

MINUTES

MONTANA SENATE 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By Chairman Mike Halligan, on March 12, 1993, at 8:00 a.m.

ROLL CALL

Members Present:

Sen. Mike Halligan, Chair (D)
Sen. Dorothy Eck, Vice Chair (D)
Sen. Bob Brown (R)
Sen. Steve Doherty (D)
Sen. Delwyn Gage (R)
Sen. Lorents Grosfield (R)
Sen. John Harp (R)
Sen. Spook Stang (D)
Sen. Tom Towe (D)
Sen. Fred Van Valkenburg (D)
Sen. Bill Yellowtail (D)

Members Excused: None.

Members Absent: None.

Staff Present: Jeff Martin, Legislative Council
Bonnie Stark, Committee Secretary

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

Committee Business Summary:

Hearing: None.
Executive Action: SB 235, SB 283

EXECUTIVE SESSION ON SB 235 AND SB 283

Chairman Halligan opened the executive session on SB 235 and SB 283 by saying this committee has been working with the administration to try to resolve some of the issues relating to equalization and property tax relief. Amendments have been presented for the committee's consideration.

Senator Van Valkenburg said when this committee discussed with the Office of Public Instruction (OPI) staff about how it might best put a school equalization element into SB 235, the OPI staff suggested the best way to approach it would be to look at a priority utilization of sales tax revenues for that purpose.

They suggested the first priority might be to allocate some money for the capital outlay and debt service programming in school finance, the second would be the school transportation element, and third was the requirement to deal with the funding of retirement costs which are now paid for by a county-wide property tax mill levy. Some members of this committee worked with the OPI staff and the Department of Revenue (DOR) staff to come up with proposals to present today which would earmark some money for capital outlay, would eliminate in its entirety the county school transportation levies and the county school retirement levies, and which would have an overall impact of approximately \$46 million. Senator Van Valkenburg said other changes were discussed on ways to adjust other aspects of the bill, including the homestead exemption, the renters' credit, and a few other minor changes.

Senator Brown said he would echo Senator Van Valkenburg's comments; there have been some useful discussions in the last couple of days that have centered on areas of property tax relief that can be made a part of SB 235, using the school funding mechanism as the means of bringing that about. There are other amendments being offered this morning which Senator Brown thinks will improve the bill and further its purpose of bringing about far-reaching property tax reform and tax reform generally.

An Amendment, requested by Senator Harp, dated March 11, 1993, Exhibit No. 1 to these minutes, addresses the school retirement issue.

MOTION ON AMENDMENT NO. 1:

Senator Harp moved for adoption of the amendments to SB 235, dated March 11, 1993, shown on Exhibit No. 1. (sb023520.ajm).

DISCUSSION:

Senator Harp said this amendment would speak to the area of eliminating the county-wide Teachers' Retirement Account, and would solve a couple of issues. First, it takes a big step towards equalizing school funding, and it might help the state in potential litigation on questions of school equalization, and second, it reduces property taxes by over \$30 million. This will resolve this committee's discussions earlier this week regarding some types of elimination of property tax and being able to tie SB 235 to equalization.

Senator Towe asked if this amendment would put money from the sales tax proceeds in to fund the Teachers' Retirement Account, which is presently funded by a local levy plus a small amount of guaranteed tax base. Greg Groepper, OPI staff, said that is how the OPI understands the intent of this committee. OPI is reviewing the amendments at the present time to insure those amendments accomplish the Committee's intent.

Senator Towe asked what the sales tax revenue would be in order to fully fund the existing retirement program. Mr. Groepper said it is OPI's understanding that the net impact is \$32.36 million. There is more than that amount spent on retirement, but it doesn't cost as much in the sales tax bill because of local property tax relief efforts as mill levies are taken out. Exhibit No. 3 to these minutes, prepared by the DOR, shows the corresponding revenue involved. Jeff Martin, Legislative Council Staff, said the sales tax revenue distribution process will be the same as the personal income tax distribution process used now. Part of the flow goes into the School Equalization Aid (SEA) Account. Retirement would no longer be a separate account; it would be funded through the SEA Account.

Mr. Groepper explained the concern about eliminating the levy for retirement and still keep the account so the reimbursement mechanism can get money to the county superintendent who will give it back to the school district so they can put the employee contribution with the district's share, then ship it into the state. Senator Towe raised a question about more guaranteed money to the SEA Account to cover the additional expense involved. The DOR and OPI have suggested increasing the percentage of the sales tax revenue earmarked for the SEA Account to cover the additional amount of money needed, without making a general fund appropriation. Mr. Groepper said after the local government reimbursement, the corpus is distributed in the same manner as the income tax distributions. In the income tax system, 28.5% goes to the SEA Account, so, 28.5% of the sales tax would go to the SEA Account. The net is about \$46 million.

In answer to Senator Towe's questions, Jeff Martin said Section 15-1-501 allows for distribution of income tax revenue, corporate tax revenue and other revenue to the general fund and school equalization account and, while this wording is not contained in this bill, it is existing state law and it is all tied together. Mr. Martin said if an adjustment needs to be made to the percentage that goes to school equalization, a change will have to be made in the distribution formula.

Senator Van Valkenburg said it won't be known until close to the end of the session what amount needs to be earmarked toward school equalization, and SB 235 has a long way to go before those kinds of details need to come together.

Senator Gage agreed with Senator Van Valkenburg, adding that there will probably be a number of bills coming from the House that deal with general fund revenue and there is no way of addressing how much of those would fall under the percentage as well.

Senator Van Valkenburg asked if it would be appropriate to try to fund teachers' retirement out of the foundation program

schedules while considering school finance bills, rather than having a separate account for retirement. Mr. Groepper said that is the recommendation in the Superintendent's Equalization Bill that this committee will be hearing shortly.

Senator Van Valkenburg asked Mick Robinson, DOR Director, if the affect of this amendment is to reduce property tax levies across the state on an average of about 20 mills. Mr. Robinson said there would be an elimination of an average of 26 mills state-wide that funds the retirement account. Exhibit No. 5 to these minutes shows the county-by-county mill levy for the School Transportation and Retirement accounts.

Senator Van Valkenburg asked, by putting in an equalized source of funding, like sales tax, if the Legislature is taking a big step towards equalizing school funding and eliminating some of the litigation on this subject. Mr. Groepper said this is a major step the Legislature has taken towards equalizing this fund. In terms of litigation, Mr. Groepper said the Legislature would have to look at the bigger picture of equalizing all school funding, and it remains to be seen what the Legislature will do this session with the School Equalization Account.

Senator Gage, commenting on the 236% figure for Retirement GTB, shown on Exhibit No. 5, asked what the current percentage is. Mr. Groepper said the reimbursement for Guaranteed Tax Base (GTB), both in the General Fund and for Retirement, is 121% of the state average. He said the OPI and DOR met last evening and created two options, one at 100%, and one at about 60%, to give the Committee an idea how many dollars are involved. The 236% is the same percentage as what is being considered in the House Select Committee for GTB reimbursement. They thought, by taking that number, it would give the Committee a comparison, and this is with the State funding about 60% of the GTB.

Senator Towe commented that this Committee, by passing these amendments, is eliminating the authority to levy for retirement funds, and instead, is allowing the Superintendent of Public Instruction to apportion State Equalization Aid to the districts according to their needs for retirement expenditures. He asked if, by moving that control, are the numbers being affected, or is there any way the local districts will lose because the Superintendent might somehow not allow retirement that is now being allowed, or would have more authority than now. Mr. Groepper said this amendment will not change the process for districts to calculate their responsibility for the district's share of contributions to the teachers retirement account; all that is being done is the levy is eliminated. The districts would put together their retirement budgets, send them to the County Superintendent of Schools, and in the current process, the County Superintendent of Schools adds them up, tells the county commissioners the total, and the county commissioners figure out a mill levy, realizing they are going to get some GTB aid support so they have to tinker with the number of mills to generate the

cash for the retirement account. The process, under SB 235, would be that the budgets will be added up, sent into the State Superintendent of Public Instruction and a payment will be made to the retirement account at the county level, so the County Superintendent can get the money back to the school districts and they can put it together with the employee's contribution and send it in to the State account.

VOTE:

The motion to adopt the retirement amendment CARRIED on oral vote with Senator Yellowtail voting "NO".

DISCUSSION:

Senator Van Valkenburg explained the amendments shown on Exhibit No. 2 to these minutes deal with the elimination of the county transportation levy, and deal with the allocation of sales tax revenue for support of the capital outlay and debt service. The county transportation levies shown in the left-hand column of Exhibit No. 5 would be eliminated in their entirety if this amendment passes. In addition, the allocation of sales tax revenues, in the amount of approximately \$7 million, for the purposes of the capital outlay, would necessitate an appropriation, which would have to be done in the House, to provide GTB support for both the existing and prospective levies for capital outlay.

MOTION:

Senator Van Valkenburg moved for adoption of the amendments to SB 235, dated March 11, 1993, shown on Exhibit No. 2.
(sb023511.ajm)

DISCUSSION:

Senator Van Valkenburg said it would cost \$6.7 million of sales tax proceeds in order to eliminate the county transportation levy. In addition, there is \$7 million for the GTB support for capital outlay and debt service.

Mr. Groepper said the numbers OPI used to create a fiscal note for Senator Blaylock's bill (SB 32) took the existing debt service levies for budget requirements for all 514 school districts, calculated what the next year's payment of that debt service is, and applied GTB repayment to that. That came to \$6.266 million. Additionally, it was determined that some school districts were in great need of school construction, and if there were a way to sell bonds, they would do that also. That would be around \$800,000 to \$900,000 worth of GTB support in the first year if the additional districts that are talking about having a mill levy all passed that mill levy. When SB 235 goes into effect in 1994, some of the districts that have levy requirements would no longer have levy requirements because their bonds would

be paid off, and some districts would pass bond levies which would be picked up. The best estimate OPI can give, taking into account new districts that would likely pass a bond election, is about \$7 million; \$6.2 million to service old debt and approximately \$800,000 in the first year to service new debt. All these numbers, including the mill levy reductions, are annual numbers.

Jeff Martin said the amendments for capital outlay are basically SB 32 figures, as introduced. The third reading version in the Senate provides for equalization only for prospective bond issues. This amendment would provide funds for any present outstanding bond issues as well as any prospective bond issues. If SB 32 passes as it currently reads, there will be a period of time where only prospective bond issues will apply, because SB 235 won't become effective until July 1, 1994.

Senator Eck commented that when talking of picking up debt, it is just the GTB part of that debt. We don't want to give the public the idea that the whole debt is being funded. Mr. Groepper said that is correct. There are some school districts that are not GTB eligible; Lima Elementary is one example. They have a levy requirement and would receive no aid under this bill for their building, because they are a relatively wealthy district under the definition of GTB.

Senator Gage asked if we would end up with one level of valuation for determination of bond indebtedness for counties and a different level of calculating bond indebtedness for school districts. This relates to part (1)(a)(iii) being stricken from Section 20-9-406, M.C.A. (Page 1, No. 4, of Exhibit No. 2) Mr. Martin said the severance tax counts as a portion of the bond limit for counties, but in SB 235 there is no provision to treat that the same way as it appears to be under this amendment. Senator Gage asked if his county has had in excess of 50% of their revenues from local government severance tax, and this conversion of 60% is deleted, are they going to lose a considerable amount of bonding ability for their schools. Mr. Martin said that appears to be the case.

Senator Towe asked why section (iii) is being deleted. Mr. Groepper said he is not sure how closely SB 32 ties to SB 235 in terms of bonded capacity. He understood the sales tax bill changed the bonded capacities for cities, municipalities, and counties, to reflect the changes in the property tax system as it currently is, and they increased the bonding capacity to account for the lower business machinery and equipment taxes. He did not recall SB 32 having something that changed the bonding capacity as it related to schools because of net and gross proceeds. This is something to be looked at, so their ability to bond, based on a non-revenue source, is not eliminated. He doesn't think it has ever been anybody's intent to destroy the bonding capacity.

Mr. Martin said the transportation portion isn't part of the equalization account for distribution purposes; it is still a

separate account funded through sales tax revenue. There is no way to determine any kind of equalization for transportation, so that is not within the equalization account.

Senator Towe said he understands there is some portion of the transportation that is covered by a formula with 50% state funding at present, and there is an over amount that every district generally ends up spending. Mr. Groepper said the present schedule is 85 cents a bus mile, with slightly more allotted for larger buses. The state presently pays half of that amount, and the other half is paid by a county-wide levy. That is intended to get kids to school who live beyond 3 miles from the school. In addition, school districts have internal transportation requirements to pay for field trips, busing children from one school to another so the district won't have to build another classroom, etc. These latter costs are not part of the scheduled reimbursements and if districts decide to do those kinds of programs, they pay for the expense on a district levy. This amendment only covers the on-schedule amount, the cost of getting the child from beyond three miles to the school so they can be educated.

Senator Towe asked if the 50% local portion of that is what is being picked up by this amendment. Mr. Groepper said the 50% county-wide levy is involved in this amendment. The Senator asked if the overage is not included in this amendment. Mr. Groepper said that is correct.

Senator Gage asked Mr. Groepper if there are still individual transportation contracts in some districts. Mr. Groepper said their intent in the amendments was to make sure that the individual contracts, the state's share of special ed transportation, and all the rest, would reflect this 100% amendment so that the individual contracts would go up to reflect that, and the special ed transportation costs would go up to reflect that; they all would be adjusted consistent with 100% of the on-schedule now.

VOTE:

The motion to amend SB 235 CARRIED on oral vote with Senators Gage and Yellowtail voting "NO". (sb023511.ajm)

DISCUSSION:

Senator Harp explained the amendment listed on Exhibit No. 6, saying this will reduce the Homestead Exemption from \$20,000 to \$15,000. This will result in an increase in tax revenue of approximately \$9 million.

MOTION:

Senator Harp moved to adopt the amendment to SB 235 shown on Exhibit No. 6. (SB0235A.132)

DISCUSSION:

Senator Eck said electrical and other utilities are exempt which means that the homeowner will get a windfall, so this decrease in the Homestead Exemption will not greatly affect them.

Senator Yellowtail said the utility amendment stood on its own merit at the time it was offered and this Homestead Exemption decrease was not suggested during consideration of the utility amendment. The taxing of utility bills would have been a new tax. He does not call it a windfall that utility bills were excluded from taxation. He does not support a decrease in the Homestead Exemption just to find revenues for other amendments that are being considered.

Senator Harp responded that the records will reflect that when the amendment to exclude the utility bills for residential consumers was made, he asked the Chairman if this issue could be re-visited because we were starting to draw down on the potential dollars that could go for income/property tax relief, and the need to fund on-going state programs and services. It is hard to speak to an individual county, but on an average, there will be a reduction in mills by an average of about 32 mills by previous actions in this Committee. By decreasing the Homestead Exemption, he knows the homeowners of Montana are being treated fairly by actions in this Committee today.

VOTE:

The motion CARRIED on oral vote with Senators Yellowtail, Stang, and Gage voting "NO".

DISCUSSION:

Senator Towe asked what the average amount of savings is on the transportation mill levies. Mr. Groepper said there is somewhere between 8 and 10 mills levied for transportation; the average state-wide mill value totals \$1.6 million. \$8 million to \$10 million is roughly the amount of county taxes to make up the county's share of transportation. This amount divided by \$1.6 million comes out to approximately a \$6.25 million savings.

MOTION:

Senator Brown moved to adopt an amendment to SB 235, allowing a Renter's Credit, as shown on Exhibit No. 7. (SB235A.133)

DISCUSSION:

Senator Brown said this amendment is in keeping with the last amendment passed. It provides a continuation of the Renter's Credit concept in SB 235. This is a 25% reduction in the Renter's Credit as originally proposed, as the Homestead

Exemption amendment is a 25% reduction from the original amount proposed.

Senator Yellowtail asked for the fiscal impact of this amendment. Senator Harp responded it is \$3.5 million.

Senator Halligan said this amendment is an offset for some renters on the cost they would have incurred had we not excluded residential utility bills.

Senator Yellowtail said his same argument holds as he stated with the previous amendment.

VOTE:

The motion CARRIED on oral vote with Senators Yellowtail, Stang and Gage voting "NO".

MOTION:

Senator Brown moved to adopt the amendment to SB 235, to eliminate indexing of Individual Income Tax Exemption Level and Standard Deductions, as shown on Exhibit No. 8. (SB0235A.135)

DISCUSSION:

Senator Brown said that 10 years ago an income tax indexing was made law in Montana when there were brackets in the income tax. If this proposal is adopted, with the flat rate 6%, there wouldn't be any possibility of bracket creep as was designed to be prevented by income tax indexing. (Exhibit No. 8 to these minutes.)

Senator Van Valkenburg asked if this amendment would have any fiscal impact in this biennium, or will it come into play in FY 96, FY 97, and beyond. Senator Brown said he understands that to the extent there would be inflation in the future, the 6% amount would bring in more money to the state. If there was deflation, it would bring in less money. The purpose of indexing is to keep inflation from moving a taxpayer from one tax bracket to another without a change in the rates.

Senator Van Valkenburg agreed with Senator Brown that this is a forward-looking approach to how the income tax works. He asked if it could still be possible in future years for the Legislature to amend those up, if people felt that the standard deduction or the personal exemptions were not at appropriate levels. Senator Brown agreed that this would be so.

VOTE:

The motion CARRIED UNANIMOUSLY on oral vote.

MOTION:

Senator Stang moved to adopt the amendment to SB 235 to increase the tax rate for personal property from 3.86% to 4.5%, as shown on Exhibit No. 9. (SB0235A.136)

DISCUSSION:

Senator Halligan asked DOR Director Robinson for the fiscal impact of this amendment on the business equipment tax. Mr. Robinson said after all of the previous actions are completed regarding lowering the mills state-wide, the fiscal impact of this amendment is \$5.14 million.

Senator Towe asked if there is a provision in SB 235 for local property tax reimbursement, and if this change will affect that reimbursement. Director Robinson said "yes", the items that would be reimbursed would be personal property and the commercial exemption of \$10,000. There will be an amendment offered later that presents the mechanism that tries to reimburse whatever the decrease in that value is.

VOTE:

The motion CARRIED on oral vote with Senator Grosfield voting "NO".

DISCUSSION:

Senator Brown said a previous amendment imposing the sales tax on advertising and subscriptions was passed by this Committee. He is now asking the Committee to repeal that amendment to Section 23 which was adopted on March 9, 1993, so SB 235 would be back in the form in which Senator Crippen had introduced it, and to the same form that advertising was treated in SB 283. This would reinstate Section 23 into the bill.

MOTION:

Senator Brown moved to reinstate Section 23 into SB 235.

DISCUSSION:

Senator Eck commented that the three states that had taxed advertising have now repealed that tax. Senator Brown said there is no state which now taxes advertising in the manner that we would attempt to tax advertising if this bill is left in the condition it is in now. For constitutional reasons, legal reasons, and reasons of workability, it is not worth taxing advertising in the state.

Senator Van Valkenburg said he thinks the advertising tax can stand on its own merits, although there may be some problems with interstate commerce that need to be worked out.

Senator Harp asked if the bond question is also included in this motion. Senator Brown said it would be just Section 23.

Senator Stang asked why only advertising wasn't in this motion, and leave the tax on newspapers and subscriptions. Senator Brown responded that there may be a constitutional problem in that area, and he is trying to restore the bill back to its original language in Section 23.

VOTE:

The motion CARRIED 6-5 on Roll Call Vote (#1).

DISCUSSION:

Director Robinson explained the amendments on Exhibit No. 10 which will eliminate the security cash reserve account from SB 235. He said the first allocation of the sales tax revenue deals with a reimbursement to local governments. This amendment will maintain that allocation and will delete the security reserve account.

MOTION:

Senator Harp moved to adopt the amendment to SB 235 to delete the security cash reserve account, as shown on Exhibit No. 10. (SB0235A.137)

DISCUSSION:

Senator Towe asked about the amount of money that would need to be funneled directly into education now that some of the other amendments have been passed, and if this is where there would need to be a percentage number. Director Robinson said this is not the case; that the percentage number needs to end up in another section of the code, in 15-1-501. That is the section that has to be adjusted when everything is finally put together.

Senator Yellowtail asked for some rationale on this amendment. Director Robinson responded that in terms of the original construction of this taxing format, there was significant interest in trying to build in some financial stability in the general fund and school equalization fund. That was the idea behind the security cash reserve account. It wasn't structured in a manner that it was locked in and could not be accessed in any way, but it was to try and focus that there needs to be some level of general fund reserve that should be maintained to adequately fund state government, so if there is a drop in revenue, the state is able to get through the biennium without having to call a special session. What the DOR has been hearing is, should that not be more in the realm of the Legislature to indicate what the proper general fund balance is after the budget process is completed. In terms of providing this amendment, the DOR is placing that responsibility back on

the Legislature in terms of the revenue appropriation process to make sure there is an adequate general fund reserve, or balance, that is budgeted and is there in case there is a downturn in revenue.

Senator Grosfield asked Mr. Robinson what, in effect, is the difference between what the Legislature tries to do in setting an end-of-fund balance at a reasonable level, and a cash reserve that is allotted. Mr. Robinson said there is no major difference. Whether it is part of statute, in terms of requiring a certain percentage, or whether it is the responsibility of the Legislature, it is, in reality, the same approach -- to make sure there is an adequate balance in the general fund to handle shortfalls, etc., as they would come during the biennium.

Senator Grosfield said he supports the amendment. He thinks the Committee is dealing with an issue of whether this should be under the control of the Legislature or under the executive branch. It seems to him it should be under the control of the Legislature.

VOTE:

The motion CARRIED UNANIMOUSLY on oral vote.

DISCUSSION:

The amendments on Exhibit No. 11 were explained by Director Robinson. He said these amendments are the reimbursement mechanism for local governments, for reimbursement of the personal property and the commercial exemption. This goes back to the first step in the reimbursement process in trying to calculate the dollar amount of tax revenue that is being taken from local governments, and using sales tax to reimburse them.

Senator Towe asked how the old formula works and how this will change that. Brian Smith, DOR, explained there are two basic parts being changed: the old reimbursement program which was in HB 196, and the amendments to the new reimbursement program in SB 235. Both are going to be in the same section of codes. The first major change is the date for data collection to December 31, 1993; this will allow the DOR to make an earlier reimbursement for personal property to real property in May of 1994. The second major change deals with changing the method used to calculate the reimbursement. Under the old method, they would take the taxable value in tax year 1993 for Classes 4 and 8, and subtract from that the taxable value of tax year 1994 for the same classes. That will be called the loss in taxable value, even though there would be some normal growth in taxable value in it. Under these new amendments, they will take the taxable value in tax year 1993 and adjust it for the old rate versus the new rate. They won't be reimbursing from any growth in taxable value between those two years.

Senator Towe asked what property this involves. Mr. Smith said this is for Class 8 personal property and the \$10,000 exemption. They would be taking the taxable value in tax year 1993 and adjusting that to the new tax rates. The old numbers will be applied, and then the new numbers will be applied, and the difference is the formula that will be used for the base; that will be the taxable value lost.

Senator Towe asked how this would be done for each year in the future; would they keep coming back to the same 1993 base and adjust it upward. Mr. Smith said it changes in later years, but the reimbursement for tax years 1994, 1995, and 1996, is all fixed. Senator Towe asked if there would just be a reimbursement based on the 1993 year with no inflationary or other adjustments in those first three years. Mr. Smith said this is correct; it would be a flat amount. It would be the taxable value loss, times the district's 93 mill levy, and that will stay the same. The tax years 1997 and beyond will be based upon the difference in sales tax collections from one year to the next. The old-system formula will take effect in 1997 and beyond; it stays the same as it was in the original bill.

Director Robinson said they are trying to come up with the calculation of what the loss is in taxable value or tax revenue at a point in time, and as they do that, there is a percent of the sales tax revenue that will equal the amount of that total reimbursement state-wide. Once the DOR has that point in future years, that percentage of sales tax revenue, with the growth, is distributed to the counties. There will be some growth in the sales tax revenue, and as that grows, the reimbursement will grow. They will come up with a total state-wide allocation based on the amount for each individual county. They actually have two formulas, the formula to determine the percentage of the total sales tax revenue to be distributed, and then, based on that distribution, how much goes to each particular county. That is the formula built in. That formula will always stay the same, but the revenue that it is multiplied by, for each individual county, will probably grow.

