

SENATE BILL NO. 94

INTRODUCED BY REGAN, B. BROWN, BLAYLOCK, STEPHENS,
EUDAILY, DONALDSON, BENGTSON, VINCENT

BY REQUEST OF THE JOINT SUBCOMMITTEE ON EDUCATION

IN THE SENATE

January 11, 1983	Introduced and referred to Committee on Taxation.
January 13, 1983	Fiscal Note requested.
January 17, 1983	Fiscal Note returned.
February 11, 1983	Committee recommend bill do pass as amended. Report adopted.
February 12, 1983	Bill printed and placed on members' desks.
February 17, 1983	Second reading, do pass.
February 19, 1983	Correctly engrossed.
February 21, 1983	Third reading, passed. Ayes, 28; Noes, 21. Transmitted to House.

IN THE HOUSE

March 1, 1983	Introduced and referred to Committee on Education and Cultural Resources.
March 11, 1983	Committee recommend bill be concurring in. Report adopted. On motion taken from Committee report and referred to Committee on Taxation.
March 14, 1983	On motion taken from Committee on Taxation, as amended, and referred to second reading for the 59th Legislative Day.

March 15, 1983

Second reading, concurred in
as amended.

March 17, 1983

Third reading, concurred in.

IN THE SENATE

March 18, 1983

Returned to Senate with
amendments.

March 29, 1983

Second reading, amendments
concurred in.

March 30, 1983

Third reading, amendments
concurred in. Ayes, 35; Noes,
13.

Sent to enrolling.

Reported correctly enrolled.

1 *Amended* BILL NO. *94*
 2 INTRODUCED BY *Benjamin Vincent* *Bob Brown* *Blaylock* *Seehas*
 3 BY REQUEST OF THE JOINT SUBCOMMITTEE ON EDUCATION *Enfaily*
 4 *Donelson*

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO ELIMINATE THE
 6 PERMISSIVE AMOUNT AND THE PERMISSIVE LEVY ALLOWED SCHOOL
 7 DISTRICTS; TO PROVIDE A NEW DEFINITION OF THE FOUNDATION
 8 PROGRAM; AND TO INCREASE THE BASIC COUNTY LEVIES IN SUPPORT
 9 OF LOCAL AND STATE EQUALIZATION OF THE FOUNDATION PROGRAMS
 10 OF THE ELEMENTARY AND HIGH SCHOOL DISTRICTS; AMENDING
 11 SECTIONS 20-3-324, 20-5-305, 20-5-312, 20-6-506, 20-6-603,
 12 20-7-414, 20-7-422, 20-7-431, 20-9-141, 20-9-301, 20-9-303,
 13 20-9-320, 20-9-321, 20-9-331, 20-9-333, 20-9-343, 20-9-351,
 14 AND 20-9-353, MCA; AND REPEALING SECTIONS 20-9-315 AND
 15 20-9-352, MCA."

16
 17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18 Section 1. Section 20-3-324, MCA, is amended to read:

19 "20-3-324. Powers and duties. As prescribed elsewhere
 20 in this title, the trustees of each district shall have the
 21 power and it shall be their duty to perform the following
 22 duties or acts:

23 (1) employ or dismiss a teacher, principal, or other
 24 assistant upon the recommendation of the district
 25 superintendent, the county high school principal, or other

1 principal as the board may deem necessary, accepting or
 2 rejecting such recommendation as the trustees shall in their
 3 sole discretion determine, in accordance with the provisions
 4 of Title 20, chapter 4;

5 (2) employ and dismiss administrative personnel,
 6 clerks, secretaries, teacher aides, custodians, maintenance
 7 personnel, school bus drivers, food service personnel,
 8 nurses, and any other personnel deemed necessary to carry
 9 out the various services of the district;

10 (3) administer the attendance and tuition provisions
 11 and otherwise govern the pupils of the district in
 12 accordance with the provisions of the pupils chapter of this
 13 title;

14 (4) call, conduct, and certify the elections of the
 15 district in accordance with the provisions of the school
 16 elections chapter of this title;

17 (5) participate in the teachers' retirement system of
 18 the state of Montana in accordance with the provisions of
 19 the teachers' retirement system chapter of Title 19;

20 (6) participate in district boundary change actions in
 21 accordance with the provisions of the districts chapter of
 22 this title;

