
2 treasurer shall return the overpayment to the state upon the
3 request of the superintendent of public instruction in the
4 manner prescribed by the superintendent of public
5 instruction.

6 (6) ~~(a) The first~~ Except as provided in 20-9-347(3),
7 the foundation program payment and guaranteed tax base aid
8 payment must be based on an estimate of 20% of the
9 entitlement of each district or county and distributed by
10 July 15 of the school fiscal year.

11 ~~(b) Each subsequent monthly payment must be at least 7%~~
12 ~~of the entitlement of each district or county~~ according to
13 the following schedule:

14 (a) from August to May of the school fiscal year, 8% of
15 the foundation program entitlement of each district;

16 (b) in November of the school fiscal year, one-half of
17 the guaranteed tax base aid entitlement of each district or
18 county;

19 (c) in May of the school fiscal year, the remainder of
20 the guaranteed tax base aid entitlement of each district or
21 county; and

22 (d) in June of the school fiscal year, the remaining
23 foundation program entitlement of each district.

24 (7) The distribution of foundation program payments and
25 guaranteed tax base aid provided for in subsection (6) must

1 occur by the last working day of each month."

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

3 "20-9-346. Duties of the superintendent of public
4 instruction for state equalization aid distribution. The
5 superintendent of public instruction shall administer the
6 distribution of the state equalization aid by:

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

15 ~~(2) recommending to the board of public education the~~
16 ~~entitlement of all districts and counties to state~~
17 ~~equalization aid to enable the board of public education to~~
18 ~~order the distribution of state equalization aid;~~

19 ~~(3)~~ distributing by state warrant or electronic
20 transfer the state equalization aid and state advances for
21 county equalization, for each district or county entitled to
22 the aid, to the county treasurer of the respective county or
23 county where the district is located, in accordance with the
24 distribution ordered by the board of public education;

25 ~~(4)~~ (3) keeping a record ~~in his office~~ of the full and

1 complete data concerning money available for state
2 equalization aid, state advances for county equalization,
3 and the entitlements for state equalization aid of the
4 districts of the state;

5 (5)(4) reporting to the board of public education the
6 estimated amount that will be available for state
7 equalization aid; and

8 (6)(5) reporting to the legislature as provided in
9 5-11-210:

10 (a) the figures and data available ~~in--his--office~~
11 concerning distributions of state equalization aid during
12 the preceding 2 school fiscal years;

13 (b) the amount of state equalization aid then
14 available;

15 (c) the apportionment made of the available money but
16 not yet distributed; and

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

19 (e) the amount of state advances and repayment for
20 county equalization."

21 **Section 10.** Section 20-9-347, MCA, is amended to read:

22 "20-9-347. Formula for state equalization aid
23 apportionment in support of foundation program --
24 exceptions. (1) The superintendent of public instruction
25 shall apportion the state equalization aid available for

1 support of the foundation program, individually for the
2 elementary districts of a county or the high school
3 districts of a county, in accordance with 20-9-346 and on
4 the basis of the following procedure:

5 (a) Determine the percentage that the total funds
6 available to all counties in the state in support of the
7 foundation program (including the state money available for
8 state equalization aid in support of the foundation program)
9 is of the total amount of the foundation programs of all
10 counties.

11 (b) Determine the percentage that the total funds
12 available in each county in support of the foundation
13 programs in the county (excluding 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 districts of the county.

17 (c) Counties in which the percentage determined in
18 subsection (1)(b) exceeds the percentage determined in
19 subsection (1)(a) are not entitled to an apportionment of
20 the state equalization aid in support of the foundation
21 program.

22 (d) After elimination of the counties referred to in
23 subsection (1)(c), determine the percentage that the total
24 money available to all remaining counties in support of the
25 foundation program (including the state money available for

1 state equalization aid in support of the foundation program)
2 is of the total amount of the foundation programs of all
3 remaining counties.

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

11 (2) The superintendent of public instruction shall:

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

18 (b) in the manner described in 20-9-344, provide for a
19 state advance to each county in an amount that is no less
20 than the amount anticipated to be raised for the basic
21 county tax fund as provided in 20-9-331 and for the basic
22 special tax fund as provided in 20-9-333;

23 (c) adopt rules to implement the provisions of
24 subsection (2)(b).

25 (3) (a) The superintendent of public instruction is

1 authorized to adjust the schedule prescribed in 20-9-344 for
2 distribution of the foundation program and guaranteed tax
3 base aid entitlements if the distribution will cause a
4 district to register warrants under the provisions of
5 20-9-212(9).

6 (b) To qualify for an adjustment in the payment
7 schedule, a district shall demonstrate to the superintendent
8 of public instruction, in the manner required by the office,
9 that the payment schedule prescribed in 20-9-344 will result
10 in insufficient money available in all funds of the district
11 to make payment of the district's warrants. The county
12 treasurer shall confirm the anticipated deficit. Nothing in
13 this section may be construed to authorize the
14 superintendent of public instruction to exceed a district's
15 annual entitlement for state and county equalization aid."

16 NEW SECTION. Section 11. Effective dates --
17 retroactive applicability. (1) [Section 1] is effective
18 August 1, 1992.

19 (2) [Sections 3 through 10] are effective on passage
20 and approval and apply retroactively, within the meaning of
21 1-2-109, to revenue collections under 20-9-331 and 20-9-333
22 for the school fiscal year beginning July 1, 1992.

23 (3) [Section 2] is effective on passage and approval
24 and applies retroactively, within the meaning of 1-2-109, to
25 school district general fund end-of-the-year fund balances

1 for the school fiscal year ending June 30, 1992.

-End-