Senator Towe asked if the counties will get a percentage of the whole, and that percentage might grow as the sales tax revenues grow. Mr. Robinson said the percentage will not grow, but the amount governed by that percentage might grow. The total amount to be distributed for reimbursement might grow.

Senator Gage asked if there is a gain to the counties for the non-mill revenue when retirement, transportation, and capital outlay are taken out. Mr. Robinson said as the mills are reduced, the non-levy revenue changes in terms of the direction it flows. Part of the non-levy revenue is the local government severance tax that is based on 1990 allocations. The DOR still has some work to do on this before they can give total dollar figures. Their original calculations indicated that the shift state-wide was fairly minimal, going through the entire circle,

and it didn't seem to be worth the time and effort to try to build that in. Their estimate was around \$2 million; OPI had a little higher figure. He said the DOR needs to do some additional work on how that is flowed in, making sure local governments are not negatively impacted. What Mr. Robinson thinks is that if that amount is not considered, local governments may receive quite a larger share.

Senator Van Valkenburg asked Terry Johnson, of the Legislative Fiscal Analyst's (LFA) Office, if he has any comments about this amendment. Mr. Johnson replied that he has just seen this amendments for the first time. Going through the amendments, it seems like there are a lot of changes being made, and he would ask for an opportunity to go back to his office and review them before making any response.

MOTION:

Senator Van Valkenburg moved to adopt the amendments to SB 235, prepared by the DOR, dated March 11, 1993, as shown on Exhibit No. 11 (SB0235A.138), reserving the right to have a floor amendment to change them if necessary, and reserving the right to change them in a conference committee, or the House may have to change them.

DISCUSSION:

Senator Stang said changing the reimbursement to the counties is the part of SB 235 that worries him the most. He commented that as the sales tax would progress year by year, and the makeup of the state changes, this amendment probably has the biggest danger to the rural counties. He asked if this is the part of the bill that can be subject to change at the whim of the Legislature as to where the sales tax money should be returned. Mr. Robinson said it can be changed by the Legislature since it will be in statute. The intent is that the state would not be negatively impacting any local government, and the local governments are getting the reimbursement to replace the revenue they lose from the taxing format change.

Senator Yellowtail urged the Committee not to pass this amendment because they have not had time to review it properly, and he does not think they can responsibly adopt the amendment purely as a matter of trust.

Senator Gage said that somewhere along the way, this amendment will have to be put into the bill. However, he agrees with Senator Yellowtail that the Committee may be better advised to wait until the LFA, DOR, and OPI have had a chance to review it thoroughly, and then let the House address the heart of it when it gets to that point.

Senator Harp said he supports the amendment because by putting it in SB 235, it allows all interested parties to take a

look at it in bill form and as it moves through the process, changes that need to be made will be taking place. Without this amendment to the bill, at some point, the same discussion will either occur on the Senate floor, or in some House committee action. The Committee needs to be assertive and respond to those concerns.

Senator Towe said this amendment bothers him, not because of what is going into the bill, but the existing law. The DOR has indicated this amendment is critical; their system doesn't work without it, and he supports it.

VOTE:

The motion CARRIED 7-4 on Roll Call Vote (#2).

MOTION:

Senator Doherty moved that the Committee reconsider its action dealing with the commissions on the sales of stocks and bonds.

DISCUSSION:

Senator Doherty said he has been persuaded, reluctantly, that action taken by the Committee on March 9, 1993, may not be a good idea. One of the most salient points the stock brokers made in their argument against being taxed is that out-of-state brokers, the discount brokerages who use the "1-800" numbers, will cause a dearth of business in Montana, to the advantage of the out-of-state brokers.

Senator Towe asked if the state cannot tax the transaction because the situs is not in Montana, and we cannot tax the "1-800" transactions. Senator Doherty replied, "right".

Senator Yellowtail asked the Committee to resist this motion because the corollary to this argument is the only people who ought to pay a sales tax are people who are captive in Montana somehow. He thinks this is unconscionable. He sees this as an effort to detract from broadening the base for the sales tax.

Senator Eck said it may help this Committee if people in this industry, as well as the advertising/newspaper industry discussed earlier, would look at what kind of transactions specifically might be appropriate to tax. The Committee members don't know those industries well enough to do that, and the fact that all kinds of other professionals who provide services are being taxed, it would seem more fair. She would like these industry people to provide this information to the Committee members.

Senator Towe asked if the reason the state can tax real estate sales transactions is because the situs of the property is

in Montana, no matter where the sales agent resides. Mr. Robinson agreed that if the agent is doing business in Montana, he can be taxed. The Senator asked if in the sale of intangible products, such as stocks and bonds, the situs is normally considered where the sale takes place, and the sale in this case would take place out of state and the transaction could not be taxed. Mr. Robinson agreed.

VOTE:

The motion CARRIED 8-3 on Roll Call Vote (#3).

DISCUSSION:

Senator Towe presented an amendment, dated March 6, 1993, as shown on Exhibit No. 12. The Senator said this is a coordinating instruction to be inserted in SB 235. He said he hopes this Committee will genuinely consider an alternative tax to the sales tax in the event the people reject the sales tax on the ballot.

VOTE:

Senator Towe moved to adopt the amendment to SB 235, which is a coordination instruction, as shown on Exhibit No. 12.
(sb023507.ajm)

DISCUSSION:

Senator Van Valkenburg said the coordination instruction is a good idea, Senator Towe has put a lot of time in LC 159, and that might be the alternative to the sales tax, or there might be other alternatives offered.

VOTE:

The motion CARRIED UNANIMOUSLY on oral vote.

MOTION:

Senator Brown moved that SB 235 DO PASS AS AMENDED.

DISCUSSION:

Senator Van Valkenburg asked Director Robinson if he had an opportunity to look at what the over-all impact of these amendments presented today might be on the general progressivity of the state tax system if SB 235 is passed and put into law. Mr. Robinson distributed Exhibits No. 13 and 14 to these minutes. He said these progressivity charts show the over-all tax burdens for the eight levels of income. The high end is \$50,000 and above income. He said there hasn't been a tremendous change taking place, but there is some upward shifting. For example, the negative tax shown at levels 1 and 2, Exhibit No. 14, are not as negative as they were before because of the utility exemption.

The point at which the proposed-law line passes through the current-law line, Exhibit No. 13, is a little bit lower--down closer to the 5th income level, which is about \$25,000, as opposed to being closer to the \$30,000 income level in a previous graph. There hasn't been a great shift and the progressivity of the proposed law; it is still significantly better as compared to current law as far as overall tax burden of individuals, according to Mr. Robinson.

Senator Stang asked if there is a similar graph showing how businesses are affected by current law versus this proposal in their overall tax burden. Mr. Robinson said this is not available for the reason there is no data to determine the various expenditure categories for businesses. It is not as consistent as it would be for individual families. If there is a business with a sole proprietorship, the income is connected with the individual income, as a partnership would be.

Senator Stang asked what percentage of the taxpayers in Montana are between the 5th and 7th percentile on Exhibits No. 13 and 14. Mr. Robinson said the percent of taxpayers in the 6th and above categories, would be about 80%. Below that 6th level, are approximately 30% of the taxpayers state-wide.

Senator Towe had asked Dave Boyer for revenue estimates, and Mr. Boyer presented the senator with material that suggests the state may be underestimating the anticipated revenue. Director Robinson said he has not seen that information presented by Dave Boyer, but he will get it to review.

Dave Boyer, Budget Office, said he talked briefly with Phil Brooks of DOR. The method Mr. Brooks used was significantly different than the method Mr. Boyer used. He said the method Jeff Martin used several years ago, and updated revenue estimates for a sales tax data base, indicated that the revenue from the 4% sales tax would be somewhat different than the revenue estimate provided by Mr. Brooks. There are a couple of areas identified where those differences may have occurred in the methodology parallels between Mr. Martin and Mr. Brooks, but Mr. Boyer's methodology was different and his numbers don't compare with numbers used by Mr. Brooks. Mr. Robinson said he will have Mr. Brooks sit down with Mr. Boyer to discuss their revenue estimate differences.

Senator Towe said it looks like there may be a variance factor of \$100 million a year. The impact on each individual is going to be very significant if that is the case. He would like to know what the accurate information is. Mr. Robinson said the state is trying to estimate income from a new tax never used in the state before, and he has confidence in the model the DOR has been using, but they will look at the estimates projected by Mr. Boyer.

Senator Yellowtail asked Senator Crippen is he is in support of SB 235 as it stands now with the amendments adopted by this Committee. Senator Crippen said from his standpoint, he is pleased with the way the bill has gone and he is prepared to present it on the Senate floor.

Senator Yellowtail asked Rick Hill, a representative of the Governor's office, if this bill is now fixed to the satisfaction of the Administration to the extent that the Administration can defend it in all of its details. Mr. Hill said the Administration is very pleased with the fact that people from both caucuses, with different views on tax reform, were able to re-craft the bill. His expectation is that if it is voted in the House, the Administration would be working very hard to defend the changes that occurred in this Committee. That is not to say that they don't expect that there wouldn't be other changes and other recommendations in the House. They are pleased with the work that has been done.

Senator Yellowtail asked if the Administration would resist further substantive changes to SB 235. Mr. Hill said without knowing what the changes might be, he can't respond to that. They are pleased with the structure of the bill, they are pleased with the work this Committee has done, and they think it is good legislation. That isn't to say there aren't other ideas or other things that may also make it more positive legislation; he can't respond to that part. But, they are pleased with what has happened here.

Senator Yellowtail said those are the primary areas of concern he has had throughout this entire process. His attitude toward a sales tax and a bill that embodies a sales tax has not changed; he has not been persuaded to support it. However, he has been doing his best to help in the process of making decisions in this Committee as to fixing the bill after it became apparent that the original bill was entirely negotiable. That is the part that disturbs him. He posed his questions to the Administration so some commitment to the sales tax bill can be drawn; he finds the responses only lukewarm. His concern is that the committee started out with certain provisions of the bill showing progressivity, but he fears that the lack of commitment to the details of this bill that grant a tax reform package is subject to change at any time and with apparent little notice. He thinks the public needs to understand that the lack of commitment to any detail of this progressive package is subject to change at any time. There is no commitment in protecting those principles.

Senator Brown, in response to comments by Senator Yellowtail, said the over-all goal and philosophy of this bill is represented by the statements made by the two candidates for Governor in the recent election. The tax system needs to be reformed in the area of personal property tax, residential property tax, and income tax. However, it should be done in a

progressive way so it does not place an undue burden on people who do not have the ability to pay a tax. This bill accomplished that purpose when it was first introduced, and still does. Within the parameters of those goals, what Mr. Hill said is correct; there may be other amendments which will be acceptable. Senator Brown has little doubt this bill will be changed further in the House. He has no objection as long as the changes are in keeping with the bill articulated by the sponsor and by those who have supported this legislation. Senator Brown thinks this bill in its present form probably constitutes the most significant attempt to address school equalization since the enactment of HB 28, which is a constructive change in the law. It provides \$46 million in property tax relief. The effect of returning that \$46 million to the people is that it reduces the amount left over, generated by a sales tax, for government to spend. He thinks we now have a tax reform proposal that reduces taxes paid by homeowners, by renters, and by small business people, in a way that makes our tax system more progressive overall. There has been some good faith participation in this Committee; there are still honest areas of disagreement which will be debated on the floor.

VOTE:

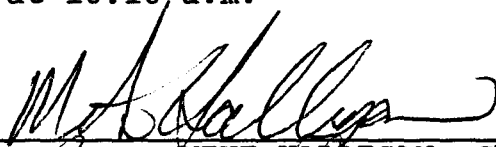
The motion to DO PASS SB 235 AS AMENDED, CARRIED 8-3 on Roll Call Vote (#4). (570740SC.Sma)

Other attachments to these minutes are Exhibit No. 15, an updated chart showing the impact of SB 235, and the following letters expressing opposition to removing the sales commission exemption from SB 235:

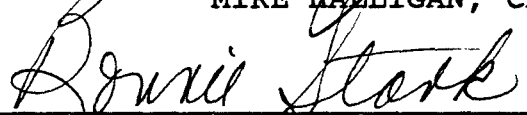
Exhibit No. 16	Stanley H. McIntire
Exhibit No. 17	Teresa L. Darnielle
Exhibit No. 18	Alan G. Elliott
Exhibit No. 19	Todd Preston
Exhibit No. 20	Diane Jerhoff
Exhibit No. 21	Larry Van Atta

ADJOURNMENT

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



MIKE HALLIGAN, Chair



BONNIE STARK, Secretary

ROLL CALL

SENATE COMMITTEE TAXATION

DATE 3-12-93

NAME	PRESENT	ABSENT	EXCUSED
Sen. Halligan, Chair	✓		
Sen. Eck, Vice Chair	✓		
Sen. Brown	✓		
Sen. Doherty	✓		
Sen. Gage	✓		
Sen. Grosfield	✓		
Sen. Harp	✓		
Sen. Stang	✓		
Sen. Towe	✓		
Sen. Van Valkenburg	✓		
Sen. Yellowtail	✓		

FC8

Attach to each day's minutes

SENATE STANDING COMMITTEE REPORT

Page 1 of 46
March 13, 1993

MR. PRESIDENT:

We, your committee on Taxation having had under consideration Senate Bill No. 235 (first reading copy -- white), respectfully report that Senate Bill No. 235 be amended as follows and as so amended do pass.

Signed: 
Senator Mike Halligan, Chair

That such amendments read:

1. Title, page 1, lines 12 and 13.

Strike: "FOR" on line 12 through "USE" on line 13

Insert: "STATE SUPPORT FOR CERTAIN SCHOOL FUNDING"

2. Title, page 1, line 23.

Following: "15-30-142,"

Insert: "15-30-177,"

Following: "15-30-323,"

Insert: "15-31-131,"

3. Title, page 1, line 24.

Strike: "17-7-102, 17-7-140,"

Insert: "17-3-213,"

4. Title, page 2, line 2.

Following: "19-21-212,"

Insert: "20-3-205, 20-6-702,"

Following: "20-9-343,"

Insert: "20-9-344, 20-9-346, 20-9-347, 20-9-351, 20-9-366, 20-9-367, 20-9-368, 20-9-369,"

Following: "20-9-407,"

Insert: "20-9-439, 20-9-501, 20-10-104, 20-10-141, 20-10-142,"

5. Title, page 2, line 3.

Following: "20-10-144,"

Insert: "20-10-145,"

6. Title, page 2, line 5.

Following: "SECTIONS"

Insert: "15-10-401, 15-10-402, 15-10-406, 15-10-411, 15-10-412,"

7. Title, page 2, line 6.

Strike: the first "AND"

Following: "15-30-160,"

Insert: "AND 20-10-146,"

8. Page 3.

Following: line 20

Insert: "(1) "Construction services" means the services performed by various trades engaged in the construction of dwellings, commercial buildings, farm buildings, and similar structures. The term includes but is not limited to carpentry, plumbing, the installation of heating systems and air conditioning, electrical work, masonry, excavating, and concrete work. The term does not include indirect services, such as accounting, architectural design, engineering, drafting, leasing of construction equipment, and surveying services."

Renumber: subsequent subsections

9. Page 6, line 6.

Strike: "(11)"

Insert: "(12)"

10. Page 7, line 1.

Strike: "(11)(c)(i)"

Insert: "(12)(c)(i)"

11. Page 8.

Following: line 3

Insert: "(15) "Service address" means the location of telecommunications equipment from which telecommunications services are originated or at which telecommunications services are received by a taxpayer. In the event that the service address is not a specific location, as in the case of mobile phones, paging systems, maritime systems, air-to-ground systems, and similar systems, service address means the location of a taxpayer's primary use of telecommunications equipment as determined by a telephone number, authorization code, or location in Montana where the taxpayer's telecommunications services bills are sent."

Renumber: subsequent subsections

12. Page 8, line 5.

Following: "dentures,"

Insert: "hearing aids, wheelchairs, crutches,"

Following: "prescribed"

Strike: "or"

Insert: ", "

Following: "ordered"

Insert: ", or dispensed"

13. Page 8.

Following: line 6

Insert: "(17) "Transportation services" means the transportation of persons or property by air, ground, or water from a point within this state to another point within this state or to a point outside this state. The term includes any reasonably necessary associated services for the transportation of persons or property."

Renumber: subsequent subsection

14. Page 11, line 15.

Following: "of"

Insert: "sales tax or"

Following: "who"

Insert: "buys or"

Following: "property"

Insert: "or services"

15. Page 11, line 16.

Following: "of the"

Insert: "sales tax or"

Following: "tax if"

Strike: "the"

Insert: "a"

16. Page 11, line 17.

Following: "on the"

Insert: "sales price or"

Following: "property"

Insert: "or services"

17. Page 11, line 19.

Following: "paid the"

Insert: "sales tax or"

18. Page 17, line 13.

Following: "(2)"

Insert: "(a)"

Strike: "The"

Insert: "Except as provided in [section 10], the"

19. Page 17, line 14.

Following: "collection"

Insert: "and disposal"

20. Page 17, line 15.

Strike: "regulated"

Strike: "are"

Insert: "is"

21. Page 17.

Following: line 16

Insert: "(b) For the purposes of this subsection (2), telephone communications services includes the act of originating in this state or receiving in this state interstate and intrastate telecommunications by a person in this state who is billed for the services at a Montana telephone number or Montana service address.

NEW SECTION. Section 10. Exemption -- residential utility services. The sale of natural gas, water, electricity, telephone communications services, refuse collection and disposal, or other utility services to residential customers is exempt from the sales tax and use tax."

Renumber: subsequent sections

22. Page 21, lines 22 and 23.

Strike: the second "--" on line 22 through "jewelry" on line 23

23. Page 21, line 23.

Strike: "The"

Insert: "Except as provided in subsection (2), the"

Following: "sale or use"

Insert: "by a miner or by a producer of a mineral or by a broker acting on behalf of a miner or producer"

24. Page 22, lines 1 through 6.

Strike: "Minerals" on line 1 through "section" on line 6

Insert: "Minerals that are used for producing energy or that are used for conversion into energy are subject to the sales tax and use tax unless the energy is produced or converted for resale as a form of energy."

25. Page 23, line 13.

Following: "or"

Insert: "irrigation"

26. Page 23, line 14.

Strike: "commercial irrigation"

Insert: "the production of agricultural products in commercial quantities"

27. Page 24.

Following: line 6

Insert: "NEW SECTION. Section 29. Exemption -- transportation services. The sale or use of transportation services is exempt from the sales tax and use tax.

NEW SECTION. Section 30. Exemption -- private school tuition. Tuition charged for attending a private educational institution that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code is exempt from the sales tax and use tax.

NEW SECTION. Section 31. Exemption -- construction services. The sale or use of construction services for the construction, fabrication, or remodeling of residential or commercial buildings is exempt from the sales tax and use tax."
Renumber: subsequent sections

28. Page 24, line 15.

Following: "resale."

Insert: "(1)"

29. Page 24, line 17.

Strike: "(1)"

Insert: "(a)"

30. Page 24, line 19.

Strike: "(2)"

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

31. Page 24, line 22.

Strike: "(3)"

Insert: "(c)"

32. Page 24.

Following: line 23

Insert: "(2) The requirement in subsection (1)(b) to separately state the value of the service purchased for resale does not apply to the sale of telephone services."

33. Page 24, line 25.

Following: "."

Insert: "(1)"

34. Page 25, line 3.

Strike: "(1)"

Insert: "(a)"

35. Page 25, line 5.

Strike: "(2)"

Insert: "(b)"

36. Page 25.

Following: line 7

Insert: "(2) For the purposes of this section, electrical energy or electricity used or consumed by electrolytic deposition used in the reduction or refinement of ores is considered a component part of the product."

37. Page 25, lines 10 and 11.

Strike: "other" on line 10 through "property," on line 11

38. Page 25, line 12.

Following: "homes"

Strike: ", "

Insert: "purchased in this state"

39. Page 25, line 17.

Strike: "or selling"

40. Page 25, line 18.

Strike: "leased"

Insert: "sold"

41. Page 25, line 24.

Following: line 23

Insert: "(1)"

42. Page 26, line 3.

~~Strike: "(1)"~~

~~Insert: "(a)"~~

43. Page 26, line 5.

Strike: "(2)"

Insert: "(b)"

44. Page 26.

Following: line 7

Insert: "(2) For the purposes of this section, the rental or lease by a person of a motion picture or a motion picture trailer for display on theater premises is considered a lease for subsequent lease."

45. Page 27, line 11 through page 28, line 1.

Strike: section 35 in its entirety

Renumber: subsequent sections

46. Page 38.

Following: line 11

Insert: "NEW SECTION. Section 51. Credit for taxes paid on
worthless accounts -- taxes paid if account collected. (1)
Sales taxes paid on an accrual basis by a person filing a
return under [section 50] on sales represented by accounts
found to be worthless and actually deducted by the person as
a bad debt for federal income tax purposes may be credited
on a subsequent payment of the tax.
(2) If the accounts are subsequently collected, the sales
tax must be paid on the amount collected."

Renumber: subsequent sections

47. Page 38, line 12.

Following: "(1)"

Insert: "(a)"

Strike: "A"

Insert: "Beginning April 1, 1994, and ending March 31, 1995, a"

48. Page 38, line 13.

Strike: "47"

Insert: "50"

49. Page 38, line 15.

Strike: "1.5%"

Insert: "3%"

50. Page 38, line 16.

Strike: "\$50"

Insert: "\$100"

51. Page 38, line 17.

Strike: "(2)"

Insert: "(b)"

Strike: "1.5%"

Insert: "3%"

52. Page 38, line 18.

Strike: "\$150"

Insert: "\$300"

53. Page 38, line 20.

Strike: "(3)"

Insert: "(c)"

54. Page 38.

Following: line 20

Insert: "(2)(a) Beginning April 1, 1995, and thereafter, a person filing a return under [section 50] may claim a monthly vendor allowance for each permitted location in the amount of 1.5% of the tax determined to be payable to the state or \$100 per month, whichever is less.

(b) A person filing a quarterly return may claim 1.5% of the tax determined to be payable to the state or \$300 per quarter, whichever is less.

(c) The allowance may be deducted on the return."

55. Page 48, line 22 through page 49, line 2.

Strike: "(a)" on page 48, line 22 through "the" on page 49, line 2

Insert: "The"

56. Page 51, lines 14 through 17.

Strike: "distributed" on line 14 through "further" on line 17

57. Page 54, line 25.

Strike: "\$200"

Insert: "\$150"

58. Page 55.

Following: line 25

Insert: "(4) A claimant who receives a residential property tax credit for the elderly under 15-30-171 through 15-30-179 is not entitled to receive the renters' property tax credit under [sections 67 through 74] for the same tax year."

59. Page 58, line 22.

Strike: "\$20,000"

Insert: "\$15,000"

60. Page 59.

Following: line 13

Insert: "(3) A claimant who receives a residential property tax credit for the elderly under 15-30-171 through 15-30-179 is not entitled to receive the homeowners' tax credit under [sections 75 through 82] for the same tax year."

61. Page 60, line 2 through page 61, line 2.

Strike: sections 79 and 80 in their entirety

Renumber: subsequent sections

62. Page 65, line 16 through page 73, line 7.
Strike: sections 86 and 87 in their entirety
Renumber: subsequent sections

63. Page 73, line 15.
Strike: "the receipts"
Insert: "sales"

64. Page 73, line 16.
Strike: "gross"

65. Page 73, line 17.
Strike: "receipts"
Insert: "sales"

66. Page 73, line 21.
Strike: "Receipts from dues"
Insert: "Dues"

67. Page 73, line 22.
Strike: "from"

68. Page 94, line 16 through page 96, line 13.
Strike: section 112 in its entirety
Insert: "Section 112. Section 20-9-406, MCA, is amended to read:

"20-9-406. Limitations on amount of bond issue. (1) (a) The Except as provided in subsection (1)(c), the maximum amount for which an elementary district or a high school district may become indebted by the issuance of bonds, including all indebtedness represented by outstanding bonds of previous issues and registered warrants, is 45% 49.5% of the taxable value of the property subject to taxation as ascertained by the last completed assessment for state, county, and school taxes previous to the incurring of the indebtedness, including:

(i) the taxable value of coal gross proceeds as determined for county bonding purposes in 15-23-703(2);

(ii) the taxable value of oil and gas net proceeds as determined for county bonding purposes in 15-23-607(3); and

(iii) the amount of the value of any other oil and gas production occurring after December 31, 1988, multiplied by 60%.