23 (7) organize, open, close, or acquire isolation status
 24 for the schools of the district in accordance with the
 25 provisions of the school organization part of this title;

1 (8) adopt and administer the annual budget or an
2 emergency budget of the district in accordance with the
3 provisions of the school budget system part of this title;

4 (9) conduct the fiscal business of the district in
5 accordance with the provisions of the school financial
6 administration part of this title;

7 (10) establish the ANB, foundation program, ~~permissive~~
8 ~~levy~~, additional levy, cash reserve, and state impact aid
9 amount for the general fund of the district in accordance
10 with the provisions of the general fund part of this title;

11 (11) establish, maintain, budget, and finance the
12 transportation program of the district in accordance with
13 the provisions of the transportation parts of this title;

14 (12) issue, refund, sell, budget, and redeem the bonds
15 of the district in accordance with the provisions of the
16 bonds parts of this title;

17 (13) when applicable, establish, financially
18 administer, and budget for the tuition fund, retirement
19 fund, building reserve fund, adult education fund,
20 nonoperating fund, school food services fund, miscellaneous
21 federal programs fund, building fund, housing and dormitory
22 fund, traffic education fund, and interlocal cooperative
23 agreement fund in accordance with the provisions of the
24 other school funds parts of this title;

25 (14) when applicable, administer any interlocal

1 cooperative agreement, gifts, legacies, or devises in
2 accordance with the provisions of the miscellaneous
3 financial parts of this title;

4 (15) hold in trust, acquire, and dispose of the real
5 and personal property of the district in accordance with the
6 provisions of the school sites and facilities part of this
7 title;

8 (16) operate the schools of the district in accordance
9 with the provisions of the school calendar part of this
10 title;

11 (17) establish and maintain the instructional services
12 of the schools of the district in accordance with the
13 provisions of the instructional services, textbooks,
14 vocational education, and special education parts of this
15 title;

16 (18) establish and maintain the school food services of
17 the district in accordance with the provisions of the school
18 food services parts of this title;

19 (19) make such reports from time to time as the county
20 superintendent, superintendent of public instruction, and
21 board of public education may require;

22 (20) retain, when deemed advisable, a physician or
23 registered nurse to inspect the sanitary conditions of the
24 school or the general health conditions of each pupil and,
25 upon request, make available to any parent or guardian any

1 medical reports or health records maintained by the district
2 pertaining to his child;

3 (21) for each member of the trustees, visit each school
4 of the district not less than once each school fiscal year
5 to examine its management, conditions, and needs;

6 (22) procure and display outside daily in suitable
7 weather at each school of the district an American flag
8 which shall be not less than 4 feet by 6 feet; and

9 (23) perform any other duty and enforce any other
10 requirements for the government of the schools prescribed by
11 this title, the policies of the board of public education,
12 or the rules of the superintendent of public instruction."

13 Section 2. Section 20-5-305, MCA, is amended to read:

14 "20-5-305. Elementary tuition rates. Whenever a pupil
15 of an elementary district has been granted approval to
16 attend a school outside of the district in which he resides,
17 under the provisions of 20-5-301 or 20-5-302, such district
18 shall pay tuition to the elementary district where the pupil
19 attends school on the basis of the rate of tuition
20 determined by the attended district. The rate of tuition
21 shall be determined by:

22 (1) totaling the actual expenditures from the district
23 general fund, retirement fund, and debt service fund;

24 (2) dividing the amount determined in subsection (1)
25 above by the ANB of the district for the current fiscal

1 year, as determined under the provisions of 20-9-311; and

2 (3) subtracting the total of the per-ANB amount
3 allowed by 20-9-316 through 20-9-321 that represents the
4 foundation program, as prescribed by 20-9-303 plus the
5 ~~per-ANB amount determined by dividing the state financing of~~
6 ~~the district permissive levy by the ANB of the district,~~
7 from the amount determined in subsection (2) above."

8 Section 3. Section 20-5-312, MCA, is amended to read:

9 "20-5-312. Reporting, budgeting, and payment for high
10 school tuition. (1) At the close of the school term of each
11 school fiscal year, the trustees of each high school
12 district shall determine the rate of tuition for the current
13 school fiscal year by:

14 (a) totaling the actual expenditures from the district
15 general fund, retirement fund, and debt service fund;

16 (b) dividing the amount determined in subsection
17 (1)(a) above by the ANB of the district for the current
18 fiscal year, as determined under the provisions of 20-9-311;
19 and

20 (c) subtracting the total of the per-ANB amount
21 allowed by 20-9-316 through 20-9-321 that represents the
22 foundation program, as prescribed by 20-9-303 plus the
23 ~~per-ANB amount determined by dividing the state financing of~~
24 ~~the district permissive levy by the ANB of the district,~~
25 from the amount determined in subsection (1)(b) above.

1 (2) Before July 15, the trustees shall report to the
2 county superintendent of the county in which the district is
3 located:

4 (a) the names, addresses, and resident districts of
5 the pupils attending the schools of the district under an
6 approved tuition agreement;

7 (b) the number of days of school attended by each
8 pupil;

9 (c) the amount, if any, of each pupil's tuition
10 payment that the trustees, in their discretion, shall have
11 the authority to waive; and

12 (d) the rate of current school fiscal year tuition, as
13 determined under the provisions of this section.

14 (3) When the county superintendent receives a tuition
15 report from a district, he shall immediately send the
16 reported information to the superintendent of each district
17 in which the reported pupils reside.

18 (4) When the district superintendent receives a
19 tuition report or reports for high school pupils residing in
20 his district and attending an out-of-district high school
21 under approved tuition agreements, he shall determine the
22 total amount of tuition due such out-of-district high
23 schools on the basis of the following per-pupil schedule:
24 the rate of tuition, number of pupils attending under an
25 approved tuition agreement, and other information provided

1 by each high school district where resident district pupils
2 have attended school.

3 (5) The total amount of the high school tuition, with
4 consideration of any tuition waivers, for pupils attending a
5 high school outside the county of residence shall be
6 financed by the county basic special tax for high schools as
7 provided in 20-9-334. In December, the county superintendent
8 shall cause the payment by county warrant of the high school
9 tuition obligations established under this section out of
10 the first moneys realized from the county basic special tax
11 for high schools. The payment shall be made to the county
12 treasurer of the county where each high school entitled to
13 tuition is located. The county treasurer shall credit such
14 tuition receipts to the general fund of the applicable high
15 school district, and the tuition receipts shall be used in
16 accordance with the provisions of 20-9-141.

17 (6) For pupils attending a high school outside their
18 district of residence but within the county of residence,
19 the total amount of the tuition, with consideration of any
20 tuition waivers, must be paid during the ensuing school
21 fiscal year. The trustees of the sending high school
22 district shall include the tuition amount in the tuition
23 fund of the preliminary and final budgets. This budgeted
24 tuition amount is not subject to the budget adjustment
25 provisions of 20-9-132. The county superintendent shall

1 report the net tuition fund levy requirement for each high
 2 school district to the county commissioners on the second
 3 Monday of August, and a levy on the district shall be made
 4 by the county commissioners in accordance with 20-9-142.
 5 This levy requirement shall be calculated by subtracting
 6 from the total expenditure amount authorized in the final
 7 tuition fund budget the sum of the cash balance in the
 8 tuition fund at the end of the immediately preceding school
 9 fiscal year plus any other anticipated money that may be
 10 realized in the tuition fund. The trustees shall pay by
 11 warrants drawn on the tuition fund the tuition amounts owed
 12 to each district included in the county superintendent's
 13 notification. Payments shall be made whenever there is a
 14 sufficient amount of cash available in the tuition fund but
 15 no later than the end of the school fiscal year for which
 16 the budget is adopted. However, if the trustees of either
 17 the sending or receiving high school feel the transfer
 18 privilege provided by this subsection is being abused they
 19 may appeal to the county superintendent of schools who shall
 20 hold a hearing and either approve or disapprove the
 21 transfer."

22 Section 4. Section 20-6-506, MCA, is amended to read:
 23 "20-6-506. Budgeting and cost sharing when junior high
 24 school operated by elementary district and high school
 25 district operating a county high school. (1) Whenever the

1 opening of a junior high school is approved for the ensuing
 2 school fiscal year under 20-6-505, the county superintendent
 3 shall estimate the average number belonging (ANB) after
 4 investigating the probable enrollment for the junior high
 5 school. The ANB determined by the county superintendent and
 6 the ANB actually realized in subsequent school fiscal years
 7 shall be applied under 20-9-320 to prorate the
 8 ~~maximum general fund budget without a voted levy~~ foundation
 9 program amount between the elementary and high school
 10 districts. Each district shall adopt its general fund budget
 11 on the basis of the prorated amount and shall finance its
 12 proportionate share of the cost of operating the junior high
 13 school.