(b) The Except as provided in subsection (1)(c), the maximum amount for which a K-12 school district, as formed pursuant to 20-6-701, may become indebted by the issuance of bonds, including all indebtedness represented by outstanding bonds of previous issues and registered warrants, is up to 90% of the taxable value of the property subject to taxation as ascertained by the last-completed assessment for state, county,

and school taxes previous to the incurring of the indebtedness. The total indebtedness of the high school district with an attached elementary district ~~as represented by the issuance of bonds~~ must be limited to the sum of ~~45%~~ 49.5% of the taxable value of the property for elementary school program purposes and ~~45%~~ 49.5% of the taxable value of the property for high school program purposes.

(c) The maximum amount for which an elementary district or a high school district that qualifies for guaranteed tax base aid under the provisions of 20-9-367 may become indebted by the issuance of bonds, including all indebtedness represented by outstanding bonds of previous issues and registered warrants, is 49.5% of the corresponding statewide mill value per ANB times 1,000 times the ANB of the district. For a K-12 district, the maximum amount for which the district may become indebted is 49.5% of the sum of the statewide mill value per elementary ANB times 1,000 times the elementary ANB of the district and the statewide mill value per high school ANB times 1,000 times the high school ANB of the district.

(2) The maximum amounts determined in subsection (1), however, may not pertain to indebtedness imposed by special improvement district obligations or assessments against the school district or to bonds issued for the repayment of tax protests lost by the district. All bonds issued in excess of the amount are void, except as provided in this section.

(3) When the total indebtedness of a school district has reached the limitations prescribed in this section, the school district may pay all reasonable and necessary expenses of the school district on a cash basis in accordance with the financial administration provisions of this chapter.

(4) Whenever bonds are issued for the purpose of refunding bonds, any money to the credit of the debt service fund for the payment of the bonds to be refunded is applied toward the payment of the bonds and the refunding bond issue is decreased accordingly."

69. Page 98, line 17 through page 99, line 8.
Following: "(1)" on page 98, line 17

Strike: remainder of line 17 through page 99, line 8 in their entirety

Insert: "Prior to November 1 of each year, the department of revenue shall determine for each county the number of mills levied for the current tax year in each taxing jurisdiction levying mills against personal property."

70. Page 99, lines 9 through 11.

Following: "(2)" on line 9

Strike: the remainder of line 9 through line 10 in their entirety

Insert: "(a) The"

Following: "department" on line 11

Strike: "for"

Insert: "shall determine the amount of taxable value lost within"

Following: "county" on line 11

Strike: ":"

71. Page 99, lines 12 through 21.

Strike: lines 12 through 21 in their entirety

Insert: "because of the reduction in personal property tax rates for property included in class eight, class nine, and class ten, as those classes existed in 1989. The determination must be based on 1989 taxable values for class eight, class nine, and class ten property as reported to the department by each taxing jurisdiction that existed in 1989, less the taxable value for the same property in 1989 as determined by the 1991 tax rate for property included in 15-6-138.

(b) The department shall calculate the taxable value lost in a taxing jurisdiction as a result of a reduction in the taxable value rate in 15-6-145 that results from a reduction in taxable value of property under 15-6-138.

(c) The amount of reimbursement is calculated by multiplying the current year mill levy for each taxing jurisdiction times the total amount of taxable value lost as determined in subsections (2)(a) and (2)(b)."

72. Page 99, line 22 through page 100, line 3.

Following: "(3)" on line 22

Strike: the remainder of line 22 through "." on page 100, line 3

73. Page 100, lines 5 and 6.

Following: "(4)"

Strike: remainder of line 5 through the first "the" on line 6

Insert: "The"

Following: "treasurer" on line 6

Insert: "50% of"

Strike: "base"

74. Page 100, lines 8 through 12.

Strike: "(3)" on line 8 through "(a)" on line 9

Insert: "(2),"

Following: "November 30" on line 9

Strike: ", 1990"

Following: "and"

Strike: the remainder of line 9 through line 12 in their entirety

75. Page 100, lines 13 through 15.

Strike: "(b)" on line 13

Insert: "the remaining 50%"

Following: "May 31"

Strike: the remainder of line 13 through "county" on line 15

76. Page 100, line 16 through page 103, line 9.

Strike: subsections 5 through 9 in their entirety

Insert: "(5) Prior to December 31, 1993, for each county the department shall determine the following information for each taxing jurisdiction that was in existence in tax year 1993:

(a) the number of mills levied in each taxing jurisdiction for tax year 1993;

(b) the total taxable valuation for tax year 1993 of all property included in class eight; and

(c) the number of commercial parcels qualifying for market value reduction provided for in 15-6-134.

(6)(a)(i) Based on the information determined under section (5), the department shall calculate the revenue loss for each taxing jurisdiction because of the change in the tax rate provided for in 15-6-138 and the reduction in commercial property market value provided for in 15-6-134.

(ii) For purposes of this section, revenue loss for each taxing jurisdiction is:

(A) the taxable value of all class eight property computed at the statutory tax rate in effect for tax year 1993 less the taxable value of all class eight property computed at the tax rate provided for in 15-6-138; plus

(B) the number of commercial parcels qualifying for the market value reductions provided for in 15-6-134 times the maximum dollar amount of the reduction provided for in 15-6-134 times the taxable valuation rate of commercial property as provided for in 15-6-134;

(C) multiplied by the number of mills levied in the taxing jurisdiction for tax year 1993.

(b) The total revenue loss within each county is the sum of the revenue loss computed for each taxing jurisdiction in the county.

(7)(a) Prior to May 1, 1994, the department shall remit to each county treasurer 30% of the total reimbursement due under this section to compensate taxing jurisdictions for loss of revenue associated with class eight personal property not secured by real property. The county treasurer shall distribute the total reimbursement to each taxing jurisdiction as calculated by the department.

(b) The amount of reimbursement due from the state to each county for tax years 1994, 1995, and 1996 is the total revenue

loss calculated under subsections (5) and (6). The county treasurer shall distribute the total revenue loss to each taxing jurisdiction as calculated by the department.

(c) The amount of total reimbursement for each county for tax year 1997 and for each tax year thereafter is determined by using the formula $R = A \times (B/C) \times (D/E)$, where:

(A) "R" is the amount of reimbursement to be received by the county for the current tax year;

(B) "A" is the total statewide amount available for reimbursement and is determined by totaling the amount of reimbursement, "R", for all counties for the immediately preceding tax year. For tax year 1997, the total statewide amount available for reimbursement is the total revenue loss calculated in subsection (6) for all counties in tax year 1996.

(C) "B" is the statewide total of all sales taxes and use taxes collected in the tax year immediately preceding the current tax year;

(D) "C" is the statewide total of all sales taxes and use taxes collected in the tax year prior to the tax year immediately preceding the current tax year;

(E) "D" is the total taxable value of all commercial property in class four and all property in class eight within the county during the tax year immediately preceding the current tax year; and

(F) "E" is the total taxable value of all commercial property in class four and all property in class eight in the state during the tax year immediately preceding the current tax year.

(8) Funds appropriated from the sales tax and use tax account for reimbursements calculated under subsections (5) through (7) for tax year 1994 and subsequent tax years must be remitted to the county treasurer as follows:

(a) on or before November 30, 1994, and on or before each November 30 thereafter, the department shall remit 50% of the amount of the revenue reimbursable to the county; and

(b) on or before May 31, 1995, and on or before each May 31 thereafter, the department shall remit 50% of the amount of the revenue reimbursable to the county.

(9)(a) Upon receipt of the reimbursement provided for in subsections (1) through (4), the county treasurer shall distribute the reimbursement to each taxing jurisdiction as calculated by the department.

(b) For tax year 1997 and subsequent years, upon receipt of the reimbursements from the department, the county treasurer of each county shall distribute the reimbursement to each taxing jurisdiction in the relative proportion determined under the total calculations provided by the department for tax year 1996.

(10) For the purposes of this section, "taxing jurisdiction" means the state of Montana; local governments, including counties and incorporated cities and towns, school districts, and tax increment financing districts; and miscellaneous taxing jurisdictions levying mills against property being reimbursed under this section.

(11)(a) For distributions made pursuant to subsection (9), the creation and dissolution of taxing jurisdictions are treated as follows:

(i) A taxing jurisdiction that existed in tax year 1989 and that no longer exists is not entitled to reimbursement.

(ii) Taxing jurisdictions that are combined into a single taxing jurisdiction are entitled to reimbursement based on the combined proportion of those jurisdictions in tax year 1989.

(iii) A taxing jurisdiction that existed in tax year 1989 and that is now split into two or more taxing jurisdictions is entitled to reimbursement based on the proportion of 1989 taxable value within each new taxing jurisdiction. The department shall determine the proportion of 1989 taxable value located in each taxing jurisdiction.

(iv) A taxing jurisdiction that did not exist in tax year 1989 is not entitled to reimbursement under subsection (9) unless the jurisdiction was created as described in subsection (11)(a)(iii).

(b) For distributions made pursuant to subsections (5) through (7), the creation and dissolution of taxing jurisdictions after tax year 1993 are treated as follows:

(i) Taxing jurisdictions that existed in tax year 1993 that no longer exist in subsequent tax years and that are not combined with another taxing jurisdiction are no longer entitled to reimbursement. The reimbursement for a taxing jurisdiction that no longer exists must be prorated across all remaining jurisdictions in the relative proportions that would have existed in tax year 1993 had the jurisdiction not been in existence in that year.

(ii) Taxing jurisdictions that are combined into a single taxing jurisdiction are entitled to reimbursement based on the combined proportion of those jurisdictions in tax year 1993.

(iii) Taxing jurisdictions created as a result of splitting an existing jurisdiction are entitled to a share of the original reimbursement based on the relative proportion of all property in class eight and commercial property in class four within each of the newly created jurisdictions in the tax year that the new jurisdictions are created.

(iv) Taxing jurisdictions that did not exist in tax year 1993 are not entitled to reimbursement under subsection (9) unless created as described in subsection (11)(b)(iii)."
Renumber: subsequent subsection

77. Page 108, line 23.

Following: "(4)"

Insert: "(a)"

78. Page 109.

Following: line 3

Insert: "(b) To qualify for the reduction in market value in subsection (4)(a), the owner must be a Montana resident for individual income tax purposes or a corporation organized within Montana."

79. Page 110, line 19.

Strike: "3.86%"

Insert: "4.5%"

80. Page 114, line 3.

Strike: "(6)(d)"

Insert: "(8)(a)"

81. Page 114, line 19.

Following: ";"

Insert: "and"

82. Page 114, lines 20 through 22.

Strike: subsection (h) in its entirety

Renumber: subsequent subsection

83. Page 124, line 10.

Strike: "and"

Insert: ", "

84. Page 124, line 11.

Following: "program"

Insert: ", and payment of retirement fund obligations; payment of debt service,"

85. Page 124, line 17.

Following: "program,"

Insert: "retirement fund obligations, debt service,"

86. Page 126, line 7 through 131, line 2.

Strike: section 126 in its entirety

Insert: "Section 126. Section 20-9-344, MCA, is amended to read:

"20-9-344. Purpose of state equalization aid and duties of board of public education for distribution. (1) The money available for state equalization aid must be distributed and apportioned to provide:

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

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

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

(a) adopt policies for regulating the distribution of state equalization aid and state advances for county equalization in accordance with the provisions of law;

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

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

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

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

(b) maintain accredited status.

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

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

(6) Except as provided in 20-9-347(3), the foundation program payment and guaranteed tax base aid payment must be distributed according to the following schedule:

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

(b) in November of the school fiscal year, one-half of the guaranteed tax base aid payment and one-half of the state retirement obligation payment to each district or county;

(c) in May of the school fiscal year, the remainder of the guaranteed tax base aid payment and one-half of the state retirement obligation payment to each district or county; and

(d) in June of:

(i) the 1993 school fiscal year, one-half of the remaining foundation program payment of each district and on July 15, 1993, the remaining school fiscal year 1993 foundation program payment of each district; and

(ii) the school fiscal year, the remaining foundation program payment to each district.

(7) The distribution of foundation program payments and guaranteed tax base aid provided for in subsection (6) must occur by the last working day of each month.

Section 127. Section 20-9-346, MCA, is amended to read:

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

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

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

(3) keeping a record of the full and complete data concerning money available for state equalization aid, state advances for county equalization, and the entitlements for state equalization aid of the districts of the state;

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

- (5) reporting to the legislature as provided in 5-11-210:
- (a) the figures and data available concerning distributions of state equalization aid during the preceding 2 school fiscal years;
 - (b) the amount of state equalization aid then available;
 - (c) the apportionment made of the available money but not yet distributed;
 - (d) the latest estimate of accruals of money available for state equalization aid; and
 - (e) the amount of state advances and repayment for county equalization."

Section 128. Section 20-9-347, MCA, is amended to read:

"20-9-347. Formula for state equalization aid apportionment in support of foundation program and retirement -- exceptions.

(1) The superintendent of public instruction shall apportion the state equalization aid available for support of the foundation program, individually for the elementary districts of a county or the high school districts of a county, in accordance with 20-9-346 and on the basis of the following procedure:

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

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

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

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

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

(2) The superintendent of public instruction shall also apportion state equalization aid to each district in support of the district's retirement fund obligations. The superintendent of public instruction shall adopt rules to ensure that for school fiscal year 1995 and succeeding years, each district receives retirement equalization aid equal to the full amount required by the elementary districts and high school districts in the county.

~~(2)~~(3) The superintendent of public instruction shall:

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

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

(c) adopt rules to implement the provisions of subsection ~~(2)~~(b) (3)(b).

~~(3)~~(4) (a) The superintendent of public instruction is authorized to adjust the schedule prescribed in 20-9-344 for distribution of the foundation program and guaranteed tax base aid payments if the distribution will cause a district to register warrants under the provisions of 20-9-212(9).

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

Section 129. Section 20-9-351, MCA, is amended to read:

"20-9-351. Funding of deficiency in state equalization aid. If the money available for state equalization aid is not the result of a reduction in spending under 17-7-140 and is not sufficient to provide the foundation program schedule support determined in 20-9-348, and the guaranteed tax base aid required under 20-9-366 through 20-9-369, and the retirement fund support required under 20-9-347, the superintendent of public instruction shall request the budget director to submit a request for a supplemental appropriation in the second year of the biennium that is sufficient to complete the funding of guaranteed tax base

aid retirement and the foundation programs of the elementary or secondary schools, or both, for the current biennium."

Section 130. Section 20-9-366, MCA, is amended to read:

"20-9-366. Definitions. As used in 20-9-366 through 20-9-369, the following definitions apply:

~~(1) "County retirement mill value per elementary ANB" or "county retirement mill value per high school ANB" means the sum of the taxable valuation in the previous year of all property in the county divided by 1,000, with the quotient divided by the total county elementary ANB count or the total county high school ANB count used to calculate the elementary school districts' and high school districts' current year foundation program amounts.~~

~~(2)(1)~~ "District mill value per ANB" means the taxable valuation in the previous year of all property in the district divided by 1,000, with the quotient divided by the ANB count of the district used to calculate the district's current year foundation program amount.

~~(3)(2)~~ "Permissive amount" means that portion of a district's general fund budget in excess of the foundation program amount for the district, as provided in 20-9-316 through 20-9-321, but not exceeding 35% of the district's foundation program amount, and which excess is authorized under the provisions of 20-9-145 and 20-9-353.

~~(4)(3)~~ "Statewide mill value per elementary ANB" or "statewide mill value per high school ANB", for permissive and retirement debt service guaranteed tax base purposes, means the sum of the taxable valuation in the previous year of all property in the state, multiplied by 121% and divided by 1,000, with the quotient divided by the total state elementary ANB count or the total state high school ANB amount used to calculate the elementary school districts' and high school districts' current year foundation program amounts."

Section 131. Section 20-9-367, MCA, is amended to read:

"20-9-367. Eligibility to receive guaranteed tax base aid.

~~(1)~~ If the district mill value per ANB of any elementary or high school district is less than the corresponding statewide district mill value per elementary ANB or high school ANB, the district may receive guaranteed tax base aid based on the number of mills levied in the district in support of its permissive amount of the general fund budget and its debt service fund.

~~(2)~~ If the county retirement mill value per elementary ANB or county retirement mill value per high school ANB is less than the corresponding statewide county mill value per elementary ANB or high school ANB, the county may receive guaranteed tax base aid based on the number of mills levied in the county in support of the retirement fund budgets of the respective elementary or

~~high school districts in the county."~~

Section 132. Section 20-9-368, MCA, is amended to read:

"20-9-368. Amount of guaranteed tax base aid -- reversion.

~~(1) The amount of guaranteed tax base aid per ANB that a county may receive in support of the retirement fund budgets of the elementary school districts in the county is the difference between the county mill value per elementary ANB and the statewide county mill value per elementary ANB, multiplied by the number of mills levied in support of the retirement fund budgets for the elementary districts in the county.~~

~~(2) The amount of guaranteed tax base aid per ANB that a county may receive in support of the retirement fund budgets of the high school districts in the county is the difference between the county mill value per high school ANB and the statewide county mill value per high school ANB, multiplied by the number of mills levied in support of the retirement fund budgets for the high school districts in the county.~~

~~(3)(1) The amount of guaranteed tax base aid per ANB that a district may receive in support of its permissive amount of the general fund budget is the difference between the district mill value per ANB and the corresponding statewide district mill value per ANB, multiplied by the number of mills levied in support of the district's permissive amount of the general fund budget.~~

~~(2) The amount of guaranteed tax base aid per ANB that a district may receive in support of its debt service fund budget is the difference between the district mill value per ANB and the corresponding statewide mill value per ANB, multiplied by the number of mills levied in support of the district's debt service fund budget.~~

~~(4)(3) Guaranteed tax base aid provided to any county or district under this section is earmarked to finance the fund or portion of the fund for which it is provided. If the actual expenditures from the fund or portion of the fund for which guaranteed tax base aid is earmarked are less than the amount budgeted, the guaranteed tax base aid reverts in proportion to the amount budgeted but not expended. If a county or district receives more guaranteed tax base aid than it is entitled to, the excess must be returned to the state as required by 20-9-344."~~

Section 133. Section 20-9-369, MCA, is amended to read:

"20-9-369. Duties of superintendent of public instruction and department of revenue. (1) The superintendent of public instruction shall administer the distribution of guaranteed tax base aid by:

(a) providing each school district and county superintendent, by March 1 of each year, with the preliminary statewide and county district mill values per ANB and, by May 1

of each year, with the final statewide, ~~and district, and county~~ mill values per ANB, for use in calculating the guaranteed tax base aid available for the ensuing school fiscal year;

(b) requiring each ~~county and~~ district that qualifies and applies for guaranteed tax base aid to report to the county superintendent all budget and accounting information required to administer the guaranteed tax base aid;

(c) keeping a record of the complete data concerning appropriations available for guaranteed tax base aid and the entitlements for such aid of the ~~counties and~~ districts that qualify;

(d) distributing the guaranteed tax base aid entitlement to each qualified ~~county or~~ district from the appropriations for that purpose.

(2) The superintendent shall adopt rules necessary to implement 20-9-366 through 20-9-369.

(3) The department of revenue shall provide the superintendent of public instruction by December 1 of each year a final determination of the taxable value of property within each school district and county of the state reported to the department of revenue based on information delivered to the county clerk and recorder as required in 15-10-305."

Section 134. Section 20-9-439, MCA, is amended to read:

"20-9-439. Computation of net levy requirement -- procedure when levy inadequate. (1) The county superintendent shall compute the levy requirement for each school district's debt service fund on the basis of the following procedure:

(a) ~~determine~~ Determine the total money available in the debt service fund for the reduction of the property tax on the district by totaling:

- (i) the end-of-the-year fund balance in the debt service fund, less any limited operating reserve as provided in 20-9-438;

- (ii) anticipated interest to be earned by the investment of debt service cash in accordance with the provisions of 20-9-213(4) or by the investment of bond proceeds under the provisions of 20-9-435; and

(iii) any other money, including money from federal sources, anticipated by the trustees to be available in the debt service fund during the ensuing school fiscal year from such sources as legally authorized money transfers into the debt service fund or from rental income, excluding any guaranteed tax base aid.

(b) the Subtract the total amount available to reduce the property tax, determined in subsection (1)(a), must be subtracted from the final budget expenditure amount for the debt service fund as established in 20-9-438.

(c) Determine the number of mills to be levied on the taxable property in the district to finance the net debt service

fund levy requirement by dividing the remainder determined in subsection (1)(b) by the sum of:

(i) the amount of guaranteed tax base aid that the district will receive for each mill levied, as certified by the superintendent of public instruction; and

(ii) the taxable valuation of the district divided by 1,000.

(2) the The net debt service fund levy requirement determined in subsection (1)(b) (1)(c) must be reported to the county commissioners on the second Monday of August by the county superintendent as the net debt service fund levy requirement for the district, and a levy must be made by the county commissioners in accordance with 20-9-142.

(2)(3) If the board of county commissioners fails in any school fiscal year to make a levy for any issue or series of bonds of a school district sufficient to raise the money necessary for payment of interest and principal becoming due during the next ensuing school fiscal year, in any amounts established under the provisions of this section, the holder of any bond of the issue or series or any taxpayer of the district may apply to the district court of the county in which the school district is located for a writ of mandate to compel the board of county commissioners of the county to make a sufficient levy for such purposes. If, upon the hearing of the application, it appears to the satisfaction of the court that the board of county commissioners of the county has failed to make a levy or has made a levy that is insufficient to raise the amount required to be raised as established in the manner provided in this section, the court shall determine the amount of the deficiency and shall issue a writ of mandate directed to and requiring the board of county commissioners, at the next meeting for the purpose of fixing tax levies for county purposes, to fix and make a levy against all taxable property in the school district that is sufficient to raise the amount of the deficiency. The levy is in addition to any levy required to be made at that time for the ensuing school fiscal year. Any costs that may be allowed or awarded the petitioner in the proceeding must be paid by the members of the board of county commissioners and may not be a charge against the school district or the county."

Section 135. Section 20-9-501, MCA, is amended to read:

"20-9-501. Retirement fund. (1) The trustees of a district employing personnel who are members of the teachers' retirement system or the public employees' retirement system or who are covered by unemployment insurance or who are covered by any federal social security system requiring employer contributions shall establish a retirement fund for the purposes of budgeting and paying the employer's contributions to the systems. The district's contribution for each employee who is a member of the

teachers' retirement system must be calculated in accordance with Title 19, chapter 4, part 6. The district's contribution for each employee who is a member of the public employees' retirement system must be calculated in accordance with 19-3-801. The district's contributions for each employee covered by any federal social security system must be paid in accordance with federal law and regulation. The district's contribution for each employee who is covered by unemployment insurance must be paid in accordance with Title 39, chapter 51, part 11.

(2) The trustees of a district required to make a contribution to a system referred to in subsection (1) shall include in the retirement fund of the preliminary budget the estimated amount of the employer's contribution. After the final retirement fund budget has been adopted, the trustees shall pay the employer contributions to the systems in accordance with the financial administration provisions of this title.

(3) When the final retirement fund budget has been adopted, the county superintendent shall establish the levy requirement amount of the state obligation by:

(a) determining the sum of the money available to reduce the retirement fund levy requirement amount of the state obligation by adding:

~~(i) any anticipated money that may be realized in the retirement fund during the ensuing school fiscal year, including 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;~~

~~(ii) net proceeds taxes and local government severance taxes on any other oil and gas production occurring after December 31, 1988;~~

~~(iii) coal gross proceeds taxes under 15-23-703;~~

~~(iv)~~ (i) any fund balance available for reappropriation as determined by subtracting the amount of the end-of-the-year fund balance earmarked as the retirement fund operating reserve for the ensuing school fiscal year by the trustees from the end-of-the-year fund balance in the retirement fund. The retirement fund operating reserve may not be more than 35% of the final retirement fund budget for the ensuing school fiscal year and must be used for the purpose of paying retirement fund warrants issued by the district under the final retirement fund budget. 7 and

~~(v)~~ (ii) any other revenue anticipated that may be realized in the retirement fund during the ensuing school fiscal year, excluding any guaranteed tax base aid;

(b) notwithstanding the provisions of subsection (8), subtracting the money available for reduction of the levy requirement state obligation, as determined in subsection (3)(a), from the budgeted amount for expenditures in the final retirement

fund budget.