14 (2) The cost of operating the junior high school shall
 15 be prorated between the elementary district and the high
 16 school district on the basis of the ratio that the number of
 17 pupils of their district is to the total enrollment of the
 18 junior high school."

19 Section 5. Section 20-6-603, MCA, is amended to read:
 20 "20-6-603. Trustees' authority to acquire or dispose
 21 of sites and buildings -- when election required. (1) The
 22 trustees of any district shall have the authority to
 23 purchase, build, exchange, or otherwise acquire or sell or
 24 otherwise dispose of sites and buildings of the district.
 25 Such action shall not be taken by the trustees without the

1 approval of the qualified electors of the district at an
 2 election called for such approval unless:

3 (a) a bond issue has been authorized for the purpose
 4 of constructing, purchasing, or acquiring the site or
 5 building;

6 (b) an additional levy under the provisions of
 7 20-9-353 has been approved for the purpose of constructing,
 8 purchasing, or acquiring the site or building;

9 (c) the cost of constructing, purchasing, or acquiring
 10 the site or building is financed without exceeding the
 11 ~~maximum-general-fund-budget-without-a-vote~~ foundation
 12 ~~program~~ amount prescribed in 20-9-316 through 20-9-321 and,
 13 in the case of a site purchase, the site has been approved
 14 under the provisions of 20-6-621; or

15 (d) moneys are otherwise available under the
 16 provisions of this title and the ballot for the site
 17 approval for such building incorporated a description of the
 18 building to be located on the site.

19 (2) When an election is conducted under the provisions
 20 of this section, it shall be called under the provisions of
 21 20-20-201 and shall be conducted in the manner prescribed by
 22 this title for school elections. An elector qualified to
 23 vote under the provisions of 20-20-301 shall be permitted to
 24 vote in such election. If a majority of those electors
 25 voting at the election approve the proposed action, the

1 trustees may take the proposed action."

2 Section 6. Section 20-7-414, MCA, is amended to read:

3 "20-7-414. Determination of children in need and type
 4 of special education needed -- approval of classes and
 5 programs by superintendent. (1) The determination of the
 6 children requiring special education and the type of special
 7 education needed by these children shall be the
 8 responsibility of the trustees, and such determination shall
 9 be made in compliance with the procedures established in the
 10 rules of the superintendent of public instruction.

11 (2) Whenever the trustees of any district intend to
 12 establish a special education class or program, they shall
 13 apply for approval and funding of the class or program by
 14 the superintendent of public instruction. The superintendent
 15 of public instruction shall approve or disapprove the
 16 application for the special education class or program on
 17 the basis of its compliance with the laws of the state of
 18 Montana, the special education policies adopted by the board
 19 of public education, and the rules of the superintendent of
 20 public instruction. No special education class may be
 21 operated by the trustees without the approval of the
 22 superintendent of public instruction. Each special education
 23 class or program must be approved annually to be funded as
 24 part of the ~~maximum-budget-without-a-vote~~ foundation program
 25 for special education."

Section 7. Section 20-7-422, MCA, is amended to read:

"20-7-422. Out-of-state tuition for special education children. (1) If the trustees of any district recommend to the superintendent of public instruction the attendance of a child in need of special education in a special education program offered outside of the state of Montana, such arrangements shall not be subject to the out-of-state attendance provisions of the laws governing the attendance of pupils in schools outside the state of Montana.

(2) Whenever the attendance of a child at an out-of-state special education program is approved by the superintendent of public instruction, it shall be the responsibility of the superintendent of public instruction, in cooperation with the department of social and rehabilitation services and the department of institutions, to negotiate the program for the child and the amount and manner of payment of tuition. The amount of tuition shall be included as a contracted service in 20-7-431(1)(a)(iii)(A) in the ~~maximum-budget-without-a-vote~~ foundation program for special education."