(4) The county superintendent shall:

(a) total the net retirement fund levy requirements the amount of the state obligation separately for all elementary school districts, including any joint district located in the county, all high school districts, and all community college districts of the county, including any prorated joint district or special education cooperative agreement levy requirements; and

(b) report each levy requirement the amount of the state obligation to the county commissioners superintendent of public instruction in the same manner as provided in 20-9-134 on the second Monday of August as the respective county levy requirements for elementary district, and high school district, retirement funds and report to the board of regents in the same manner as provide in 20-9-134 the amount of the state obligation for community college district retirement funds.

(5) The superintendent of public instruction shall pay the state obligation amounts determined in subsection (4) to each county according the distribution schedule provided in 20-9-344.

~~(5) The county commissioners shall fix and set the county levy in accordance with 20-9-142.~~

~~(6) The net retirement fund levy requirement for a joint elementary district or a joint high school district must be prorated to each county in which a part of the district is located in the same proportion as the district ANB of the joint district is distributed by pupil residence in each county. The county superintendents of the counties affected shall jointly determine the net retirement fund levy requirement for each county as provided in 20-9-151.~~

~~(7) The net retirement fund levy requirement for districts that are members of special education cooperative agreements must be prorated to each county in which the district is located in the same proportion as the special education cooperative budget is prorated to the member school districts. The county superintendents of the counties affected shall jointly determine the net retirement fund levy requirement for each county in the same manner as provided in 20-9-151 and the county commissioners shall fix and levy the net retirement fund levy for each county in the same manner as provided in 20-9-152.~~

~~(8) The county superintendent shall calculate the number of mills to be levied on the taxable property in the county to finance the retirement fund net levy requirement by dividing the amount determined in subsection (4)(a) by the sum of:~~

~~(a) the amount of guaranteed tax base aid that the county will receive for each mill levied, as certified by the superintendent of public instruction; and~~

~~(b) the taxable valuation of the district divided by 1,000."~~

Section 136. Section 20-6-702, MCA, is amended to read:

"20-6-702. Funding for K-12 school districts. (1)

Notwithstanding the provisions of subsections (2) through ~~(6)~~ (5), a K-12 school district formed under the provisions of 20-6-701 is subject to the provisions of law for high school districts.

(2) The number of elected trustees of the K-12 school district must be based on the classification of the attached elementary district under the provisions of 20-3-341 and 20-3-351.

(3) Calculations for the following must be made separately for the elementary school program and the high school program of a K-12 school district:

(a) the calculation of ANB for purposes of determining the foundation program schedule payments must be in accordance with the provisions of 20-9-311;

(b) the basic county tax and revenues for the elementary foundation program amount for the district must be determined in accordance with the provisions of 20-9-331, and the basic special tax and revenues for the high school foundation program amount for the district must be determined in accordance with 20-9-333; and

(c) the guaranteed tax base aid for the permissive levy amount for a K-12 school district must be calculated separately, using the mill value per elementary ANB and the mill value per high school ANB as defined in 20-9-366. The permissive amount to be levied for the K-12 school district must be prorated based on the ratio of the foundation program amounts for elementary school programs to the foundation program amounts for high school programs.

~~(4) The retirement obligation and eligibility for retirement guaranteed tax base aid for a K-12 school district must be calculated and funded as a high school district retirement obligation under the provisions of 20-9-501.~~

~~(5)~~(4) For the purposes of budgeting for a K-12 school district, the trustees shall adopt a single fund for any of the budgeted or nonbudgeted funds described in 20-9-201 for the costs of operating all grades and programs of the district.

~~(6)~~(5) Tuition for attendance in the K-12 school district must be determined separately for high school pupils and for elementary pupils under the provisions of chapter 5, part 3, except that the actual expenditures used for calculations in 20-5-305 and 20-5-312 must be based on an amount prorated between the elementary and high school programs in the appropriate funds of each district in the year prior to the attachment of the districts."

Section 137. Section 20-10-141, MCA, is amended to read:

"20-10-141. Schedule of maximum reimbursement by mileage rates. (1) The following mileage rates for school transportation constitute the maximum reimbursement to districts for school transportation from state and county sources of transportation revenue under the provisions of 20-10-145 and ~~20-10-146~~. These Except as provided in 20-10-143, the rates may not limit the amount that a district may budget in its transportation fund budget in order to provide for the estimated and necessary cost of school transportation during the ensuing school fiscal year. All bus miles traveled on routes approved by the county transportation committee are reimbursable. Nonbus mileage is reimbursable for a vehicle driven by a bus driver to and from an overnight location of a school bus when the location is more than 10 miles from the school. A district may approve additional bus or nonbus miles within its own district or approved service area but may not claim reimbursement for the mileage. Any vehicle, the operation of which is reimbursed for bus mileage under the rate provisions of this schedule, must be a school bus, as defined by this title, driven by a qualified driver on a bus route approved by the county transportation committee and the superintendent of public instruction.

(2) The rate per bus mile traveled must be determined in accordance with the following schedule when the number of eligible transportees that board a school bus on an approved route is not less than one-half of its rated capacity:

- (a) 85 cents per bus mile for a school bus with a rated capacity of not less than 12 but not more than 45 children; and
- (b) when the rated capacity is more than 45 children, an additional 2.13 cents per bus mile for each additional child in the rated capacity in excess of 45 must be added to a base rate of 85 cents per bus mile.

(3) Reimbursement for nonbus mileage provided for in subsection (1) may not exceed 50% of the maximum reimbursement rate determined under subsection (2).

(4) When the number of eligible transportees boarding a school bus on an approved route is less than one-half of its rated capacity, the rate per bus mile traveled must be computed as follows:

- (a) determine the number of eligible transportees that board the school bus on the route;
- (b) multiply the number determined in subsection (4)(a) by two and round off to the nearest whole number; and
- (c) use the adjusted rated capacity determined in subsection (4)(b) as the rated capacity of the bus to determine the rate per bus mile traveled from the rate schedule in subsection (2).

(5) The rated capacity is the number of riding positions of a school bus as determined under the policy adopted by the board of public education."

Section 138. Section 20-10-142, MCA, is amended to read:

"20-10-142. Schedule of maximum reimbursement for individual transportation. The following rates for individual transportation constitute the maximum reimbursement to districts for individual transportation from state ~~and county sources of~~ transportation revenue under the provisions of 20-10-145 and ~~20-10-146~~. These rates also ~~shall~~ constitute the limitation of the budgeted amounts for individual transportation for the ensuing school fiscal year. The schedules provided in this section ~~shall~~ may not be altered by any authority other than the legislature of the state of Montana. When the trustees contract with the parent or guardian of any eligible transportee to provide individual transportation for each day of school attendance, they shall reimburse the parent or guardian on the basis of the following schedule:

(1) When a parent or guardian transports an eligible transportee or transportees from the residence of the parent or guardian to a school or to schools located within 3 miles of one another, the total reimbursement per day of attendance ~~shall~~ must be determined by multiplying the distance in miles between the residence and the school, or the most distant school if more than one, by 2, subtracting 6 miles from the product so obtained, and multiplying the difference by 21.25 cents provided that:

(a) if two or more eligible transportees are transported by a parent or guardian to two or more schools located within 3 miles of one another and if such schools are operated by different school districts, the total amount of the reimbursement ~~shall~~ must be divided equally between the districts;

(b) if two or more eligible transportees are transported by a parent or guardian to two or more schools located more than 3 miles from one another, the parent or guardian ~~shall~~ must be separately reimbursed for transporting the eligible transportee or transportees to each school;

(c) if a parent transports two or more eligible transportees to a school and a bus stop which school and bus stop are located within 3 miles of one another, the total reimbursement ~~shall~~ must be determined under the provisions of this subsection and ~~shall~~ must be divided equally between the district operating the school and the district operating the bus;

(d) if a parent transporting two or more eligible transportees to a school or bus stop must, because of varying arrival and departure times, make more than one round-trip journey to the bus stop or school, the total reimbursement allowed by this section ~~shall~~ must be limited to one round trip per day for each scheduled arrival or departure time;

(e) notwithstanding subsection (1)(a), (1)(b), (1)(c), or (1)(d), no a reimbursement may not be less than 25 cents a day.

(2) When the parent or guardian transports an eligible transportee or transportees from the residence to a bus stop of a bus route approved by the trustees for the transportation of the transportee or transportees, the total reimbursement per day of attendance ~~shall~~ must be determined by multiplying the distance in miles between the residence and the bus stop by 2, subtracting 3 miles from the product so obtained, and multiplying the difference by 22.5 cents provided that:

(a) if the eligible transportees transported attend schools in different districts but ride on one bus, the districts shall divide the total reimbursement equally; and

(b) if the parent or guardian is required to transport the eligible transportees to more than one bus, the parent or guardian ~~shall~~ must be separately reimbursed for transportation to each bus.

(3) Where, due to excessive distances, impassable roads, or other special circumstances of isolation the rates prescribed in subsection (1) or (2) would be an inadequate reimbursement for the transportation costs or would result in a physical hardship for the eligible transportee, his the transportee's parent or guardian may request an increase in the reimbursement rate. Such ~~a~~ A request for increased rates due to isolation ~~shall~~ must be made by the parent or guardian on the contract for individual transportation for the ensuing school fiscal year by indicating the special facts and circumstances which exist to justify the increase. Before any increased rate due to isolation ~~can~~ may be paid to the requesting parent or guardian, ~~such~~ the rate must be approved by the county transportation committee and the superintendent of public instruction after the trustees have indicated their approval or disapproval. Regardless of the action of the trustees and when approval is given by the county transportation committee and the superintendent of public instruction, the trustees shall pay ~~such~~ the increased rate due to isolation. The increased rate ~~shall~~ must be $1\frac{1}{2}$ times the rate prescribed in subsection (1) above.

(4) When the isolated conditions of the household where an eligible transportee resides require ~~such~~ the eligible transportee to live away from the household in order to attend school, ~~he shall be the transportee is~~ the transportee is eligible for the room and board reimbursement. Approval to receive the room and board reimbursement ~~shall~~ must be obtained in the same manner prescribed in subsection (3) above. The per diem rate for room and board ~~shall be~~ is \$5.31 for one eligible transportee and \$3.19 for each additional eligible transportee of the same household.

(5) When the individual transportation provision is to be satisfied by supervised home study or supervised correspondence study, the reimbursement rate ~~shall~~ must be the cost of such study, provided that the course of instruction is approved by the trustees and supervised by the district."

Section 139. Section 20-10-144, MCA, is amended to read:

"20-10-144. Computation of revenues and net tax levy requirements for district transportation fund budget. Before the fourth Monday of July and in accordance with 20-9-123, the county superintendent shall compute the revenue available to finance the transportation fund budget of each district. The county superintendent shall compute the revenue for each district on the following basis:

(1) The "schedule amount" of the preliminary budget expenditures that is derived from the rate schedules in 20-10-141 and 20-10-142 must be determined by adding the following amounts:

(a) the sum of the maximum reimbursable expenditures for all approved school bus routes maintained by the district (to determine the maximum reimbursable expenditure, multiply the applicable rate per bus mile by the total number of miles to be traveled during the ensuing school fiscal year on each bus route approved by the county transportation committee and maintained by such district); plus

(b) the total of all individual transportation per diem reimbursement rates for the district as determined from the contracts submitted by the district multiplied by the number of pupil-instruction days scheduled for the ensuing school attendance year; plus

(c) any estimated costs for supervised home study or supervised correspondence study for the ensuing school fiscal year; plus

(d) the amount budgeted on the preliminary budget for the contingency amount permitted in 20-10-143, except if the amount exceeds 10% of the total of subsections (1)(a), (1)(b), and (1)(c), the transportation fund budget limitation provided for in 20-10-143, or \$100, whichever is larger largest, the contingency amount on the preliminary budget must be reduced to the limitation amount and used in this determination of the schedule amount.

(2) ~~(a) The schedule amount determined in subsection (1) or the total preliminary transportation fund budget, whichever is smaller, is divided by 2 and is used to determine the available state and county revenue to be budgeted. on the following basis:~~

~~(i) one half is the budgeted state transportation reimbursement, except that the state transportation reimbursement for the transportation of special education pupils under the provisions of 20-7-442 must be 50% of the schedule amount~~

~~attributed to the transportation of special education pupils; and~~
~~(ii) one half is the budgeted county transportation fund~~
~~reimbursement and must be financed in the manner provided in 20-~~
~~10-146.~~

~~(b)(3)~~ When the district has a sufficient amount of cash for reappropriation and other sources of district revenue, as determined in subsection ~~(3)~~ (4), to reduce the total district obligation for financing to zero, any remaining amount of district revenue and cash reappropriated must be used to reduce the county financing obligation in subsection (2)(a)(ii) and, if the county financing obligations are reduced to zero, to reduce the state financial obligation in subsection (2)(a)(i).

~~(c)~~ The county revenue requirement for a joint district, after the application of any district money under subsection (2)(b), must be prorated to each county incorporated by the joint district in the same proportion as the ANB of the joint district is distributed by pupil residence in each county the state financial obligation in 20-10-145.

~~(3)~~(4) The total of the money available for the reduction of property tax on the district for the transportation fund must be determined by totaling:

(a) anticipated federal money received under the provisions of Title I of Public Law 81-874 or other anticipated federal money received in lieu of that federal act;

(b) anticipated payments from other districts for providing school bus transportation services for the district;

(c) anticipated payments from a parent or guardian for providing school bus transportation services for his child;

(d) anticipated or reappropriated interest to be earned by the investment of transportation fund cash in accordance with the provisions of 20-9-213(4);

(e) anticipated or reappropriated 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;

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

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

(h) sales tax and use tax revenue distributed under [section 66];

~~(h)~~(i) any other revenue anticipated by the trustees to be earned during the ensuing school fiscal year that may be used to finance the transportation fund; and

~~(i)~~(j) any fund balance available for reappropriation as determined by subtracting the amount of the end-of-the-year fund balance earmarked as the transportation fund operating reserve for the ensuing school fiscal year by the trustees from the end-

of-the-year fund balance in the transportation fund. The operating reserve may not be more than 20% of the final transportation fund budget for the ensuing school fiscal year and is for the purpose of paying transportation fund warrants issued by the district under the final transportation fund budget.

~~(4)~~(5) The district levy requirement for each district's transportation fund must be computed by:

(a) subtracting the schedule amount calculated in subsection (1) from the total preliminary transportation budget amount; and

(b) subtracting the amount of money available to reduce the property tax on the district, as determined in subsection ~~(3)~~ (4), from the amount determined in subsection ~~(4)~~(a) (5)(a).

~~(5)~~(6) The transportation fund levy requirements determined in subsection ~~(4)~~ (5) for each district must be reported to the county commissioners on the second Monday of August by the county superintendent as the transportation fund levy requirements for the district, and the levy must be made by the county commissioners in accordance with 20-9-142."

Section 140. Section 20-10-145, MCA, is amended to read:

"20-10-145. State transportation reimbursement. (1) A district providing school bus transportation or individual transportation in accordance with this title, board of public education transportation policy, and superintendent of public instruction transportation rules must receive a state reimbursement of its transportation expenditures under the transportation reimbursement rate provisions of 20-10-141 and 20-10-142. The state transportation reimbursement is ~~one-half~~ 100% of the reimbursement amounts established in 20-10-141 and 20-10-142 or ~~one-half~~ 100% of the district's transportation fund budget, whichever is smaller, and must be computed on the basis of the number of days the transportation services were actually rendered, not to exceed 180 pupil-instruction days. In determining the amount of the state transportation reimbursement, an amount claimed by a district may not be considered for reimbursement unless the amount has been paid in the regular manner provided for the payment of other financial obligations of the district.

(2) Requests for the state transportation reimbursement must be made by each district semiannually during the school fiscal year on the claim forms and procedure promulgated by the superintendent of public instruction. The claims for state transportation reimbursements must be routed by the district to the county superintendent, who after reviewing the claims shall send them to the superintendent of public instruction. The superintendent of public instruction shall establish the validity and accuracy of the claims for the state transportation reimbursements by determining compliance with this title, board

of public education transportation policy, and the transportation rules of the superintendent of public instruction. After making any necessary adjustments to the claims, the superintendent of public instruction shall order a disbursement from the state money appropriated by the legislature of the state of Montana for the state transportation reimbursement. The payment of all the district's claims within one county must be made to the county treasurer of the county, and the county superintendent shall apportion the payment in accordance with the apportionment order supplied by the superintendent of public instruction."

Section 141. Section 17-3-213, "MCA, is amended to read:

"17-3-213. Allocation to general road fund and countywide school levies. (1) The forest reserve funds so apportioned to each county must be apportioned by the county treasurer in each county as follows:

(a) to the general road fund, 66 2/3% of the total amount received;

(b) to the following countywide school levies, 33 1/3% of the total sum received:

(i) county equalization for elementary schools provided for in 20-9-331; and

(ii) county equalization for high schools provided for in 20-9-333;

~~(iii) the county transportation fund provided for in 20-10-146; and~~

~~(iv) the elementary and high school district retirement fund obligations provided for in 20-9-501.~~

(2) The apportionment of money to the funds provided for under subsection (1)(b) must be made by the county superintendent based on the proportion that the mill levy of each fund bears to the total number of mills for all the funds. Whenever the total amount of money available for apportionment under this section is greater than the total requirements of a levy, the excess money and any interest income must be retained in a separate reserve fund, to be reapportioned in the ensuing school fiscal year to the levies designated in subsection (1)(b).

(3) In counties in which special road districts have been created according to law, the board of county commissioners shall distribute a proportionate share of the 66 2/3% of the total amount received for the general road fund to the special road districts within the county based upon the percentage that the total area of the road district bears to the total area of the entire county."

Section 142. Section 20-3-205, MCA, is amended to read:

"20-3-205. Powers and duties. The county superintendent has general supervision of the schools of the county within the

limitations prescribed by this title and shall perform the following duties or acts:

(1) determine, establish, and reestablish trustee nominating districts in accordance with the provisions of 20-3-352, 20-3-353, and 20-3-354;

(2) administer and file the oaths of members of the boards of trustees of the districts in his county in accordance with the provisions of 20-3-307;

(3) register the teacher or specialist certificates or emergency authorization of employment of any person employed in the county as a teacher, specialist, principal, or district superintendent in accordance with the provisions of 20-4-202;

(4) act on each tuition application submitted to him in accordance with the provisions of 20-5-301, 20-5-302, 20-5-304, and 20-5-311 and transmit the tuition information required by 20-5-312;

(5) file a copy of the audit report for a district in accordance with the provisions of 20-9-203;

(6) classify districts in accordance with the provisions of 20-6-201 and 20-6-301;

(7) keep a transcript and reconcile the district boundaries of the county in accordance with the provisions of 20-6-103;

(8) fulfill all responsibilities assigned to him under the provisions of this title regulating the organization, alteration, or abandonment of districts;

(9) act on any unification proposition and, if approved, establish additional trustee nominating districts in accordance with 20-6-312 and 20-6-313;

(10) estimate the average number belonging (ANB) of an opening school in accordance with the provisions of 20-6-502, 20-6-503, 20-6-504, or 20-6-506;

(11) process and, when required, act on school isolation applications in accordance with the provisions of 20-9-302;

(12) complete the budgets, compute the budgeted revenues and tax levies, file final budgets and budget amendments, and fulfill other responsibilities assigned to him under the provisions of this title regulating school budgeting systems;

(13) submit an annual financial report to the superintendent of public instruction in accordance with the provisions of 20-9-211;

(14) monthly, unless otherwise provided by law, order the county treasurer to apportion state money, county school money, and any other school money subject to apportionment in accordance with the provisions of 20-9-212, 20-9-334, 20-9-347, or 20-10-145, ~~or 20-10-146~~;

(15) act on any request to transfer average number belonging (ANB) in accordance with the provisions of 20-9-313(3);

(16) calculate the estimated budgeted general fund sources

of revenue in accordance with the provisions of 20-9-348 and the other general fund revenue provisions of the general fund part of this title;

(17) compute the revenues and the district and county levy requirements for each fund included in each district's final budget and report the computations to the board of county commissioners in accordance with the provisions of the general fund, transportation, bonds, and other school funds parts of this title;

(18) file and forward bus driver certifications, transportation contracts, and state transportation reimbursement claims in accordance with the provisions of 20-10-103, 20-10-143, or 20-10-145;

(19) for districts that do not employ a district superintendent or principal, recommend library book and textbook selections in accordance with the provisions of 20-7-204 or 20-7-602;

(20) notify the superintendent of public instruction of a textbook dealer's activities when required under the provisions of 20-7-605 and otherwise comply with the textbook dealer provisions of this title;

(21) act on district requests to allocate federal money for indigent children for school food services in accordance with the provisions of 20-10-205;

(22) perform any other duty prescribed from time to time by this title, any other act of the legislature, the policies of the board of public education, the policies of the board of regents relating to community college districts, or the rules of the superintendent of public instruction;

(23) administer the oath of office to trustees without the receipt of pay for administering the oath;

(24) keep a record of his official acts, preserve all reports submitted to him under the provisions of this title, preserve all books and instructional equipment or supplies, keep all documents applicable to the administration of the office, and surrender all records, books, supplies, and equipment to his successor;

(25) within 90 days after the close of the school fiscal year, publish an annual report in the county newspaper stating the following financial information for the school fiscal year just ended for each district of the county:

(a) the total of the cash balances of all funds maintained by the district at the beginning of the year;

(b) the total receipts that were realized in each fund maintained by the district;

(c) the total expenditures that were made from each fund maintained by the district; and

(d) the total of the cash balances of all funds maintained by the district at the end of the school fiscal year; and

(26) hold meetings for the members of the trustees from time to time at which matters for the good of the districts must be discussed."

Section 143. Section 20-10-104, MCA, is amended to read:

"20-10-104. Penalty for violating law or rules. (1) Every district, its trustees and employees, and every person under a transportation contract with a district shall be subject to the policies prescribed by the board of public education and the rules prescribed by the superintendent of public instruction. When a district knowingly violates a transportation law or board of public education transportation policy, such district shall forfeit any reimbursement otherwise payable under 20-10-145 and ~~20-10-146~~ for bus miles actually traveled during that fiscal year in violation of such law or policies. The county superintendent shall suspend all such reimbursements payable to the district until the district corrects the violation. When the district corrects the violation, the county superintendent shall resume paying reimbursements to the district, but the amount forfeited may not be paid to the district.

(2) When a person operating a bus under contract with a district knowingly fails to comply with the transportation law or the board of public education transportation policies, the district may not pay him for any bus miles traveled during the contract year in violation of such law or policies. Upon discovering such a violation, the trustees of the district shall give written notice to the person that unless the violation is corrected within 10 days of the giving of notice, the contract will be canceled. The trustees of a district shall order the operation of a bus operated under contract suspended when the bus is being operated in violation of transportation law or policies and the trustees find that such violation jeopardizes the safety of pupils.""

Renumber: subsequent sections

87. Page 136, line 1.

Following: "commerce,"

Insert: "vehicles registered as part of a fleet as defined in 61-3-318(2),"

88. Page 139, line 10.

Following: "commerce,"

Insert: "vehicles registered as part of a fleet as defined in 61-3-318(2),"

89. Page 149, line 23 through page 150, line 3.
Strike: subsection (2) in its entirety
Renumber: subsequent subsections

90. Page 150, line 25 through page 151, line 3.
Strike: subsection (8) in its entirety
Renumber: subsequent subsections

91. Page 157, line 16.
Strike: "\$15,000"
Insert: "\$7,500"

92. Page 160, lines 23 and 24.
Following: "(1)"
Strike: remainder of line 23 through "in" on line 24
Insert: "In"

93. Page 160, line 25.
Strike: "subsections (2) through (5)"
Insert: "this section"

94. Page 164, lines 7 through 13.
Strike: subsection (6) in its entirety

95. Page 167, lines 3 through 12.
Strike: subsection (4) in its entirety

96. Page 174.
Following: line 8
Insert: "Section 165. Section 15-30-177, MCA, is amended to read:

"15-30-177. Residential property tax credit for elderly -- limitations. (1) Only one claimant per household in a claim period under the provisions of 15-30-171 through 15-30-179 is entitled to relief.

(2) Except as provided in subsection (3), no claim for relief may be allowed for any portion of property taxes paid or rent-equivalent taxes paid that is derived from a public rent or tax subsidy program.

(3) Except for dwellings rented from a county or municipal housing authority, no claim for relief may be allowed on rented lands or rented dwellings that are not subject to ad valorem taxation in Montana during the claim period.

(4) A claimant who receives the renters' property tax credit under [sections 67 through 74] or who receives a homeowners' tax credit under [sections 75 through 82] is not entitled to receive the residential property tax credit for the elderly under 15-30-171 through 15-30-179 for the same tax

year."

Renumber: subsequent sections

97. Page 175.

Following: line 3

Insert: "Section 167. Section 15-31-131, MCA, is amended to read:

"15-31-131. Credit for dependent care assistance. (1) There is a credit against the taxes otherwise due under this chapter allowable to an employer for amounts paid or incurred during the taxable year by the employer for dependent care assistance actually provided to or on behalf of an employee if the assistance is furnished by a registered or licensed day-care provider and pursuant to a program that meets the requirements of section 89(k) and 129(d)(2) through (6) of the Internal Revenue Code.

(2) (a) The amount of the credit allowed under subsection (1) is 20% of the amount paid or incurred by the employer during the taxable year, but the credit may not exceed \$1,250 of day-care assistance actually provided to or on behalf of the employee.

(b) For the purposes of this subsection, marital status must be determined under the rules of section 21(e)(3) and (4) of the Internal Revenue Code.

(c) In the case of an onsite facility, the amount upon which the credit allowed under subsection (1) is based, with respect to any dependent, must be based upon utilization and the value of the services provided.

(3) An amount paid or incurred during the taxable year of an employer in providing dependent care assistance to or on behalf of any employee does not qualify for the credit allowed under subsection (1) if the amount was paid or incurred to an individual described in section 129(c)(1) or (2) of the Internal Revenue Code.

(4) An amount paid or incurred by an employer to provide dependent care assistance to or on behalf of an employee does not qualify for the credit allowed under subsection (1):

(a) to the extent the amount is paid or incurred pursuant to a salary reduction plan; or

(b) if the amount is paid or incurred for services not performed within this state.

(5) If the credit allowed under subsection (1) is claimed, the amount of any deduction allowed or allowable under this chapter for the amount that qualifies for the credit (or upon which the credit is based) must be reduced by the dollar amount of the credit allowed. The election to claim a credit allowed under this section must be made at the time of filing the tax return.

(6) The amount upon which the credit allowed under subsection (1) is based may not be included in the gross income of the employee to whom the dependent care assistance is provided. However, the amount excluded from the income of an employee under this section may not exceed the limitations provided in section 129(b) of the Internal Revenue Code. For purposes of Title 15, chapter 30, part 2, with respect to an employee to whom dependent care assistance is provided, "wages" does not include any amount excluded under this subsection. ~~Amounts excluded under this subsection do not qualify as expenses for which a deduction is allowed to the employee under 15-30-121.~~

(7) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a particular year may be carried forward and offset against the taxpayer's tax liability for the next succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried forward and used in the second succeeding tax year, and likewise through the fifth year succeeding the tax year in which the credit was first allowed or allowable. A credit may not be carried forward beyond the fifth succeeding tax year.

(8) If the taxpayer is an S corporation, as defined in section 1361 of the Internal Revenue Code, and the taxpayer elects to take tax credit relief, the election may be made on behalf of the corporation's shareholders. A shareholder's credit must be computed using the shareholder's pro rata share of the corporation's costs that qualify for the credit. In all other respects, the effect of the tax credit applies to the corporation as otherwise provided by law.

(9) For purposes of the credit allowed under subsection (1):

(a) The definitions and special rules contained in section 129(e) of the Internal Revenue Code apply to the extent applicable.

(b) "Employer" means an employer carrying on a business, trade, occupation, or profession in this state.

(c) "Internal Revenue Code" means the federal Internal Revenue Code as amended and in effect on January 1, 1989.""

Renumber: subsequent sections

98. Page 180, line 18.

Strike: "\$15,000"

Insert: "\$7,500"

99. Page 181, line 10.

Strike: "\$15,000"

Insert: "\$7,500"

100. Page 182, lines 4 and 15.

Strike: "\$15,000"

Insert: "\$7,500"

101. Page 183, lines 7 and 24.

Strike: "\$15,000"

Insert: "\$7,500"

102. Page 184, line 14.

Strike: "\$15,000"

Insert: "\$7,500"

103. Page 185, lines 2 and 15.

Strike: "\$15,000"

Insert: "\$7,500"

104. Page 186, lines 2, 12, and 24.

Strike: "\$15,000"

Insert: "\$7,500"

105. Page 188, lines 13 through 19.

Strike: section 166 in its entirety

Renumber: subsequent sections

106. Page 189, line 4.

Following: "Sections"

Insert: "15-10-401, 15-10-402, 15-10-406, 15-10-411, 15-10-412,"

107. Page 189, line 5.

Strike: "and"

Following: "15-30-160,"

Insert: "and 20-10-146,"

108. Page 189, lines 19 through 21.

Strike: subsection (4) in its entirety

Renumber: subsequent subsections

109. Page 189, line 25 through page 190, line 3.

Strike: subsection (6) in its entirety

110. Page 190.

Following: line 3

Insert: "NEW SECTION. Section 189. Coordination instruction.

(1) If House Bill No. 2 is passed and approved without an appropriation to fund the special election held pursuant to [section 186], then [this act] is void.

(2) If ____ Bill No. ____ [LC 159] contains tax reform measures that provide alternative revenue sources for the

state general fund in the event that [this act] is not approved at the election held pursuant to [section 186] and if ____ Bill No. ____ [LC 159] is not passed and approved, then a referendum may not be held on [this act], [this act] is void, and the appropriation, if any, to fund the special election is revoked.

(3) If [this act] is approved at the special election held pursuant to [section 186] and if Senate Bill No. 32 is passed and approved and it amends 20-9-344, 20-9-366, 20-9-367, 20-9-368, 20-9-406, and 20-9-439, then Senate Bill No. 32 is void on June 30, 1994."

Renumber: subsequent sections

111. Page 190, line 22.

Following: line 21

Insert: "(3) [Sections 126 through 143] apply on and after July 1, 1994."

Renumber: subsequent subsections

112. Page 191, line 12.

Strike: "comprehensive tax reform and for"

113. Page 191, lines 13 and 15.

Following: "use tax"

Insert: "as part of comprehensive tax reform"

114. Page 191, line 14.

Strike: "comprehensive tax reform and against"

115. Page 3, line 19.

Page 10, line 4.

Page 11, lines 13 and 25.

Page 13, line 18.

Page 14, lines 17 and 20.

Page 19, line 14.

Page 30, line 12.

Page 31, line 19.

Page 32, lines 10, 18, and 21.

Page 33, line 10.

Page 34, lines 20 and 24.

Page 35, lines 12 and 18.

Page 36, lines 7, 12, and 17.

Page 37, lines 8, 10, and 15.

Page 39, line 24.

Page 41, lines 4, 14, and 24.

Page 42, lines 7 and 8.

Page 43, line 14.

Page 44, line 25.

Page 45, lines 19, 22, and 25.
Page 46, lines 5, 6, 15 and 24.
Page 48, line 11.
Page 49, lines 4, 6, and 14.
Page 50, lines 7, 13, 20, and 24.
Page 51, line 6.
Page 73, line 19.
Page 137, line 10.
Page 140, line 18.
Page 145, line 3.
Page 148, line 8.
Page 175, lines 17 and 24.
Page 179, line 13. (In both places.)
Page 179, line 21. (In both places.)
Page 180, line 5.
Page 187, lines 23 and 25.
Page 188, lines 4, 5, and 12.
Page 189, lines 8 and 10.
Strike: "61" or "61"
Insert: "65"

116. Page 5, line 16.
Page 14, line 5.
Page 16, line 15.
Page 35, line 3.
Page 187, line 21.
Page 188, line 1.
Strike: "39" or "39"
Insert: "42"

117. Page 6, line 18.
Strike: "46"
Insert: "49"

118. Page 32, line 20.
Page 34, line 22.
Strike: "49"
Insert: "53"

119. Page 40, line 5.
Strike: "47"
Insert: "50"

120. Page 45, line 4.
Strike: "53"
Insert: "57"

121. Page 52, line 9.

Strike: "63"

Insert: "67"

Strike: "70"

Insert: "74"

122. Page 52, line 12.

Strike: "64"

Insert: "68"

123. Page 53, line 10.

Strike: "63"

Insert: "67"

Strike: "70"

Insert: "74"

124. Page 53, line 13.

Strike: "68"

Insert: "72"

125. Page 54, line 8.

Strike: "63"

Insert: "67"

Strike: "70"

Insert: "74"

126. Page 54, line 12.

Strike: "63"

Insert: "67"

127. Page 54, line 13.

Strike: "70"

Insert: "74"

128. Page 54, line 24.

Strike: "63"

Insert: "67"

Strike: "70"

Insert: "74"

129. Page 56, line 16.

Strike: "71"

Insert: "75"

Strike: "78"

Insert: "82"

130. Page 56, line 19.

Strike: "72"

Insert: "76"

131. Page 57, line 11.

Strike: "71"

Insert: "75"

Strike: "78"

Insert: "82"

132. Page 58, line 4.

Strike: "71"

Insert: "75"

Strike: "78"

Insert: "82"

133. Page 58, line 8.

Strike: "71"

Insert: "75"

134. Page 58, line 9.

Strike: "78"

Insert: "82"

135. Page 58, line 20.

Strike: "71"

Insert: "75"

Strike: "78"

Insert: "82"

136. Page 61, line 4.

Strike: "81"

Insert: "83"

Strike: "85"

Insert: "87"

137. Page 61, line 7.

Strike: "82"

Insert: "84"

138. Page 64, line 5.

Strike: "81"

Insert: "83"

Strike: "85"

Insert: "87"

139. Page 65, line 7.

Strike: "82"

Insert: "84"

Strike: "83"

Insert: "85"

140. Page 65, line 14.

Strike: "83"

Insert: "85"

Strike: "84"

Insert: "86"

141. Page 73, line 23.

Strike: "19"

Insert: "20"

142. Page 125, line 23.

Page 132, line 6.

Page 189, lines 15 and 18.

Strike: "62" or "62"

Insert: "66"

143. Page 145, line 13.

Page 189, lines 22 and 24.

Strike: "135" or "135"

Insert: "152"

144. Page 189, line 8 and 10.

Strike: "165"

Insert: "184"

Strike: "167"

Insert: "185"

145. Page 189, lines 11 and 14.

Strike: "63"

Insert: "67"

Strike: "78"

Insert: "82"

Strike: "81"

Insert: "83"

Strike: "85"

Insert: "87"

146. Page 190, line 17.

Strike: "85"

Insert: "87"

Strike: "128"

Insert: "145"

Strike: "136"

Insert: "153"

147. Page 190, line 19.

Strike: "86"

Insert: "88"

Strike: "127"

Insert: "126"

Strike: "137"

Insert: "154"

Strike: "164"

Insert: "183"

Strike: "170"

Insert: "187"

-END-

ROLL CALL VOTE #1

TAXATION

BILL NO. 235

DATE 3-12-93 TIME 8:00 A.M. P.M.

YES NO

[illegible]

Bonnie Stark
SECRETARY

Mike Halligan
CHAIR

MOTION: To reinstate Section 23.

Carried 6-5.

ROLL CALL VOTE #2

SENATE COMMITTEE TAXATION BILL NO. 235

DATE 3-12-93 TIME 8:00 A.M. P.M.

NAME _____

YES NO

[illegible]

Bonnie Stark
SECRETARY

Mike Helligan
CHAIR

MOTION: Local government reimburse-
ment plan. Carried 7-4.
(Exp. #11 to minutes.)

ROLL CALL VOTE #3

TAXATION

BILL NO. 235

TIME 8:00

A.M. P.M.

YES

NO

[illegible]

Bonnie Stark
SECRETARY

Mike Halligan
CHAIR

MOTION: Reinsert the exemption for stocks & bonds. Carried 8-2.

ROLL CALL VOTE #4

SENATE COMMITTEE

TAXATION

BILL NO.

235

DATE _____

3-12-93

TIME

8:00

A.M.

P.M.

NAME

YES

NO

[illegible]

Bonnie Stark

SECRETARY

Mike Halligan

CHAIR

MOTION: SB 235 Do Pass As Amended.

Amendments to Senate Bill No. 235
First Reading Copy

Requested by Senator Harp
For the Committee on Taxation

Prepared by Jeff Martin
March 11, 1993

SENATE TAXATION
ENRIT NO. 1
DATE 3-12-93
BILL NO. SB235

1.. Page 124, line 11.

Following: "program"

Insert: "and retirement fund expenditures of the public school districts"

2. Page 124, line 17.

Following: "program,"

Insert: "retirement fund expenditures,"

3. Page 126.

Following: line 6

Insert: "Section 126. Section 20-9-344, MCA, is amended to read:

"20-9-344. Purpose of state equalization aid and duties of board of public education for distribution. (1) The money available for state equalization aid must be distributed and apportioned to provide:

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

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

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

(a) adopt policies for regulating the distribution of state equalization aid and state advances for county equalization in accordance with the provisions of law;

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

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

(3) The board of public education may order the

superintendent of public instruction to withhold distribution of state equalization aid or order the county superintendent of schools to withhold county equalization money from a district when the district fails to:

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

(b) maintain accredited status.

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

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

(6) Except as provided in 20-9-347(3), the foundation program payment and guaranteed tax base aid payment must be distributed according to the following schedule:

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

(b) in November of the school fiscal year, one-half of the guaranteed tax base aid payment and one-half of the state retirement obligation payment to each district or county;

(c) in May of the school fiscal year, the remainder of the guaranteed tax base aid payment and one-half of the state retirement obligation payment to each district or county; and

(d) in June of:

(i) the 1993 school fiscal year, one-half of the remaining foundation program payment of each district and on July 15, 1993, the remaining school fiscal year 1993 foundation program payment of each district; and

(ii) the school fiscal year, the remaining foundation program payment to each district.

(7) The distribution of foundation program payments and guaranteed tax base aid provided for in subsection (6) must occur by the last working day of each month."

{Internal References to 20-9-344:

20-2-121

20-5-305

20-5-312

20-9-314

20-9-347 (3)

20-9-368}

Section 127. Section 20-9-346, MCA, is amended to read:

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

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

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

(3) keeping a record of the full and complete data concerning money available for state equalization aid, state advances for county equalization, and the entitlements for state equalization aid of the districts of the state;

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

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

(a) the figures and data available concerning distributions of state equalization aid during the preceding 2 school fiscal years;

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

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

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

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

Section 128. Section 20-9-347, MCA, is amended to read:

"20-9-347. Formula for state equalization aid apportionment in support of foundation program and retirement -- exceptions.

(1) The superintendent of public instruction shall apportion the state equalization aid available for support of the foundation program, individually for the elementary districts of a county or the high school districts of a county, in accordance with 20-9-346 and on the basis of the following procedure:

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

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

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

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

(e) Each district of each remaining county is entitled to

an apportionment of the state equalization aid in support of the foundation program equal to the difference between the percentage determined in subsection (1)(d) and the percentage determined for the county in subsection (1)(b) multiplied by the foundation program amount for the district.

(2) The superintendent of public instruction shall also apportion state equalization aid to each district in support of the district's retirement fund expenditures. The superintendent of public instruction shall adopt rules to ensure that for school fiscal year 1995 and succeeding years, each district receives retirement equalization aid equal to the full amount required by the elementary districts and high school districts in the county.

~~(2)(3)~~ The superintendent of public instruction shall:

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

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

(c) adopt rules to implement the provisions of subsection ~~(2)(b)~~ (3)(b).

~~(3)(4)~~ (a) The superintendent of public instruction is authorized to adjust the schedule prescribed in 20-9-344 for distribution of the foundation program and guaranteed tax base aid payments if the distribution will cause a district to register warrants under the provisions of 20-9-212(9).

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

Section 129. Section 20-9-351, MCA, is amended to read:

"20-9-351. Funding of deficiency in state equalization aid. If the money available for state equalization aid is not the result of a reduction in spending under 17-7-140 and is not sufficient to provide the foundation program schedule support determined in 20-9-348 and the guaranteed tax base aid required under 20-9-366 through 20-9-369 and the retirement fund support required under 20-9-347, the superintendent of public instruction shall request the budget director to submit a request for a supplemental appropriation in the second year of the biennium that is sufficient to complete the funding of guaranteed tax base aid retirement and the foundation programs of the elementary or secondary schools, or both, for the current biennium."

Section 130. Section 20-9-366, MCA, is amended to read:
"20-9-366. Definitions. As used in 20-9-366 through 20-9-369, the following definitions apply:

~~(1) "County retirement mill value per elementary ANB" or "county retirement mill value per high school ANB" means the sum of the taxable valuation in the previous year of all property in the county divided by 1,000, with the quotient divided by the total county elementary ANB count or the total county high school ANB count used to calculate the elementary school districts' and high school districts' current year foundation program amounts.~~

~~(2)~~ (1) "District mill value per ANB" means the taxable valuation in the previous year of all property in the district divided by 1,000, with the quotient divided by the ANB count of the district used to calculate the district's current year foundation program amount.

(3) "Permissive amount" means that portion of a district's general fund budget in excess of the foundation program amount for the district, as provided in 20-9-316 through 20-9-321, but not exceeding 35% of the district's foundation program amount, and which excess is authorized under the provisions of 20-9-145 and 20-9-353.

(4) "Statewide mill value per elementary ANB" or "statewide mill value per high school ANB", for permissive and retirement guaranteed tax base purposes, means the sum of the taxable valuation in the previous year of all property in the state, multiplied by 121% and divided by 1,000, with the quotient divided by the total state elementary ANB count or the total state high school ANB amount used to calculate the elementary school districts' and high school districts' current year foundation program amounts."

{Internal References to 20-9-366:

20-3-106	(2)	20-5-305	20-5-312	20-6-702
20-9-351		20-9-366	20-9-369}	

Section 131. Section 20-9-367, MCA, is amended to read:

"20-9-367. Eligibility to receive guaranteed tax base aid.

~~(1)~~ If the district mill value per ANB of any elementary or high school district is less than the corresponding statewide district mill value per elementary ANB or high school ANB, the district may receive guaranteed tax base aid based on the number of mills levied in the district in support of its permissive amount of the general fund budget.

~~(2) If the county retirement mill value per elementary ANB or county retirement mill value per high school ANB is less than the corresponding statewide county mill value per elementary ANB or high school ANB, the county may receive guaranteed tax base aid based on the number of mills levied in the county in support of the retirement fund budgets of the respective elementary or high school districts in the county."~~

{Internal References to 20-9-367:

*20-3-106	(2)	*20-9-351	*20-9-366	*20-9-369}
-----------	-----	-----------	-----------	------------

Section 132. Section 20-9-368, MCA, is amended to read:

"20-9-368. Amount of guaranteed tax base aid -- reversion.

~~(1) The amount of guaranteed tax base aid per ANB that a county~~

~~may receive in support of the retirement fund budgets of the elementary school districts in the county is the difference between the county mill value per elementary ANB and the statewide county mill value per elementary ANB, multiplied by the number of mills levied in support of the retirement fund budgets for the elementary districts in the county.~~

~~(2) The amount of guaranteed tax base aid per ANB that a county may receive in support of the retirement fund budgets of the high school districts in the county is the difference between the county mill value per high school ANB and the statewide county mill value per high school ANB, multiplied by the number of mills levied in support of the retirement fund budgets for the high school districts in the county.~~

~~(3)(1)~~ The amount of guaranteed tax base aid per ANB that a district may receive in support of its permissive amount of the general fund budget is the difference between the district mill value per ANB and the corresponding statewide district mill value per ANB, multiplied by the number of mills levied in support of the district's permissive amount of the general fund budget.

(4) Guaranteed tax base aid provided to any ~~county or~~ district under this section is earmarked to finance the fund or portion of the fund for which it is provided. If the actual expenditures from the fund or portion of the fund for which guaranteed tax base aid is earmarked are less than the amount budgeted, the guaranteed tax base aid reverts in proportion to the amount budgeted but not expended. If a ~~county or~~ district receives more guaranteed tax base aid than it is entitled to, the excess must be returned to the state as required by 20-9-344."

{Internal References to 20-9-368:

*20-3-106 (2) *20-9-351 *20-9-366 *20-9-369}

Section 133. Section 20-9-369, MCA, is amended to read:

"20-9-369. Duties of superintendent of public instruction and department of revenue. (1) The superintendent of public instruction shall administer the distribution of guaranteed tax base aid by:

(a) providing each school district and county superintendent, by March 1 of each year, with the preliminary statewide and ~~county district~~ mill values per ANB and, by May 1 of each year, with the final statewide, ~~and district, and county~~ mill values per ANB, for use in calculating the guaranteed tax base aid available for the ensuing school fiscal year;

(b) requiring each ~~county and~~ district that qualifies and applies for guaranteed tax base aid to report to the county superintendent all budget and accounting information required to administer the guaranteed tax base aid;

(c) keeping a record of the complete data concerning appropriations available for guaranteed tax base aid and the entitlements for such aid of the ~~counties and~~ districts that qualify;

(d) distributing the guaranteed tax base aid entitlement to each qualified ~~county or~~ district from the appropriations for that purpose.

(2) The superintendent shall adopt rules necessary to implement 20-9-366 through 20-9-369.

(3) The department of revenue shall provide the superintendent of public instruction by December 1 of each year a final determination of the taxable value of property within each school district and county of the state reported to the department of revenue based on information delivered to the county clerk and recorder as required in 15-10-305."

{Internal References to 20-9-369:

20-3-106 (2)

20-9-351

20-9-366

20-9-369}

Section 134. Section 20-9-501, MCA, is amended to read:

"20-9-501. **Retirement fund.** (1) The trustees of a district employing personnel who are members of the teachers' retirement system or the public employees' retirement system or who are covered by unemployment insurance or who are covered by any federal social security system requiring employer contributions shall establish a retirement fund for the purposes of budgeting and paying the employer's contributions to the systems. The district's contribution for each employee who is a member of the teachers' retirement system must be calculated in accordance with Title 19, chapter 4, part 6. The district's contribution for each employee who is a member of the public employees' retirement system must be calculated in accordance with 19-3-801. The district's contributions for each employee covered by any federal social security system must be paid in accordance with federal law and regulation. The district's contribution for each employee who is covered by unemployment insurance must be paid in accordance with Title 39, chapter 51, part 11.

(2) The trustees of a district required to make a contribution to a system referred to in subsection (1) shall include in the retirement fund of the preliminary budget the estimated amount of the employer's contribution. After the final retirement fund budget has been adopted, the trustees shall pay the employer contributions to the systems in accordance with the financial administration provisions of this title.