Section 8. Section 20-7-431, MCA, is amended to read:

"20-7-431. Allowable cost schedule for special programs -- superintendent to make rules -- annual accounting. (1) For the purpose of determining the ~~maximum-budget-without-a-vote~~ foundation program for special

education as defined in 20-9-321, the following schedule of allowable costs shall be followed by the school district in preparation of its special education budget for state aid request purposes and by the superintendent of public instruction in his review and approval of the budget (for the purposes of determining the amount of the ~~maximum-budget-without-a-vote~~ foundation program for special education for the district, and as used in this schedule, "full-time special pupil" and "regular ANB" are to be determined in accordance with 20-9-311 and 20-9-313):

(a) instruction: salaries, benefits, supplies, textbooks, and other expenses including:

(i) salaries and benefits of special program teachers, regular program teachers, teacher aides, special education supervisors, audiologists, and speech and hearing clinicians--the entire cost if employed full time in the special program; if such personnel are shared between special and regular programs--a portion of the entire cost corresponding to the entire working time which each such person devotes to the special program;

(ii) teaching supplies and textbooks if used exclusively for special programs--the actual total cost;

(iii) other expenses:

(A) contracted services, including fees paid for professional advice and consultation regarding special

1 students or the special program, and the delivery of special
2 education services by public or private agencies--the actual
3 total cost;

4 (B) transportation costs for special education
5 personnel who must travel on an itinerant basis from school
6 to school or district to district or to in-state child study
7 team meetings or in-state individualized education program
8 meetings--the actual cost to the district calculated on the
9 same mileage rate used by the district for other travel
10 reimbursement purposes;

11 (b) supportive services, including:

12 (i) salaries and benefits of professional supportive
13 personnel--the entire cost if employed full time in the
14 special program; if such personnel are shared between
15 special and regular programs--a portion of the entire cost
16 corresponding to the entire working time which each such
17 person devotes to the special program. Professional
18 supportive personnel may include counselors, social workers,
19 psychologists, psychometrists, physicians, nurses, and
20 physical and occupational therapists.

21 (ii) salaries and benefits of clerical personnel for
22 professional personnel in supportive services--the entire
23 cost if employed full time in the special program; if such
24 personnel are shared between special and regular programs--a
25 portion of the entire cost corresponding to the entire

1 working time which each such person devotes to the special
2 program;

3 (c) equipment:

4 (i) equipment--the actual total cost;

5 (ii) special equipment for district-owned school buses
6 necessary to accommodate special students--the actual total
7 cost;

8 (iii) special equipment for school buses contracted to
9 transport special students--that portion of the contract
10 price attributable to the cost of special equipment or
11 personnel required to accommodate special students--the
12 actual special cost;

13 (d) room and board costs when the special pupil has to
14 attend a program at such a distance from his home that
15 commuting is undesirable as determined by the superintendent
16 of public instruction.

17 (2) The superintendent of public instruction shall,
18 prior to September 1, 1977, revise the rules in accordance
19 with the policies of the board of public education for:

20 (a) keeping necessary records for supportive and
21 administrative personnel and any personnel shared between
22 special and regular programs;

23 (b) defining the total special program caseload that
24 shall be assigned to specific support persons and the kinds
25 of professional specialties to be considered relevant to the

program before the district may count an allowable cost under subsection (1)(b) of this section; and

(c) defining the kinds or types of equipment whose costs may be counted under subsection (1)(c)(i) of this section.

(3) An annual accounting of all expenditures of school district general fund moneys for special education shall be made by the district trustees on forms furnished by the superintendent of public instruction. The superintendent of public instruction shall make rules for such accounting.

(4) If a board of trustees chooses to exceed the budget approved by the superintendent of public instruction, costs in excess of the approved budget may not be reimbursed under the ~~maximum-budget-without-a-vote~~ foundation program for special education.

(5) Allowable costs prescribed in this section do not include the costs of the teachers' retirement system, the public employees' retirement system, the federal social security system, or the costs for unemployment compensation insurance.

(6) (a) Notwithstanding other provisions of the law, the superintendent of public instruction shall not approve a ~~maximum-budget-without-a-vote~~ foundation program for special education which exceeds legislative appropriations.

(b) If special education budgets approved by the

superintendent of public instruction exceed legislative appropriations available for special education, each district shall receive a pro rata share of the available appropriations based upon its budget as a percent of all approved special education budgets. The amount of the approved budgets in excess of the available appropriations may not be reimbursed under the ~~maximum-budget-without-a-vote~~ foundation program for special education and is the responsibility of the school district."

Section 9. Section 20-9-141, MCA, is amended to read:

"20-9-141. Computation of general fund net levy requirement by county superintendent. (1) The county superintendent shall compute the levy requirement for each district's general fund on the basis of the following procedure:

(a) Determine the total of the district's nonisolated school foundation program requirement to be met by a district levy as provided in 20-9-303, ~~the district's permissive levy amount as provided in 20-9-352,~~ and any additional levies authorized by the electors of the district under the provisions of 20-9-353, except that the total of the ~~permissive and~~ additional levies shall not exceed the total amount of the final general fund budget less the foundation program.

(b) Determine the total of the moneys available for

1 the reduction of the property tax on the district for the
2 general fund by totaling:

3 (i) anticipated federal moneys received under the
4 provisions of Title I of Public Law 81-874 or other
5 anticipated federal moneys received in lieu of such federal
6 act;

7 (ii) anticipated tuition payments for out-of-district
8 pupils under the provisions of 20-5-303, 20-5-307, 20-5-312,
9 and 20-5-313;

10 (iii) general fund cash reappropriated, as established
11 under the provisions of 20-9-104;

12 (iv) anticipated state impact aid received under the
13 provisions of 20-9-304;

14 (v) anticipated interest to be earned by the
15 investment of general fund cash in accordance with the
16 provisions of 20-9-213(4); and

17 (vi) any other revenue anticipated by the trustees to
18 be received during the ensuing school fiscal year which may
19 be used to finance the general fund.

20 (c) Subtract the total of the moneys available to
21 reduce the property tax required to finance the general fund
22 that has been determined in subsection (1)(b) from the total
23 levy requirement determined in subsection (1)(a).

24 (2) The net general fund levy requirement determined
25 in subsection (1)(c) shall be reported to the county

1 commissioners on the second Monday of August by the county
2 superintendent as the general fund levy requirement for the
3 district, and a levy shall be made by the county
4 commissioners in accordance with 20-9-142."

5 Section 10. Section 20-9-301, MCA, is amended to read:

6 "20-9-301. Purpose and definition of foundation
7 program and general fund. (1) A uniform system of free
8 public schools sufficient for the education of and open to
9 all school age children of the state shall be established
10 and maintained throughout the state of Montana. The state
11 shall aid in the support of its several school districts on
12 the basis of their financial need as measured by the
13 foundation program and in the manner established in this
14 title.

15 (2) The principal budgetary vehicle for achieving the
16 minimum financing as established by the foundation program
17 shall be the general fund of the district. The purpose of
18 the general fund shall be to finance those general
19 maintenance and operational costs of a district not financed
20 by other funds established for special purposes in this
21 title.

22 (3) The amount of the general fund budget for each
23 school fiscal year shall not exceed the financing
24 limitations established by this title but shall be no less
25 than the amount established by law as the foundation

1 program. The general fund budget shall be financed by the
2 foundation program revenues and may be supplemented by the
3 ~~permissive-levy and~~ additional voted levies in the manner
4 provided by law."

5 Section 11. Section 20-9-303, MCA, is amended to read:

6 "20-9-303. Definition of foundation program and its
7 ~~proportion-of-the-maximum-general-fund-without-a-voted-levy~~
8 ~~schedule-amount~~ -- nonisolated school foundation program
9 financing -- special education funds. (1) As used in this
10 title, the term "foundation program" shall mean ~~the minimum~~
11 ~~operating-expenditures, as established hereby, that are~~
12 ~~sufficient to provide for the educational program of a~~
13 ~~schools~~

14 (a) the maximum general fund budget of any district as
15 specified in the schedules set forth in 20-9-316 through
16 20-9-320 on the basis of calculations for determination of
17 the average number belonging as provided in 20-9-311 through
18 20-9-313;

19 (b) in addition to subsection (a), the foundation
20 program for special education as specified in 20-9-321.

21 (2) The foundation program relates only to those
22 expenditures authorized by a district's general fund budget
23 and shall not include expenditures from any other fund. It
24 shall be financed by:

25 (a) county equalization moneys; and

1 (b) state equalization aid.

2 (3) The total amount of the general fund of a district
3 may not be greater than the amount specified in subsection
4 (1) except when the district has adopted an emergency
5 general fund budget under the provisions of 20-9-165 or when
6 the district satisfies the requirements for an additional
7 levy for the general fund budget under the provisions of
8 20-9-353.