(3) When the final retirement fund budget has been adopted, the county superintendent shall establish the levy requirement amount of the state obligation by:

(a) determining the sum of the money available to reduce the retirement fund levy requirement amount of the state obligation by adding:

~~(i) any anticipated money that may be realized in the retirement fund during the ensuing school fiscal year, including 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;~~

~~(ii) net proceeds taxes and local government severance taxes on any other oil and gas production occurring after December 31, 1988;~~

~~(iii) coal gross proceeds taxes under 15-23-703;~~

(iv) (i) any fund balance available for reappropriation as determined by subtracting the amount of the end-of-the-year fund balance earmarked as the retirement fund operating reserve for the ensuing school fiscal year by the trustees from the end-of-the-year fund balance in the retirement fund. The retirement fund operating reserve may not be more than 35% of the final

retirement fund budget for the ensuing school fiscal year and must be used for the purpose of paying retirement fund warrants issued by the district under the final retirement fund budget; and

~~(v)(ii) any other revenue anticipated that may be realized in the retirement fund during the ensuing school fiscal year, excluding any guaranteed tax base aid.~~

~~(b) notwithstanding the provisions of subsection (8), subtracting the money available for reduction of the levy requirement state obligation, as determined in subsection (3)(a), from the budgeted amount for expenditures in the final retirement fund budget.~~

~~(4) The county superintendent shall:~~

~~(a) total the net retirement fund levy requirements the amount of the state obligation separately for all elementary school districts, including any joint district located in the county, all high school districts, and all community college districts of the county, including any prorated joint district or special education cooperative agreement levy requirements; and~~

~~(b) report each levy requirement the amount of the state obligation to the county commissioners superintendent of public instruction in the same manner as provided in 20-9-134 on the second Monday of August as the respective county levy requirements for elementary district, high school district, and to the board of regents in the same manner as provide in 20-9-134 the amount of the state obligation for community college district retirement funds.~~

~~(5) The superintendent of public instruction shall pay the state obligation amounts determined in subsection (4)(b) to each county according the distribution schedule provided in 20-9-344.~~

~~(5) The county commissioners shall fix and set the county levy in accordance with 20-9-142.~~

~~(6) The net retirement fund levy requirement obligation for a joint elementary district or a joint high school district must be prorated to each county in which a part of the district is located in the same proportion as the district ANB of the joint district is distributed by pupil residence in each county. The county superintendents of the counties affected shall jointly determine the net retirement fund levy requirement for each county as provided in 20-9-151.~~

~~(7) The net retirement fund levy requirement for districts that are members of special education cooperative agreements must be prorated to each county in which the district is located in the same proportion as the special education cooperative budget is prorated to the member school districts. The county superintendents of the counties affected shall jointly determine the net retirement fund levy requirement for each county in the same manner as provided in 20-9-151 and the county commissioners shall fix and levy the net retirement fund levy for each county in the same manner as provided in 20-9-152.~~

~~(8) The county superintendent shall calculate the number of mills to be levied on the taxable property in the county to finance the retirement fund net levy requirement by dividing the amount determined in subsection (4)(a) by the sum of:~~

~~(a) the amount of guaranteed tax base aid that the county~~

~~will receive for each mill levied, as certified by the superintendent of public instruction; and~~
~~(b) the taxable valuation of the district divided by 1,000."~~

{Internal References to 20-9-501:

17-3-213

19-4-605

20-6-702}

Section 135. Section 20-6-702, MCA, is amended to read:

"20-6-702. Funding for K-12 school districts. (1)

Notwithstanding the provisions of subsections (2) through (6), a K-12 school district formed under the provisions of 20-6-701 is subject to the provisions of law for high school districts.

(2) The number of elected trustees of the K-12 school district must be based on the classification of the attached elementary district under the provisions of 20-3-341 and 20-3-351.

(3) Calculations for the following must be made separately for the elementary school program and the high school program of a K-12 school district:

(a) the calculation of ANB for purposes of determining the foundation program schedule payments must be in accordance with the provisions of 20-9-311;

(b) the basic county tax and revenues for the elementary foundation program amount for the district must be determined in accordance with the provisions of 20-9-331, and the basic special tax and revenues for the high school foundation program amount for the district must be determined in accordance with 20-9-333; and

(c) the guaranteed tax base aid for the permissive levy amount for a K-12 school district must be calculated separately, using the mill value per elementary ANB and the mill value per high school ANB as defined in 20-9-366. The permissive amount to be levied for the K-12 school district must be prorated based on the ratio of the foundation program amounts for elementary school programs to the foundation program amounts for high school programs.

~~(4) The retirement obligation and eligibility for retirement guaranteed tax base aid for a K-12 school district must be calculated and funded as a high school district retirement obligation under the provisions of 20-9-501.~~

~~(5)~~(4) For the purposes of budgeting for a K-12 school district, the trustees shall adopt a single fund for any of the budgeted or nonbudgeted funds described in 20-9-201 for the costs of operating all grades and programs of the district.

~~(6)~~(5) Tuition for attendance in the K-12 school district must be determined separately for high school pupils and for elementary pupils under the provisions of chapter 5, part 3, except that the actual expenditures used for calculations in 20-5-305 and 20-5-312 must be based on an amount prorated between the elementary and high school programs in the appropriate funds of each district in the year prior to the attachment of the districts."

{Internal References to 20-6-702:

*20-6-101}

Amendments to Senate Bill No. 235
First Reading CopyRequested by Senator Van Valkenburg
For the Committee on TaxationPrepared by Jeff Martin
March 11, 1993

1. Title, page 2, line 2.

Following: "20-9-343,"

Insert: "20-9-344, 20-9-366, 20-9-367, 20-9-368,"

Following: "20-9-407"

Insert: "20-9-439, 20-10-141, 20-10-142,"

2. Title, page 2, line 3.

Following: "20-10-144,"

Insert: "20-10-145,"

3. Title, page 2, line 6.

Strike: the first "and"

Following: "15-30-160,"

Insert: "and 20-10-146,"

4. Page 94, line 16 through page 96, line 13.

Strike: section 112 in its entirety

Insert: " Section 112. Section 20-9-406, MCA, is amended to
read:

"20-9-406. Limitations on amount of bond issue. (1) (a) The Except as provided in subsection (1)(c), the maximum amount for which an elementary district or a high school district may become indebted by the issuance of bonds, including all indebtedness represented by outstanding bonds of previous issues and registered warrants, is 45% 49.5% of the taxable value of the property subject to taxation as ascertained by the last completed assessment for state, county, and school taxes previous to the incurring of the indebtedness, including:

~~(i) the taxable value of coal gross proceeds as determined for county bonding purposes in 15-23-703(2);~~

~~(ii) the taxable value of oil and gas net proceeds as determined for county bonding purposes in 15-23-607(3); and~~

~~(iii) the amount of the value of any other oil and gas production occurring after December 31, 1988, multiplied by 60%.~~

(b) The Except as provided in subsection (1)(c), the maximum amount for which a K-12 school district, as formed pursuant to 20-6-701, may become indebted by the issuance of bonds, including all indebtedness represented by outstanding bonds of previous issues and registered warrants, is up to 90% of the taxable value of the property subject to taxation as ascertained by the last-completed assessment for state, county, and school taxes previous to the incurring of the indebtedness. The total indebtedness of the high school district with an attached elementary district as represented by the issuance of bonds must be limited to the sum of 45% 49.5% of the taxable value of the property for elementary school program purposes and

45% of the taxable value of the property for high school program purposes.

(c) The maximum amount for which an elementary district or a high school district that qualifies for guaranteed tax base aid under the provisions of 20-9-367 may become indebted by the issuance of bonds, including all indebtedness represented by outstanding bonds of previous issues and registered warrants, is 49.5% of the corresponding statewide mill value per ANB times 1,000 times the ANB of the district. For a K-12 district, the maximum amount for which the district may become indebted is 49.5% of the sum of the statewide mill value per elementary ANB times 1,000 times the elementary ANB of the district and the statewide mill value per high school ANB times 1,000 times the high school ANB of the district.

(2) The maximum amounts determined in subsection (1), however, may not pertain to indebtedness imposed by special improvement district obligations or assessments against the school district or to bonds issued for the repayment of tax protests lost by the district. All bonds issued in excess of the amount are void, except as provided in this section.

(3) When the total indebtedness of a school district has reached the limitations prescribed in this section, the school district may pay all reasonable and necessary expenses of the school district on a cash basis in accordance with the financial administration provisions of this chapter.

(4) Whenever bonds are issued for the purpose of refunding bonds, any money to the credit of the debt service fund for the payment of the bonds to be refunded is applied toward the payment of the bonds and the refunding bond issue is decreased accordingly."

Renumber: subsequent sections

5. Page 124, line 11.

Following: "program"

Insert: "and debt service"

6. Page 124, line 17.

Following: "program"

Insert: "debt service,"

7. Page 126, line 7 through page 131, line 2.

Strike: section 126 in its entirety

Insert: " Section 126. Section 20-9-344, MCA, is amended to read:

"20-9-344. Purpose of state equalization aid and duties of board of public education for distribution. (1) The money available for state equalization aid must be distributed and apportioned to provide:

(a) an annual minimum operating revenue for the elementary and high schools in each county, ~~exclusive of and~~ revenues required for debt service as provided in 20-9-367 and for transportation as required in 20-10-145, and exclusive of revenues required for the payment of any costs and expense incurred in connection with any adult education program, recreation program, school food services program, new buildings

and grounds, and transportation; and

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

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

(a) adopt policies for regulating the distribution of state equalization aid and state advances for county equalization in accordance with the provisions of law;

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

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

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

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

(b) maintain accredited status.

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

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

(6) Except as provided in 20-9-347(3), the foundation program payment and guaranteed tax base aid payment must be distributed according to the following schedule:

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

(b) in November of the school fiscal year, one-half of the guaranteed tax base aid payment to each district or county;

(c) in May of the school fiscal year, the remainder of the guaranteed tax base aid payment to each district or county; and

(d) in June of:

(i) the 1993 school fiscal year, one-half of the remaining foundation program payment of each district and on July 15, 1993, the remaining school fiscal year 1993 foundation program payment of each district; and

(ii) the school fiscal year, the remaining foundation program payment to each district.

(7) The distribution of foundation program payments and guaranteed tax base aid provided for in subsection (6) must occur by the last working day of each month."

Section 127. Section 20-9-366, MCA, is amended to read:

"20-9-366. Definitions. As used in 20-9-366 through 20-9-369, the following definitions apply:

(1) "County retirement mill value per elementary ANB" or "county retirement mill value per high school ANB" means the sum of the taxable valuation in the previous year of all property in the county divided by 1,000, with the quotient divided by the total county elementary ANB count or the total county high school ANB count used to calculate the elementary school districts' and high school districts' current year foundation program amounts.

(2) "District mill value per ANB" means the taxable valuation in the previous year of all property in the district divided by 1,000, with the quotient divided by the ANB count of the district used to calculate the district's current year foundation program amount.

(3) "Permissive amount" means that portion of a district's general fund budget in excess of the foundation program amount for the district, as provided in 20-9-316 through 20-9-321, but not exceeding 35% of the district's foundation program amount, and which excess is authorized under the provisions of 20-9-145 and 20-9-353.

(4) "Statewide mill value per elementary ANB" or "statewide mill value per high school ANB", for permissive, debt service, and retirement guaranteed tax base purposes, means the sum of the taxable valuation in the previous year of all property in the state, multiplied by 121% and divided by 1,000, with the quotient divided by the total state elementary ANB count or the total state high school ANB amount used to calculate the elementary school districts' and high school districts' current year foundation program amounts."

Section 128. Section 20-9-367, MCA, is amended to read:

"20-9-367. Eligibility to receive guaranteed tax base aid.

(1) If the district mill value per ANB of any elementary or high school district is less than the corresponding statewide district mill value per elementary ANB or high school ANB, the district may receive guaranteed tax base aid based on the number of mills levied in the district in support of its permissive amount of the general fund budget and its debt service fund.

(2) If the county retirement mill value per elementary ANB or county retirement mill value per high school ANB is less than the corresponding statewide county mill value per elementary ANB or high school ANB, the county may receive guaranteed tax base aid based on the number of mills levied in the county in support of the retirement fund budgets of the respective elementary or high school districts in the county."

Section 129. Section 20-9-368, MCA, is amended to read:

"20-9-368. Amount of guaranteed tax base aid -- reversion.

(1) The amount of guaranteed tax base aid per ANB that a county may receive in support of the retirement fund budgets of the elementary school districts in the county is the difference

between the county mill value per elementary ANB and the statewide ~~county~~ mill value per elementary ANB, multiplied by the number of mills levied in support of the retirement fund budgets for the elementary districts in the county.

(2) The amount of guaranteed tax base aid per ANB that a county may receive in support of the retirement fund budgets of the high school districts in the county is the difference between the county mill value per high school ANB and the statewide ~~county~~ mill value per high school ANB, multiplied by the number of mills levied in support of the retirement fund budgets for the high school districts in the county.

(3) The amount of guaranteed tax base aid per ANB that a district may receive in support of its permissive amount of the general fund budget is the difference between the district mill value per ANB and the corresponding statewide district mill value per ANB, multiplied by the number of mills levied in support of the district's permissive amount of the general fund budget.

(4) The amount of guaranteed tax base aid per ANB that a district may receive in support of its debt service fund budget is the difference between the district mill value per ANB and the corresponding statewide mill value per ANB, multiplied by the number of mills levied in support of the district's debt service fund budget.

~~(4)~~(5) Guaranteed tax base aid provided to any county or district under this section is earmarked to finance the fund or portion of the fund for which it is provided. If the actual expenditures from the fund or portion of the fund for which guaranteed tax base aid is earmarked are less than the amount budgeted, the guaranteed tax base aid reverts in proportion to the amount budgeted but not expended. If a county or district receives more guaranteed tax base aid than it is entitled to, the excess must be returned to the state as required by 20-9-344."

Section 130. Section 20-9-439, MCA, is amended to read:

"20-9-439. Computation of net levy requirement -- procedure when levy inadequate. (1) The county superintendent shall compute the levy requirement for each school district's debt service fund on the basis of the following procedure:

(a) ~~determine~~ Determine the total money available in the debt service fund for the reduction of the property tax on the district by totaling:

(i) the end-of-the-year fund balance in the debt service fund, less any limited operating reserve as provided in 20-9-438;

(ii) anticipated interest to be earned by the investment of debt service cash in accordance with the provisions of 20-9-213(4) or by the investment of bond proceeds under the provisions of 20-9-435; and

(iii) any other money, including money from federal sources, anticipated by the trustees to be available in the debt service fund during the ensuing school fiscal year from such sources as legally authorized money transfers into the debt service fund or from rental income, excluding any guaranteed tax base aid.+

(b) ~~the Subtract the~~ Subtract the total amount available to reduce the property tax, determined in subsection (1)(a), ~~must be subtracted~~ from the final budget expenditure amount for the debt service

fund as established in 20-9-438+.

(c) Determine the number of mills to be levied on the taxable property in the district to finance the net debt service fund levy requirement by dividing the remainder determined in subsection (1)(b) by the sum of:

(i) the amount of guaranteed tax base aid that the district will receive for each mill levied, as certified by the superintendent of public instruction; and

(ii) the taxable valuation of the district divided by 1,000.

(2) ~~the~~ The net debt service fund levy requirement determined in subsection ~~(1)(b)~~ (1)(c) must be reported to the county commissioners on the second Monday of August by the county superintendent as the net debt service fund levy requirement for the district, and a levy must be made by the county commissioners in accordance with 20-9-142.

~~(2)~~ (3) If the board of county commissioners fails in any school fiscal year to make a levy for any issue or series of bonds of a school district sufficient to raise the money necessary for payment of interest and principal becoming due during the next ensuing school fiscal year, in any amounts established under the provisions of this section, the holder of any bond of the issue or series or any taxpayer of the district may apply to the district court of the county in which the school district is located for a writ of mandate to compel the board of county commissioners of the county to make a sufficient levy for such purposes. If, upon the hearing of the application, it appears to the satisfaction of the court that the board of county commissioners of the county has failed to make a levy or has made a levy that is insufficient to raise the amount required to be raised as established in the manner provided in this section, the court shall determine the amount of the deficiency and shall issue a writ of mandate directed to and requiring the board of county commissioners, at the next meeting for the purpose of fixing tax levies for county purposes, to fix and make a levy against all taxable property in the school district that is sufficient to raise the amount of the deficiency. The levy is in addition to any levy required to be made at that time for the ensuing school fiscal year. Any costs that may be allowed or awarded the petitioner in the proceeding must be paid by the members of the board of county commissioners and may not be a charge against the school district or the county."

Section 131. Section 20-10-141, MCA, is amended to read:

"20-10-141. Schedule of maximum reimbursement by mileage rates. (1) The following mileage rates for school transportation constitute the maximum reimbursement to districts for school transportation from state ~~and county sources of~~ transportation revenue under the provisions of 20-10-145 and ~~20-10-146~~. These Except as provided in 20-10-143, the rates may not limit the amount that a district may budget in its transportation fund budget in order to provide for the estimated and necessary cost of school transportation during the ensuing school fiscal year. All bus miles traveled on routes approved by the county transportation committee are reimbursable. Nonbus mileage is

reimbursable for a vehicle driven by a bus driver to and from an overnight location of a school bus when the location is more than 10 miles from the school. A district may approve additional bus or nonbus miles within its own district or approved service area but may not claim reimbursement for the mileage. Any vehicle, the operation of which is reimbursed for bus mileage under the rate provisions of this schedule, must be a school bus, as defined by this title, driven by a qualified driver on a bus route approved by the county transportation committee and the superintendent of public instruction.

(2) The rate per bus mile traveled must be determined in accordance with the following schedule when the number of eligible transportees that board a school bus on an approved route is not less than one-half of its rated capacity:

(a) 85 cents per bus mile for a school bus with a rated capacity of not less than 12 but not more than 45 children; and

(b) when the rated capacity is more than 45 children, an additional 2.13 cents per bus mile for each additional child in the rated capacity in excess of 45 must be added to a base rate of 85 cents per bus mile.

(3) Reimbursement for nonbus mileage provided for in subsection (1) may not exceed 50% of the maximum reimbursement rate determined under subsection (2).

(4) When the number of eligible transportees boarding a school bus on an approved route is less than one-half of its rated capacity, the rate per bus mile traveled must be computed as follows:

(a) determine the number of eligible transportees that board the school bus on the route;

(b) multiply the number determined in subsection (4)(a) by two and round off to the nearest whole number; and

(c) use the adjusted rated capacity determined in subsection (4)(b) as the rated capacity of the bus to determine the rate per bus mile traveled from the rate schedule in subsection (2).

(5) The rated capacity is the number of riding positions of a school bus as determined under the policy adopted by the board of public education."

Section 132. Section 20-10-142, MCA, is amended to read:

"20-10-142. **Schedule of maximum reimbursement for individual transportation.** The following rates for individual transportation constitute the maximum reimbursement to districts for individual transportation from state and ~~county sources of~~ transportation revenue under the provisions of 20-10-145 and ~~20-10-146~~. These rates also ~~shall~~ constitute the limitation of the budgeted amounts for individual transportation for the ensuing school fiscal year. The schedules provided in this section ~~shall~~ may not be altered by any authority other than the legislature of the state of Montana. When the trustees contract with the parent or guardian of any eligible transportee to provide individual transportation for each day of school attendance, they shall reimburse the parent or guardian on the basis of the following schedule:

(1) When a parent or guardian transports an eligible transportee or transportees from the residence of the parent or

guardian to a school or to schools located within 3 miles of one another, the total reimbursement per day of attendance ~~shall~~ must be determined by multiplying the distance in miles between the residence and the school, or the most distant school if more than one, by 2, subtracting 6 miles from the product so obtained, and multiplying the difference by 21.25 cents provided that:

(a) if two or more eligible transportees are transported by a parent or guardian to two or more schools located within 3 miles of one another and if such schools are operated by different school districts, the total amount of the reimbursement ~~shall~~ must be divided equally between the districts;

(b) if two or more eligible transportees are transported by a parent or guardian to two or more schools located more than 3 miles from one another, the parent or guardian ~~shall~~ must be separately reimbursed for transporting the eligible transportee or transportees to each school;

(c) if a parent transports two or more eligible transportees to a school and a bus stop which school and bus stop are located within 3 miles of one another, the total reimbursement ~~shall~~ must be determined under the provisions of this subsection and ~~shall~~ must be divided equally between the district operating the school and the district operating the bus;

(d) if a parent transporting two or more eligible transportees to a school or bus stop must, because of varying arrival and departure times, make more than one round-trip journey to the bus stop or school, the total reimbursement allowed by this section ~~shall~~ must be limited to one round trip per day for each scheduled arrival or departure time;

(e) notwithstanding subsection (1)(a), (1)(b), (1)(c), or (1)(d), ~~no~~ a reimbursement may not be less than 25 cents a day.

(2) When the parent or guardian transports an eligible transportee or transportees from the residence to a bus stop of a bus route approved by the trustees for the transportation of the transportee or transportees, the total reimbursement per day of attendance ~~shall~~ must be determined by multiplying the distance in miles between the residence and the bus stop by 2, subtracting 3 miles from the product so obtained, and multiplying the difference by 22.5 cents provided that:

(a) if the eligible transportees transported attend schools in different districts but ride on one bus, the districts shall divide the total reimbursement equally; and

(b) if the parent or guardian is required to transport the eligible transportees to more than one bus, the parent or guardian ~~shall~~ must be separately reimbursed for transportation to each bus.

(3) Where, due to excessive distances, impassable roads, or other special circumstances of isolation the rates prescribed in subsection (1) or (2) would be an inadequate reimbursement for the transportation costs or would result in a physical hardship for the eligible transportee, ~~his~~ the transportee's parent or guardian may request an increase in the reimbursement rate. ~~Such~~ a request for increased rates due to isolation ~~shall~~ must be made by the parent or guardian on the contract for individual transportation for the ensuing school fiscal year by indicating the special facts and circumstances which exist to justify the

DATE 3-12-93SB-235

increase. Before any increased rate due to isolation ~~can~~ may be paid to the requesting parent or guardian, ~~such~~ the rate must be approved by the county transportation committee and the superintendent of public instruction after the trustees have indicated their approval or disapproval. Regardless of the action of the trustees and when approval is given by the county transportation committee and the superintendent of public instruction, the trustees shall pay ~~such~~ the increased rate due to isolation. The increased rate ~~shall~~ must be $1\frac{1}{2}$ times the rate prescribed in subsection (1) above.

(4) When the isolated conditions of the household where an eligible transportee resides require ~~such~~ the eligible transportee to live away from the household in order to attend school, ~~he shall be~~ the transportee is eligible for the room and board reimbursement. Approval to receive the room and board reimbursement ~~shall~~ must be obtained in the same manner prescribed in subsection (3) above. The per diem rate for room and board ~~shall be~~ is \$5.31 for one eligible transportee and \$3.19 for each additional eligible transportee of the same household.

(5) When the individual transportation provision is to be satisfied by supervised home study or supervised correspondence study, the reimbursement rate ~~shall~~ must be the cost of such study, provided that the course of instruction is approved by the trustees and supervised by the district."

Section 133. Section 20-10-144, MCA, is amended to read:

"20-10-144. Computation of revenues and net tax levy requirements for district transportation fund budget. Before the fourth Monday of July and in accordance with 20-9-123, the county superintendent shall compute the revenue available to finance the transportation fund budget of each district. The county superintendent shall compute the revenue for each district on the following basis:

(1) The "schedule amount" of the preliminary budget expenditures that is derived from the rate schedules in 20-10-141 and 20-10-142 must be determined by adding the following amounts:

(a) the sum of the maximum reimbursable expenditures for all approved school bus routes maintained by the district (to determine the maximum reimbursable expenditure, multiply the applicable rate per bus mile by the total number of miles to be traveled during the ensuing school fiscal year on each bus route approved by the county transportation committee and maintained by such district); plus

(b) the total of all individual transportation per diem reimbursement rates for the district as determined from the contracts submitted by the district multiplied by the number of pupil-instruction days scheduled for the ensuing school attendance year; plus

(c) any estimated costs for supervised home study or supervised correspondence study for the ensuing school fiscal year; plus

(d) the amount budgeted on the preliminary budget for the contingency amount permitted in 20-10-143, except if the amount exceeds 10% of the total of subsections (1)(a), (1)(b), and

(1)(c), the transportation fund budget limitation provided for in 20-10-143, or \$100, whichever is larger largest, the contingency amount on the preliminary budget must be reduced to the limitation amount and used in this determination of the schedule amount.

(2) ~~(a)~~ The schedule amount determined in subsection (1) or the total preliminary transportation fund budget, whichever is smaller, ~~is divided by 2 and is used to determine the available state and county revenue to be budgeted, on the following basis:~~

~~(i) one half is the budgeted state transportation reimbursement, except that the state transportation reimbursement for the transportation of special education pupils under the provisions of 20-7-442 must be 50% of the schedule amount attributed to the transportation of special education pupils; and~~

~~(ii) one half is the budgeted county transportation fund reimbursement and must be financed in the manner provided in 20-10-146.~~

~~(b)(3)~~ When the district has a sufficient amount of cash for reappropriation and other sources of district revenue, as determined in subsection ~~(3)~~ (4), to reduce the total district obligation for financing to zero, any remaining amount of district revenue and cash reappropriated must be used to reduce the county financing obligation in subsection (2)(a)(ii) and, if the county financing obligations are reduced to zero, to reduce the state financial obligation in subsection (2)(a)(i).

~~(c) The county revenue requirement for a joint district, after the application of any district money under subsection (2)(b), must be prorated to each county incorporated by the joint district in the same proportion as the ANB of the joint district is distributed by pupil residence in each county the state financial obligation in 20-10-145.~~

~~(3)(4)~~ The total of the money available for the reduction of property tax on the district for the transportation fund must be determined by totaling:

(a) anticipated federal money received under the provisions of Title I of Public Law 81-874 or other anticipated federal money received in lieu of that federal act;

(b) anticipated payments from other districts for providing school bus transportation services for the district;

(c) anticipated payments from a parent or guardian for providing school bus transportation services for his child;

(d) anticipated or reappropriated interest to be earned by the investment of transportation fund cash in accordance with the provisions of 20-9-213(4);

(e) anticipated or reappropriated 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;

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

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

(h) sales tax and use tax revenue distributed under [section 62];

~~(h)~~(i) any other revenue anticipated by the trustees to be earned during the ensuing school fiscal year that may be used to finance the transportation fund; and

~~(i)~~(j) any fund balance available for reappropriation as determined by subtracting the amount of the end-of-the-year fund balance earmarked as the transportation fund operating reserve for the ensuing school fiscal year by the trustees from the end-of-the-year fund balance in the transportation fund. The operating reserve may not be more than 20% of the final transportation fund budget for the ensuing school fiscal year and is for the purpose of paying transportation fund warrants issued by the district under the final transportation fund budget.

~~(4)~~(5) The district levy requirement for each district's transportation fund must be computed by:

(a) subtracting the schedule amount calculated in subsection (1) from the total preliminary transportation budget amount; and

(b) subtracting the amount of money available to reduce the property tax on the district, as determined in subsection ~~(3)~~ (4), from the amount determined in subsection ~~(4)~~(a) ~~(5)~~(a).

~~(5)~~(6) The transportation fund levy requirements determined in subsection ~~(4)~~ (5) for each district must be reported to the county commissioners on the second Monday of August by the county superintendent as the transportation fund levy requirements for the district, and the levy must be made by the county commissioners in accordance with 20-9-142."

Section 134. Section 20-10-145, MCA, is amended to read:

"20-10-145. State transportation reimbursement. (1) A district providing school bus transportation or individual transportation in accordance with this title, board of public education transportation policy, and superintendent of public instruction transportation rules must receive a state reimbursement of its transportation expenditures under the transportation reimbursement rate provisions of 20-10-141 and 20-10-142. The state transportation reimbursement is ~~one-half~~ 100% of the reimbursement amounts established in 20-10-141 and 20-10-142 or ~~one-half~~ 100% of the district's transportation fund budget, whichever is smaller, and must be computed on the basis of the number of days the transportation services were actually rendered, not to exceed 180 pupil-instruction days. In determining the amount of the state transportation reimbursement, an amount claimed by a district may not be considered for reimbursement unless the amount has been paid in the regular manner provided for the payment of other financial obligations of the district.

(2) Requests for the state transportation reimbursement must be made by each district semiannually during the school fiscal year on the claim forms and procedure promulgated by the superintendent of public instruction. The claims for state transportation reimbursements must be routed by the district to the county superintendent, who after reviewing the claims shall send them to the superintendent of public instruction. The superintendent of public instruction shall establish the validity and accuracy of the claims for the state transportation reimbursements by determining compliance with this title, board

of public education transportation policy, and the transportation rules of the superintendent of public instruction. After making any necessary adjustments to the claims, the superintendent of public instruction shall order a disbursement from the state money appropriated by the legislature of the state of Montana for the state transportation reimbursement. The payment of all the district's claims within one county must be made to the county treasurer of the county, and the county superintendent shall apportion the payment in accordance with the apportionment order supplied by the superintendent of public instruction."

Section 135. Section 17-3-213, "MCA, is amended to read:

"17-3-213. Allocation to general road fund and countywide school levies. (1) The forest reserve funds so apportioned to each county must be apportioned by the county treasurer in each county as follows:

(a) to the general road fund, 66 2/3% of the total amount received;

(b) to the following countywide school levies, 33 1/3% of the total sum received:

(i) county equalization for elementary schools provided for in 20-9-331; and

(ii) county equalization for high schools provided for in 20-9-333;

~~(iii) the county transportation fund provided for in 20-10-146; and~~

~~(iv) the elementary and high school district retirement fund obligations provided for in 20-9-501.~~

(2) The apportionment of money to the funds provided for under subsection (1)(b) must be made by the county superintendent based on the proportion that the mill levy of each fund bears to the total number of mills for all the funds. Whenever the total amount of money available for apportionment under this section is greater than the total requirements of a levy, the excess money and any interest income must be retained in a separate reserve fund, to be reapportioned in the ensuing school fiscal year to the levies designated in subsection (1)(b).

(3) In counties in which special road districts have been created according to law, the board of county commissioners shall distribute a proportionate share of the 66 2/3% of the total amount received for the general road fund to the special road districts within the county based upon the percentage that the total area of the road district bears to the total area of the entire county."

{Internal References to 17-3-213:

20-9-331

20-9-333

20-10-146}

Section 136. Section 20-3-205, MCA, is amended to read:

"20-3-205. Powers and duties. The county superintendent has general supervision of the schools of the county within the limitations prescribed by this title and shall perform the following duties or acts:

(1) determine, establish, and reestablish trustee nominating districts in accordance with the provisions of 20-3-352, 20-3-353, and 20-3-354;

(2) administer and file the oaths of members of the boards of trustees of the districts in his county in accordance with the provisions of 20-3-307;

(3) register the teacher or specialist certificates or emergency authorization of employment of any person employed in the county as a teacher, specialist, principal, or district superintendent in accordance with the provisions of 20-4-202;

(4) act on each tuition application submitted to him in accordance with the provisions of 20-5-301, 20-5-302, 20-5-304, and 20-5-311 and transmit the tuition information required by 20-5-312;

(5) file a copy of the audit report for a district in accordance with the provisions of 20-9-203;

(6) classify districts in accordance with the provisions of 20-6-201 and 20-6-301;

(7) keep a transcript and reconcile the district boundaries of the county in accordance with the provisions of 20-6-103;

(8) fulfill all responsibilities assigned to him under the provisions of this title regulating the organization, alteration, or abandonment of districts;

(9) act on any unification proposition and, if approved, establish additional trustee nominating districts in accordance with 20-6-312 and 20-6-313;

(10) estimate the average number belonging (ANB) of an opening school in accordance with the provisions of 20-6-502, 20-6-503, 20-6-504, or 20-6-506;

(11) process and, when required, act on school isolation applications in accordance with the provisions of 20-9-302;

(12) complete the budgets, compute the budgeted revenues and tax levies, file final budgets and budget amendments, and fulfill other responsibilities assigned to him under the provisions of this title regulating school budgeting systems;

(13) submit an annual financial report to the superintendent of public instruction in accordance with the provisions of 20-9-211;

(14) monthly, unless otherwise provided by law, order the county treasurer to apportion state money, county school money, and any other school money subject to apportionment in accordance with the provisions of 20-9-212, 20-9-334, 20-9-347, or 20-10-145, ~~or 20-10-146~~;

(15) act on any request to transfer average number belonging (ANB) in accordance with the provisions of 20-9-313(3);

(16) calculate the estimated budgeted general fund sources of revenue in accordance with the provisions of 20-9-348 and the other general fund revenue provisions of the general fund part of this title;

(17) compute the revenues and the district and county levy requirements for each fund included in each district's final budget and report the computations to the board of county commissioners in accordance with the provisions of the general fund, transportation, bonds, and other school funds parts of this title;

(18) file and forward bus driver certifications, transportation contracts, and state transportation reimbursement claims in accordance with the provisions of 20-10-103, 20-10-143,

or 20-10-145;

(19) for districts that do not employ a district superintendent or principal, recommend library book and textbook selections in accordance with the provisions of 20-7-204 or 20-7-602;

(20) notify the superintendent of public instruction of a textbook dealer's activities when required under the provisions of 20-7-605 and otherwise comply with the textbook dealer provisions of this title;

(21) act on district requests to allocate federal money for indigent children for school food services in accordance with the provisions of 20-10-205;

(22) perform any other duty prescribed from time to time by this title, any other act of the legislature, the policies of the board of public education, the policies of the board of regents relating to community college districts, or the rules of the superintendent of public instruction;

(23) administer the oath of office to trustees without the receipt of pay for administering the oath;

(24) keep a record of his official acts, preserve all reports submitted to him under the provisions of this title, preserve all books and instructional equipment or supplies, keep all documents applicable to the administration of the office, and surrender all records, books, supplies, and equipment to his successor;

(25) within 90 days after the close of the school fiscal year, publish an annual report in the county newspaper stating the following financial information for the school fiscal year just ended for each district of the county:

(a) the total of the cash balances of all funds maintained by the district at the beginning of the year;

(b) the total receipts that were realized in each fund maintained by the district;

(c) the total expenditures that were made from each fund maintained by the district; and

(d) the total of the cash balances of all funds maintained by the district at the end of the school fiscal year; and

(26) hold meetings for the members of the trustees from time to time at which matters for the good of the districts must be discussed."

{Internal References to 20-3-205: None.}

Section 137. Section 20-10-104, MCA, is amended to read:

"20-10-104. **Penalty for violating law or rules.** (1) Every district, its trustees and employees, and every person under a transportation contract with a district shall be subject to the policies prescribed by the board of public education and the rules prescribed by the superintendent of public instruction. When a district knowingly violates a transportation law or board of public education transportation policy, such district shall forfeit any reimbursement otherwise payable under 20-10-145 and ~~20-10-146~~ for bus miles actually traveled during that fiscal year in violation of such law or policies. The county superintendent shall suspend all such reimbursements payable to the district until the district corrects the violation. When the district

corrects the violation, the county superintendent shall resume paying reimbursements to the district, but the amount forfeited may not be paid to the district.

(2) When a person operating a bus under contract with a district knowingly fails to comply with the transportation law or the board of public education transportation policies, the district may not pay him for any bus miles traveled during the contract year in violation of such law or policies. Upon discovering such a violation, the trustees of the district shall give written notice to the person that unless the violation is corrected within 10 days of the giving of notice, the contract will be canceled. The trustees of a district shall order the operation of a bus operated under contract suspended when the bus is being operated in violation of transportation law or policies and the trustees find that such violation jeopardizes the safety of pupils."

{Internal References to 20-10-104: None.}

Renumber: subsequent sections

8. Page 190.

Following: line 3

Insert: "NEW SECTION. Section 178. Coordination instruction. If [this act] is approved at the special election held pursuant to [section 173] and if Senate Bill No. 32 is passed and approved and it amends 20-9-344, 20-9-366, 20-9-367, 20-9-368, 20-9-406, and 20-9-439, then Senate Bill No. 32 is void on June 30, 1994."

{Internal References to 20-10-146:

17-3-213	20-3-205	20-10-104	20-10-141
20-10-142	20-10-144}		

Additional State Cost of Eliminating \$40 Million in Retirement Property Tax

Reimbursement of Property Tax Revenue			
	SB 235 As Introduced	With Elimination of Retirement Levies	Change
Class 8 Business Equipment	(41.73)	(38.43)	3.30
Railroads and Airlines	(2.27)	(2.09)	0.18
Residential Exemption (\$20,000)	(49.36)	(45.63)	3.73
Commercial Exemption (\$10,000)	(5.99)	(5.56)	0.43
Total	(99.35)	(91.71)	7.64
Amount of Retirement Property Tax Reduction			
			(40.00)
Additional State Money Needed			
			(32.36)

Additional State Cost of Eliminating \$8.22 Million in Transportation Property Tax

Reimbursement of Property Tax Revenue			
	SB 235 As Introduced	With Elimination of Transportation Levies	Change
Class 8 Business Equipment	(41.73)	(41.03)	0.70
Railroads and Airlines	(2.27)	(2.23)	0.04
Residential Exemption (\$20,000)	(49.36)	(48.65)	0.71
Commercial Exemption (\$10,000)	(5.99)	(5.92)	0.07
Total	(99.35)	(97.83)	1.52
Amount of Retirement Property Tax Reduction			
Additional State Money Needed			
(8.22)			
(6.70)			

Compiled by the Office of Research and Information, MDOR

11-Mar-93 03:28 PM

SENATE TAXATION

EXHIBIT NO. 4

DATE 3-12-93

BILL NO. S02235

SENATE TAXATION

EXHIBIT NO. 5

DATE 3-12-93

BILL NO. SB 235

OFFICE OF PUBLIC INSTRUCTION, March 11, 1993
School funding equalization proposals under SB235 (Sales Tax)

COUNTY NAME	FY93 COUNTY TRSP	FY93 CO RETIREMENT			TOTAL TRANSP & RET MILLS	RETIREMENT GTB AT 236% -			- NET LEVY CHANGE -		
		ELEM	HS.	TOTAL		ELEM	HS	TOTAL	BOTH 100% FUNDED	100% TRSP & RET GTB AT 236%	
BEAVERHEAD	10.53	18.46	11.85	30.31	40.84	9.43	5.84	15.27	-40.84	-25.57	
BIG HORN	3.95	13.77	12.87	26.64	24.59	7.11	3.60	10.71	-24.59	-13.88	
BLAINE	12.04	9.32	16.43	21.75	33.79	4.75	6.29	11.04	-33.79	-22.75	
BROADWATER	2.71	11.72	7.79	19.51	22.22	8.18	5.81	14.00	-22.22	-8.22	
CARBON	7.59	18.99	12.49	31.48	39.07	9.83	6.34	16.17	-39.07	-22.90	
CARTER	3.57	8.36	5.87	14.23	17.80	8.36	5.87	14.23	-17.80	-3.57	
CASCADE	6.14	19.13	10.80	29.93	36.07	9.76	5.52	15.28	-36.07	-20.79	
CHOUTEAU	7.50	11.00	5.82	16.82	24.32	9.80	4.80	14.59	-24.32	-9.73	
CUSTER	5.79	20.44	10.92	31.36	37.15	10.42	5.61	16.03	-37.15	-21.12	
DANIELS	15.59	23.54	15.96	39.50	55.09	13.05	8.07	21.12	-55.09	-33.97	
DAWSON	3.30	17.21	9.63	26.84	30.14	8.81	4.99	13.80	-30.14	-16.34	
DEER LODGE	7.72	20.87	8.75	29.62	37.34	10.67	4.49	15.16	-37.34	-22.18	
FALLON	8.20	23.83	14.91	38.74	46.94	13.64	8.20	21.84	-46.94	-25.10	
FERGUS	9.77	22.55	11.85	34.40	44.17	11.37	6.05	17.42	-44.17	-26.75	
FLATHEAD	3.98	19.75	9.82	29.57	33.55	10.02	4.96	14.99	-33.55	-18.56	
GALLATIN	4.00	17.56	9.51	27.07	31.07	8.89	4.80	13.69	-31.07	-17.38	
GARFIELD	13.50	14.33	8.94	23.27	36.77	9.06	6.20	15.26	-36.77	-21.51	
GLACIER	8.32	0.00	0.00	0.00	8.32	0.00	0.00	0.00	-8.32	-5.88	
GOLDEN VALLEY	5.88	11.19	9.59	20.78	26.66	11.19	9.59	20.78	-26.66	-13.65	
GRANITE	0.00	18.42	12.95	31.37	31.37	11.00	6.72	17.72	-31.37	-19.87	
HILL	5.99	17.30	10.95	28.25	34.24	8.68	5.07	13.73	-34.24	-10.83	
JEFFERSON	2.93	14.73	5.90	20.63	23.56	9.88	4.05	13.93	-23.56	-18.12	
JUDITH BASIN	12.81	12.57	9.35	21.92	34.73	10.62	6.73	16.61	-34.73	-20.17	
LAKE	11.06	20.84	9.80	30.64	41.70	10.65	4.98	15.59	-41.70	-26.11	
LEWIS & CLARK	4.47	21.01	10.97	31.98	36.45	10.65	5.62	16.28	-36.45	-8.09	
LIBERTY	3.75	12.53	8.82	21.35	25.10	9.62	7.39	17.01	-25.10	-10.31	
LINCOLN	3.52	10.16	4.95	15.11	18.63	5.23	2.53	7.76	-18.63	-10.87	
MADISON	5.97	7.93	6.84	14.77	20.74	6.05	4.38	10.43	-20.74	-17.53	
MCCONE	11.66	13.60	9.03	22.63	34.29	11.00	5.76	16.76	-34.29	-6.20	
MEAGHER	5.19	7.63	6.56	14.19	19.38	7.63	5.55	13.18	-19.38	-19.67	
MINERAL	4.56	19.12	11.99	31.11	35.67	9.83	6.17	16.00	-35.67	-19.70	
MISSOULA	3.67	21.22	11.36	32.58	36.25	10.79	5.76	16.55	-36.25	-14.47	
MUSSELSHELL	8.98	6.80	4.48	11.29	20.27	3.47	2.32	5.80	-20.27	-14.47	
PARK	5.83	17.59	10.92	28.51	34.34	8.94	5.58	14.52	-34.34	-46.67	
PETROLEUM	33.74	20.84	17.56	38.40	72.14	16.02	9.45	25.47	-72.14	-7.82	
PHILLIPS	4.95	7.23	3.51	10.74	15.69	5.56	2.32	7.87	-15.69	-21.22	
PONDERA	7.14	18.55	10.25	28.80	35.94	9.46	5.26	14.72	-35.94	-18.82	
POWDER RIVER	9.74	12.13	10.58	22.71	32.45	7.88	5.75	13.63	-32.45	-19.81	
POWELL	3.35	22.90	10.62	33.52	36.87	11.62	5.44	17.06	-36.87	-14.95	
PRAIRIE	10.04	12.52	4.94	17.46	27.50	9.87	2.68	12.55	-27.50	-21.35	
RAVALLI	9.30	15.93	8.35	24.28	33.58	7.99	4.25	12.23	-33.58	-6.87	
RICHLAND	6.85	0.00	0.04	0.04	6.89	0.00	0.02	0.02	-6.89	-15.22	
ROOSEVELT	6.66	10.40	7.13	17.53	24.19	5.30	3.66	8.97	-24.19	-1.41	
ROSEBUD	1.41	5.05	2.09	7.14	8.55	5.05	2.09	7.14	-8.55	-22.69	
SANDERS	3.46	12.23	7.00	19.23	22.69	6.99	3.53	10.52	-22.69	-18.37	
SHERIDAN	7.77	16.81	5.15	21.96	29.73	8.74	2.62	11.36	-29.73	-21.07	
SILVER BOW	4.94	22.46	10.86	33.32	38.26	11.54	5.65	17.19	-38.26		

OFFICE OF PUBLIC INSTRUCTION, March 11, 1993
 School funding equalization proposals under SB235 (Sales Tax)

COUNTY NAME	FY93 COUNTY TRSP	- - FY93 CO ELEM	HS	RETIREMENT TOTAL	TRANSP & RET MILLS	TOTAL	- - HS	RETIREMENT GTB AT 236% ELEM	TOTAL	- FUND	NET LEVY CHANGE - BOTH 100% TRSP & RET GTB AT 236%
STILLWATER	4.54	15.47	6.32	21.79	26.33	26.33	3.22	8.68	11.90	-26.33	-14.43
SWEET GRASS	3.26	14.33	11.38	25.71	28.97	28.97	5.76	8.27	14.02	-28.97	-14.95
TETON	10.06	16.98	10.84	27.82	37.88	37.88	5.46	8.68	14.14	-37.88	-23.74
TOOLE	1.12	4.01	1.98	5.99	7.11	7.11	1.33	2.66	3.99	-7.11	-3.12
TREASURE	6.08	7.98	7.65	15.63	21.71	21.71	7.65	7.98	15.63	-21.71	-6.08
VALLEY	7.02	21.58	12.58	34.16	41.18	41.18	7.70	13.59	21.29	-41.18	-19.89
WHEATLAND	7.33	15.85	10.34	26.19	33.52	33.52	6.64	12.16	18.80	-33.52	-14.72
WIBAUX	2.72	5.80	3.90	9.70	12.42	12.42	2.46	4.08	6.53	-12.42	-5.89
YELLOWSTONE	4.01	21.22	10.71	31.93	35.94	35.94	5.38	10.82	16.21	-35.94	-19.73

100% state funding of on-schedule transportation requires an additional \$10.1M
 100% state funding of county retirement obligations requires an additional \$38.3M.
 60% state funding of present county retirement (GTB at 236% of the statewide average) requires an additional \$17.2M.

The purpose of this amendment is to reduce the Homestead Exemption from \$20,000 to \$15,000.

1. Page 58, line 22
Following: "or"
Strike: "\$20,000"
Insert: "\$15,000"

SENATE TAXATION

EXHIBIT NO. 6

DATE 3-12-93

BILL NO. SB 235

The purpose of this amendment is to reduce the Renter's Credit from \$200 to \$150.

1. Page 54, line 25
Following: "claim period or"
Strike: "\$200"
Insert: "\$150"

SENATE TAXATION

EXHIBIT NO. 7

DATE 3-12-93

BILL NO. SB 235

The purpose of this amendment is to eliminate indexing of Individual Income Tax Exemption Level and Standard Deductions.

1. Page 149, line 23 through Page 150, line 3
Strike: Subsection (2) in its entirety.
Renumber: subsequent subsections
2. Page 150, line 25 through Page 151, line 3.
Strike: Subsection (8) in its entirety.
Renumber: subsequent subsections
3. Page 164, lines 7 through 13
Strike: Subsection (6) in its entirety.
4. Page 167, lines 3 through 12
Strike: Subsection (4) in its entirety.

SENATE TAXATION

EXHIBIT NO. 8

DATE 3-12-93

BILL NO. SB 238

The purpose of this amendment is to increase the tax rate for personal property from 3.86% to 4.5%.

1. Page 110, line 19.
Following: "is taxed at"
Strike: "3.86%"
Insert: "4.5%"

SENATE TAXATION

EXHIBIT NO. 9

DATE 3-12-93

BILL NO. SB 935

SENATE TAXATION

EXHIBIT NO. 10

DATE 3-12-93

BILL NO. SB 235

AMENDMENTS

SB-235

INTRODUCED VERSION

REQUESTED BY THE DEPARTMENT OF REVENUE

March 11, 1993

The purpose of the amendment is to delete the security cash reserve account.

1. Title, lines 12 and 13.
Following: "USE TAX REVENUE;"
Strike: "PROVIDING FOR A SECURITY CASH RESERVE ACCOUNT AND ITS USE;"
Line 24
Following: "16-2-301,"
Strike: "17-7-102, 17-7-140,"
2. Page 51, lines 14 through 17.
Strike: Beginning on line 14, strike "distributed as follows:
(i) 25.9% to the security cash reserve account established in [section 79]; and (ii) 74.1% that must be further"
3. Pages 60 through 61.
Strike: Sections 79 and 80 in their entirety.
Renumber: subsequent sections
4. Pages 65 through 73
Strike: Sections 86 and 87 in their entirety.
Renumber: subsequent sections

AMENDMENTS
SB-235
INTRODUCED VERSION
REQUESTED BY THE DEPARTMENT OF REVENUE
March 11, 1993

Explanation of Department Amendments to Personal Property Tax
Reimbursements [SECTION 114]

The general purpose of the department's amendments to the local government reimbursement mechanism in SB 235 [section 114] are to simplify and clarify the administration of the program. The purpose and effects of each major change are listed below:

Amendments to "Old" HB-20 Reimbursement Program

- 1) The first section of the amendments deletes instructions (now obsolete) in the code which deal with the initial reimbursement in 1990 and sets November 1 of each year as the deadline for collecting current year mills for all taxing jurisdictions.
- 2) The second section clarifies that the reimbursement calculation is based on the reduction in taxable value in 1989 due to decreases in the tax rates for personal property.
- 3) The final part of the proposed amendments establishes the treatment of taxing jurisdictions which cease to exist, come into existence, merge or split. Jurisdictions which were not in existence during 1989 or have ceased to exist since 1989 are not eligible for reimbursement. Two or more taxing jurisdictions which merge are entitled to a reimbursement based on the combined proportion of taxable value loss during 1989. Taxing jurisdictions created as a result of splitting are entitled to a reimbursement based upon a share of the taxable value loss of the original jurisdiction in 1989.