9 ~~(2)(4) The dollar amount of the foundation program~~
10 ~~shall be 80% of the~~
11 ~~maximum general fund budget without a voted levy limitation~~
12 ~~as set forth in the schedules in 20-9-316 through 20-9-321.~~
13 The foundation program of an elementary school having an ANB
14 of nine or fewer pupils for 2 consecutive years which is not
15 approved as an isolated school under the provisions of
16 20-9-302 shall be ~~80%~~ 100% of the schedule amount ~~set forth~~
17 ~~in 20-9-316 through 20-9-321,~~ but the county and state shall
18 participate in financing one-half of the foundation program,
19 and the district shall finance the remaining one-half by a
20 tax levied on the property of the district. When a school of
21 nine or fewer pupils is approved as isolated under the
22 provisions of 20-9-302, the county and state shall
23 participate in the financing of the total amount of the
24 foundation program.

25 ~~(3)(5)~~ Funds provided to support the special education

1 accounting budget may be expended only for special education
 2 purposes as approved by the superintendent of public
 3 instruction in accordance with the special education
 4 budgeting provisions of this title. Expenditures for special
 5 education shall be accounted for separately from the balance
 6 of the school district general fund. Transfers between items
 7 within the special education budget for accounting purposes
 8 may be made at the discretion of the board of trustees in
 9 accordance with the financial administration part of this
 10 title. The unexpended balance of the special education
 11 accounting budget shall carry over to the next year to
 12 reduce the amount of funding required to finance the
 13 district's ensuing year's ~~maximum-budget-without-a-vote~~
 14 foundation program for special education."

15 Section 12. Section 20-9-320, MCA, is amended to read:

16 "20-9-320. ~~Maximum--general--fund--budget~~ Foundation
 17 program for junior high school. (1) The general fund budget
 18 amount for an approved and accredited junior high school
 19 shall be prorated between the elementary district general
 20 fund budget and the high school district general fund budget
 21 in the following manner:

22 (a) determine the per-ANB schedule amount for the
 23 school, as defined by 20-9-317 and 20-9-319, from the high
 24 school schedule;

25 (b) calculate the ANB for the regularly enrolled

1 full-time pupils enrolled in the 7th and 8th grades of the
 2 junior high school;

3 (c) multiply the per-ANB schedule amount determined in
 4 subsection (1)(a) by the ANB calculated in subsection (1)(b)
 5 to determine the authorized general fund budget amount which
 6 shall be available for the elementary district general fund
 7 budget; and

8 (d) subtract the amount determined in subsection
 9 (1)(c) from the total authorized general fund budget amount
 10 for the school to determine the authorized general fund
 11 budget amount which shall be available for the high school
 12 district general fund budget.

13 (2) The general fund budget amount determined for each
 14 school of a district under the schedules provided in
 15 20-9-316 through 20-9-319 shall be totaled to determine the
 16 ~~maximum-general-fund-budget-without-a-voted-levy~~ foundation
 17 program amount for such district."

18 Section 13. Section 20-9-321, MCA, is amended to read:

19 "20-9-321. ~~Maximum--general--fund~~ Foundation program
 20 budget for special education. (1) For the purpose of
 21 establishing the ~~maximum-budget-without-a-vote~~ foundation
 22 program amount for ~~the~~ current year special education
 23 program for a school district, the superintendent of public
 24 instruction will determine the total estimated cost of the
 25 special education program for the school district on the

1 basis of a special education program budget submitted by the
2 district. The budget will be prepared on forms provided by
3 the superintendent of public instruction and will set out
4 for each program:

5 (a) the estimated allowable costs associated with
6 operating the program where allowable costs are as defined
7 in 20-7-431;

8 (b) the number of pupils expected to be enrolled in
9 the program; and

10 (c) any other data required by the superintendent of
11 public instruction for budget justification purposes and to
12 administer the provisions of ~~20-9-315~~ 20-9-316 through
13 20-9-321.

14 (2) The total amount of allowable costs approved by
15 the superintendent of public instruction shall be the
16 special education ~~maximum-budget-without-a-vote~~ foundation
17 ~~program~~ amount for current year special education program
18 purposes. The total amount of allowable costs that are
19 approved for the special education budget shall not, under
20 any condition, be less than the
21 ~~maximum-budget-without-a-vote~~ foundation program amount for
22 one regular ANB for each special full-time pupil in the
23 school district.