Amendments to "New" SB-235 Reimbursements

- 1) Changes the date of data collection to December 31, 1993 in order to allow the department sufficient time to compile the necessary data and implement the early reimbursement for personal property not liened to real property (see #3 below).
- 2) The proposed amendments change the method used in the reimbursement calculation for tax year 1994. Under the new method, the base (decrease in taxable value) is the difference between tax year 1993 class 8 taxable value using the 1993

(old law) tax rate and 1994 (new law) tax rates. Also included in this base is the taxable value attributable to providing the \$10,000 commercial exemption. It is derived by multiplying the total number of commercial parcels times the exemption amount times the 1993 tax rate. The decrease in taxable value determined above is multiplied times the 1993 mill levy for the jurisdiction to obtain the total reimbursement amount.

- 3) The department will reimburse local governments 30% of the tax year 1994 total reimbursement in May of 1994 to compensate jurisdictions for revenue losses associated with personal property not liened to real property.
- 4) The amendments clarify that counties will distribute the reimbursement payments to taxing jurisdictions as calculated by the department through tax year 1996. For tax year 1997 and beyond, counties will distribute the reimbursements to taxing jurisdictions based upon their relative share of the total county reimbursement during tax year 1996.
- 5) The proposed amendments establish the treatment of taxing jurisdictions which cease to exist, come into existence, merge or split. Jurisdictions which were not in existence during 1993 or have ceased to exist since 1993 are not eligible for reimbursement. Two or more taxing jurisdictions which merge are entitled to a reimbursement based on the combined proportion of those jurisdictions in 1993. Taxing jurisdictions created as a result of splitting are entitled to a reimbursement based upon their relative proportions of class 8 and commercial real property of the original jurisdiction.

1. Pages 98 through 99
Line 17

Following "(1)(a)" on line 17, page 98.

Strike: The remainder of line 17 and lines 18 through line 25 on page 98 and lines 1 through 8 on page 99 in their entirety.

Insert: "Prior to November 1, of each year, the department of revenue shall determine, for each county the number of mills levied for the current tax year in each taxing jurisdiction levying mills against personal property."

2. Page 99, lines 9 and 10
Following: "(2)"

Strike: "Prior to September 1, 1990, the department's agent in the county shall supply the following information to the"

Insert: "The"

Line 11

Following: "department"

Strike: "for"

Insert: "shall determine the amount of taxable value lost within"

Following: "within the county"
Strike: ":"
Line 12
Strike: Subsections (a)(b) and (c) in their entirety.
Line 19
Strike: "(d) the total taxable valuation for taxable years
1989 and 1990, reported separately for each year of all"
Insert: "due to the reduction in personal property"
Line 21
Following: "property"
Strike: "secured by real property"
Insert: "tax rates for property included in class eight, class
nine, and class ten, as those classes existed in 1989. The
determination must be based on 1989 taxable values for class eight,
class nine, and class ten property as reported to the department by
each taxing jurisdiction that existed in 1989, less the taxable
value for the same property in 1989 as determined by the 1991 tax
rate for property included in 15-6-138.
(b) The department shall calculate the taxable value lost in
a taxing jurisdiction as a result of a reduction in the taxable
value rate in 15-6-145 that results from a reduction in taxable
value of property under 15-6-138.
(c) The amount of reimbursement is calculated by multiplying
the current year mill levy for each taxing jurisdiction times the
total amount of taxable value lost as determined in subsections
(2)(a) and (2)(b)."
Page 99, line 22 through Page 100, line 3
Strike: All of line 22 and lines 23 through line 25 on page
99. On line 1, page 100 strike all of line 1 and line 2 and 3
through "15-6-145".
3. Page 100, line 5
Strike: "For taxable year 1990 and for each year thereafter
the"
Insert: "The"
Line 6
Following: "the county treasurer"
Insert: "50% of"
Following: "the"
Strike: "base"
Line 8
Following: "subsection"
Strike: "(3), as follows"
Insert: "(2),"
Line 9
Strike "(a)"
Following: "November 30"
Strike: ", 1990"
Following "and"
Strike: The remainder of line 9 and lines 10 though 12 in
their entirety.
Line 13

Strike: "(b)"

Insert: "the remaining 50%"

Following: "May 31"

Strike: The remainder of line 13 and lines 14 and 15 in their entirety.

4. Pages 100 through 103

Line 16

Strike: Subsections 5 through 9 in their entirety.

Insert: "(5) Prior to December 31, 1993, for each county the department shall determine the following information for each taxing jurisdiction that was in existence in tax year 1993:

(a) the number of mills levied in each taxing jurisdiction for tax year 1993;

(b) the total taxable valuation for tax year 1993 of all property included in class eight; and

(c) the number of commercial parcels qualifying for market value reduction provided for in [section 116].

(6)(a)(i) Based on the information determined under Section 5, the department shall calculate the revenue loss for each taxing jurisdiction due to the change in the tax rate provided for in [section 117], and the reduction in commercial property market value provided for in [section 116].

(ii) For purposes of this section revenue loss for each taxing jurisdiction is:

(A) the taxable value of all class eight property computed at the statutory tax rate in effect for tax year 1993 less the taxable value of all class eight property computed at the tax rate provided for in [section 117]; plus

(B) the number of commercial parcels qualifying for the market value reductions provided for in [section 116] times the maximum dollar amount of the exemption provided for in [section 116] times the taxable valuation rate of commercial property as provided for in 15-6-134;

(C) multiplied by the number of mills levied in the taxing jurisdiction for tax year 1993.

(b) The total revenue loss within each county is the sum of the revenue loss computed for each taxing jurisdiction in the county.

(7)(a) Prior to May 1, 1994 the department shall remit to each county treasurer 30% of the total reimbursement calculated under section 6(b) to compensate taxing jurisdictions for loss of revenue associated with class 8 personal property not secured by real property. The county treasurer shall distribute the total reimbursement to each taxing jurisdiction as calculated by the department.

(b) The amount of reimbursement due from the state to each county for tax years 1994, 1995, and 1996 is the total revenue loss calculated under sections 5 and 6. The county treasurer shall distribute the total revenue loss to each taxing jurisdiction as calculated by the department.

(c) The amount of total reimbursement for each county for tax

year 1997 and for each tax year thereafter is determined by using the formula $R = A \times (B/C) \times (D/E)$, where:

(A) "R" is the amount of reimbursement to be received by the county for the current tax year;

(B) "A" is the total statewide amount available for reimbursement and is determined by totaling the amount of reimbursement, "R", for all counties for the immediately preceding tax year. For tax year 1997, the total statewide amount available for reimbursement is the total revenue loss calculated in subsection (6)(b) for all counties in tax year 1996.

(C) "B" is the statewide total of all sales taxes and use taxes collected in the tax year immediately preceding the current tax year;

(D) "C" is the statewide total of all sales taxes and use taxes collected in the tax year prior to the tax year immediately preceding the current tax year;

(E) "D" is the total taxable value of all commercial property in class four and all property in class eight within the county during the tax year immediately preceding the current tax year; and

(F) "E" is the total taxable value of all commercial property in class four and all property in class eight in the state during the tax year immediately preceding the current tax year.

(8) Funds appropriated from the sales tax and use tax account for reimbursements calculated under sections 5 through 7 for tax year 1994 and subsequent tax years shall be remitted to the county treasurer as follows:

(a) on or before November 30, 1994, and on or before each November 30 thereafter, the department shall remit 50% of the amount of the revenue reimbursable to the county; and

(b) on or before May 31, 1995, and on or before each May 31 thereafter, the department shall remit 50% of the amount of the revenue reimbursable to the county.

(9)(a) Upon receipt of the reimbursement provided for in subsections (1) through (4) the county treasurer shall distribute the reimbursement to each taxing jurisdiction as calculated by the department.

(b) For tax years 1997 and subsequent years upon receipt of the reimbursements from the department, the county treasurer of each county shall distribute the reimbursement to each taxing jurisdiction in the relative proportions determined under the total calculations provided by the department for tax year 1996.

(10) For the purposes of this section, "taxing jurisdiction" means the state of Montana, local governments including counties and incorporated cities and towns, school districts, tax increment financing districts, and miscellaneous taxing jurisdictions levying mills against property being reimbursed under this section.

(11)(a) For distributions made pursuant to subsection (2) the creation and dissolution of taxing jurisdictions is treated as follows:

(i) A taxing jurisdiction that existed in tax year 1989 and that no longer exists is not entitled to reimbursement.

(ii) Taxing jurisdictions that are combined into a single

taxing jurisdiction are entitled to reimbursement based on the combined proportion of those jurisdictions in tax year 1989.

(iii) A taxing jurisdiction that existed in tax year 1989 and this is split into two or more taxing jurisdictions is entitled to reimbursement based on the portion of 1989 taxable value within each new taxing jurisdiction. The department shall determine the portion of 1989 taxable value located in each taxing jurisdiction.

(iii) A taxing jurisdiction that did not exist in tax year 1989 is not entitled to reimbursement under section (2) unless the jurisdiction was created as described in (11)(a)(iii).

(b) For distributions made pursuant to subsections (5) through (7) the creation and dissolution of taxing jurisdictions after tax year 1993 is treated as follows:

(i) Taxing jurisdictions that existed in tax year 1993 that no longer exist in subsequent tax years, and are not combined with another taxing jurisdiction are no longer entitled to reimbursement. The reimbursement for the taxing jurisdiction that no longer exists must be prorated across all remaining jurisdictions in the relative proportions that would have existed in tax year 1993 had the jurisdiction not been in existence in the year also.

(ii) Taxing jurisdictions that are combined into a single taxing jurisdiction are entitled to reimbursement based on the combined proportion of those jurisdictions in tax year 1993.

(iii) Taxing jurisdictions created as a result of splitting an existing jurisdiction are entitled to a share of the original reimbursement based on the relative proportion of class 8 and commercial property within each of the newly created jurisdictions in the tax year that the new jurisdictions are created.

(iv) Taxing jurisdictions that did not exist in tax year 1993 are not entitled to reimbursement unless created as defined in subsection 11(b)(iii)."

Renumber: subsequent subsections.

Amendments to Senate Bill No. 235
First Reading Copy

SENATE TAXATION

EXHIBIT NO. 12

DATE 3-12-93

BILL NO. SB235

Requested by Senator Towe
For the Committee on Taxation

Prepared by Jeff Martin
March 6, 1993

1. Page 190.

Following: line 3

Insert: "NEW SECTION. Section 171. Coordination instruction. If
___ Bill No. ___ [LC 159] contains tax reform measures that
provide alternative revenue sources for the state general
fund in the event that [this act] is not approved at the
election held pursuant to [section 176] and if ___ Bill No.
___ [LC 159] is not passed and approved, then a referendum
may not be held on [this act] and [this act] is void, and
the appropriation, if any, to fund the special election is
revoked."

Renumber: subsequent sections

SENATE TAXATION

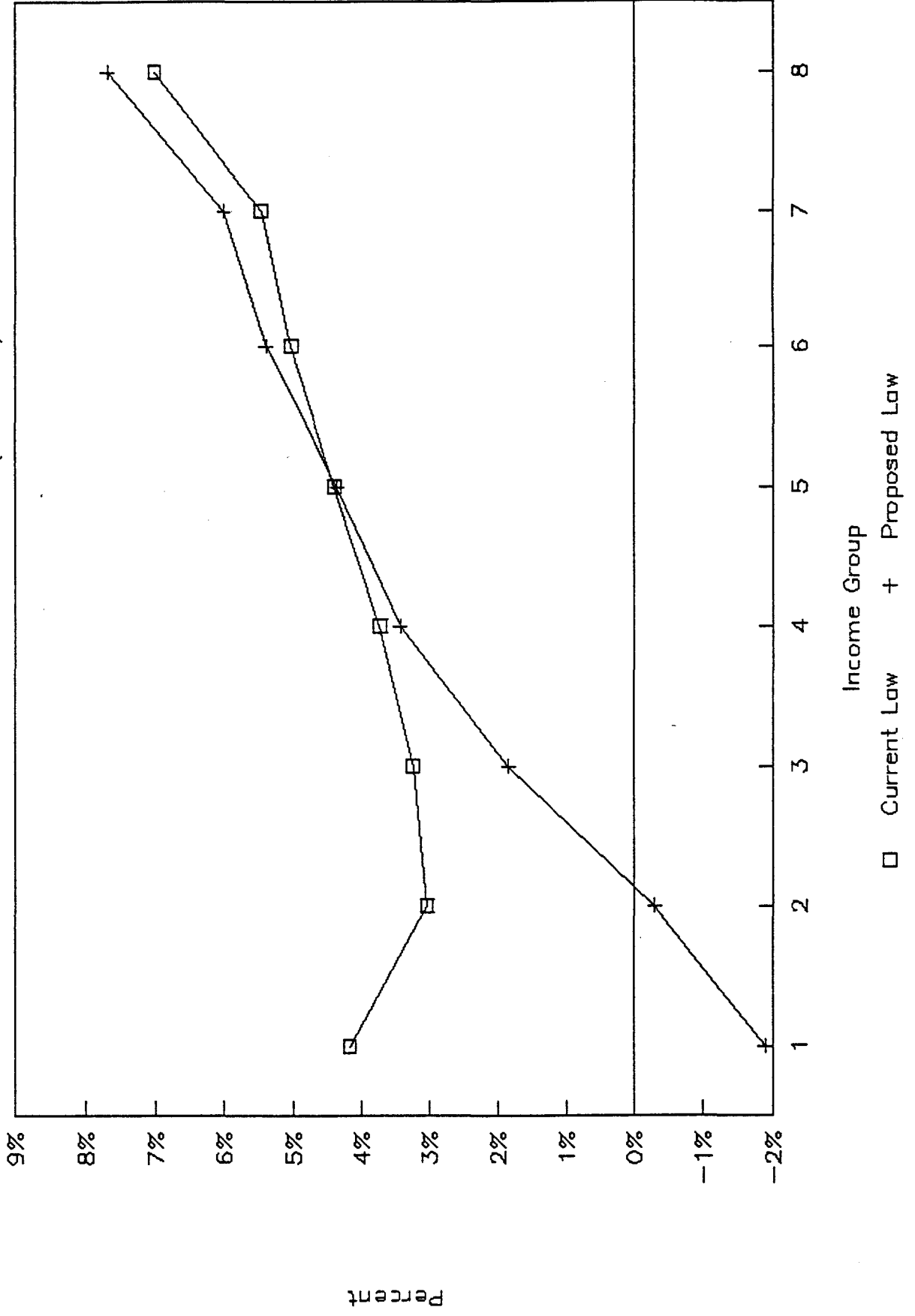
EXHIBIT NO. 13

DATE 3-12-93

BILL NO. SB 235

OVERAL TAX BURDEN

CURRENT LAW vs. PROPOSED LAW (SB235--A)



SENATE TAXATION

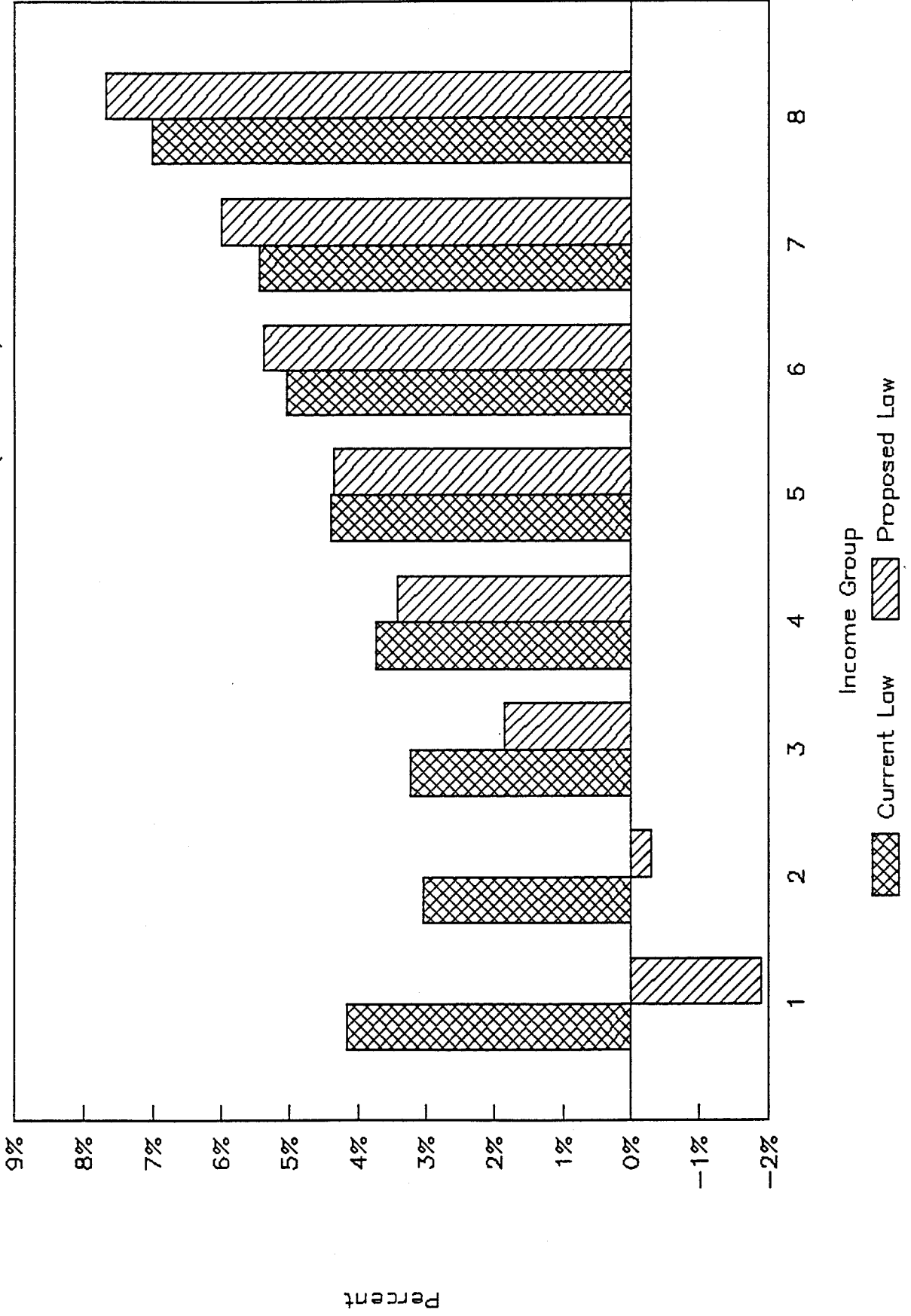
EXHIBIT NO. 14

DATE 3-12-93

BILL NO. SB 235

OVERAL TAX BURDEN

CURRENT LAW vs. PROPOSED LAW (SB235-A)



SB235 - As Amended
March 11, 1993

TAX REFORM COMPONENT	Applicable Date	Revenue Impacts			
		FY94	FY95	FY96	FY97
Sales Tax - Gross revenue	4/1/94	72.90	303.81	312.82	320.73
- Vendor Allowances		(1.90)	(7.60)	(4.47)	(4.58)
- Administration		(4.16)	(6.27)	(6.27)	(6.27)
Sales Tax - Net Revenue		66.84	289.94	302.08	309.88
Income Tax - 6% Flat Rate	1/1/94	(18.52)	(44.39)	(51.25)	(54.68)
Low-Income Sales Tax Credit	1/1/94	0.00	(18.75)	(25.00)	(25.00)
Renter's Credit (\$200)	1/1/94	0.00	(14.09)	(18.78)	(18.78)
Property Tax; Class 8 Pers. Prop.	1/1/94	(12.52)	(41.73)	(41.73)	(41.73)
Property Tax; Railroads/Airlines	1/1/94	0.00	(2.27)	(2.27)	(2.27)
Homestead Exemption (\$20,000)	1/1/94	0.00	(37.02)	(49.36)	(49.36)
Commercial Exemption (\$10,000)	1/1/94	0.00	(5.99)	(5.99)	(5.99)
Disallow Renter Credit Double Ded.	1/1/94	0.00	3.00	4.00	4.00
IMPACT OF REFORM PROPOSAL		35.80	128.71	111.70	116.07

SENATE TAXATION

EXHIBIT NO. 16DATE 3-12-93BILL NO. SB 235

3/10/93

Senator Mike Halligan,
and all members of the Montana
Senate Taxation Committee.

I strongly oppose the motion to
remove from SB 235 the exemption
from taxation of sales commissions.

To my knowledge this has not
been done in any state with a
sales tax.

In addition this would be
impossible to administer from
an economic standpoint.

Sincerely

Stanley H. M. Sature
Investment Executive
Piper Jaffray Inc.

SENATE TAXATION

EXHIBIT NO. 17DATE 3-12-93BILL NO. SB235Teresa L. Darnielle
Investment ExecutivePiper Jaffray Inc.
P.O. Box 1795
Billings, MT 59103
Phone: 406 252-2106
Fax: 800 444-0577

3-11-93

To: Bruce Crippen and other Senate
Taxation Committee Members
Re: Senate Bill 235

Dear Mr. Crippen:

Please tell your colleagues
to stop wasting time and money
attaching riders to your sales tax
bill in an attempt to defeat it,
such as the selective sales tax
on securities commissions.

Having been in the financial services
business in Montana for nearly 13 years
I can tell you that the only people
you will really hurt (in addition to
people in my business) are people
who have worked hard to save and
invest for their own retirement, etc.

The average brokerage firm client is
not a Ross Perot... What's more, people
will simply invest out of state leaving
people like me who pay a lot of taxes
with less income to pay taxes on or with.
We don't need another selective

Sales tax. Please tell the liberals in your group to stop looking for ways to "soak the rich" - which by their definition is probably anyone with an IRA account, - and get to work on the general sales tax, which is the real issue.

Sincerely,

Miss L. Darnell
Investment Executive - Piper Jaffray
609 Houle
Blg, MO 59102

Alan G. Elliott

SENATE TAXATION

EXHIBIT NO. 18DATE 3-12-93BILL NO. SB 235

MARCH 11, 1993

DEAR SENATOR,

A SALES TAX ON COMMISSIONS, AS PROPOSED IN SB235 COULD COST THE STATE AND ITS CITIZENS MORE IN PASS THROUGHs, ADMINISTRATION, AND ENFORCEMENT THAN COULD BE GAINED.

PLEASE EXAMINE WAY OTHER SALES TAX STATES DO NOT TAX COMMISSIONS AND THEN TAKE THE APPROPRIATE ACTION.

THANK YOU FOR YOUR DEDICATION AND COMMITMENT TO MONTANA.

SINCERELY,



SENATE TAXATION
EXHIBIT NO. 19
DATE 3-12-93
BILL NO. SB 235

Senate Taxation Committee

RE: Senate Bill 235

Removal of Exemption of Taxation of Securities Commission

Committee Members:

I would like to express my concern and opposition toward taxing securities commissions. Not only is this an unfair burden to place on a minority of taxpayers, it would be an unprecedented action.

I would encourage you to examine the wisdom of other states regarding this decision. I believe you will also find through careful examination that the revenue generated would be minimal while the cost to those affected would be great.

Sincerely,

John P. Sutton
Investment Executive
Piper Jaffray

March 11, 1993

SENATE TAXATION

EXHIBIT NO. 20

DATE 3-12-93

BILL NO. SB 235

To: Senator Mike Walligan;

and all members of the Montana State
Taxation Committee:

I stand in strong opposition
to removing the exemption of brokerage
Commissions from SB 235.

As a broker, and brokerage office
manager, I feel that our clients would
be adversely affected by this action. Removing
the exemption would be ineffective because
clients could, in effect, dodge taxation by doing
business with brokerage firms located out of
state by dialing an 800 phone number. They
would be bypassing not only the sales tax,
but they would be bypassing my firm, Rippe-
Gaffray, and me, as well.

Please know that this kind of
taxation would profit no one.

Sincerely,

Diane Gerhoff, Assistant Manager
Rippe Gaffray, Billings

SENATE TAXATION

EXHIBIT NO. 21DATE 3-12-93BILL NO. SB 235

3/11/93

Dear Senators Holligan, Eck, Brown, Doherty, Gage,
Crossfield, Harp, Stang, Tove,
Van Valkenburg, Yellowtail & Crispin

After studying SB 235, I see many reasons to oppose the taxation of security transaction commissions.

Please look at other states and what they do in regard to this issue. I think you will find other states don't tax security commissions.

There are many other reasons I oppose taxing security transaction commissions and would be willing to discuss those issues if you choose to call me.

Thank you for your hard work & dedication to Montana.

Sincerely,

Larry Van Atta

Branch Manager / Investment Executive
Billings, Montana
Piper Jaffray, Inc.