24 (3) If a special education program is implemented or
25 expanded during a given school term too late to be included

1 in the determination of the district
2 ~~maximum-budget-without-a-vote~~ foundation program amount for
3 the school year as prescribed in this part, then subject to
4 the approval of the program by the superintendent under the
5 emergency budget provisions of 20-9-161(5), allowable costs
6 approved under the budgeting provisions of subsections (1)
7 and (2) for the operation of the program during the given
8 year may be added to the ~~maximum-budget-without-a-vote~~
9 foundation program amount for special education for the
10 subsequent school year. Such costs must be recorded as
11 previous year special education expenses in the school
12 district budget for the subsequent school year.

13 (4) The sum of the previous year special education
14 expenses as defined in subsection (3) above and the
15 ~~maximum-budget-without-a-vote~~ foundation program for current
16 year special education as defined in subsections (1) and (2)
17 shall be the special education budget for accounting
18 purposes.

19 (5) The ~~maximum-budget-without-a-vote~~ foundation
20 program for special education will be added to the
21 ~~maximum-budget-without-a-vote~~ foundation program amount of
22 the regular program ANB defined in 20-9-311 and 20-9-313 to
23 obtain the total ~~maximum-budget-without-a-vote~~ foundation
24 program amount for the district."

25 Section 14. Section 20-9-331, MCA, is amended to read:

1 "20-9-331. Basic county tax and other revenues for
2 county equalization of the elementary district foundation
3 program. (1) It shall be the duty of the county
4 commissioners of each county to levy an annual basic tax of
5 25 ~~34~~ mills on the dollars of the taxable value of all
6 taxable property within the county for the purposes of local
7 and state foundation program support. The revenue to be
8 collected from this levy shall be apportioned to the support
9 of the foundation programs of the elementary school
10 districts in the county and to the earmarked revenue fund,
11 state equalization aid account, in the following manner:

12 (a) In order to determine the amount of revenue raised
13 by this levy which is retained by the county, the sum of the
14 estimated revenues identified in subsections (2)(a) through
15 (2)(f) below shall be subtracted from the sum of the county
16 elementary transportation obligation and the total of the
17 foundation programs of all elementary districts of the
18 county.

19 (b) If the basic levy of 25 ~~34~~ mills produces more
20 revenue than is required to finance the difference
21 determined above, the county commissioners shall order the
22 county treasurer to remit the surplus funds to the state
23 treasurer for deposit to the earmarked revenue fund, state
24 equalization aid account, not later than June 1 of the
25 fiscal year for which the levy has been set.

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

8 (a) the portion of the federal forest reserve funds
9 distributed to a county and designated for the common school
10 fund under the provisions of 17-3-213;

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

14 (c) the portion of the federal flood control act funds
15 distributed to a county and designated for expenditure for
16 the benefit of the county common schools under the
17 provisions of 17-3-232;

18 (d) all moneys which are paid into the county treasury
19 as a result of fines for violations of law and the use of
20 which is not otherwise specified by law;

21 (e) any money remaining at the end of the immediately
22 preceding school fiscal year in the county treasurer's
23 account for the various sources of revenue established or
24 referred to in this section; and

25 (f) any federal or state moneys distributed to the

1 county as payment in lieu of the property taxation
2 established by the county levy required by this section."

3 Section 15. Section 20-9-333, MCA, is amended to read:

4 "20-9-333. Basic special levy and other revenues for
5 county equalization of high school district foundation
6 program. (1) It shall be the duty of the county
7 commissioners of each county to levy an annual basic special
8 tax for high schools of ~~15~~ 21 mills on the dollar of the
9 taxable value of all taxable property within the county for
10 the purposes of local and state foundation program support.
11 The revenue to be collected from this levy shall be
12 apportioned to the support of the foundation programs of
13 high school districts in the county and to the earmarked
14 revenue fund, state equalization aid account, in the
15 following manner:

16 (a) In order to determine the amount of revenue raised
17 by this levy which is retained by the county, the estimated
18 revenues identified in subsections (2)(a) and (2)(b) below
19 shall be subtracted from the sum of the county's high school
20 tuition obligation and the total of the foundation programs
21 of all high school districts of the county.

22 (b) If the basic levy for ~~15~~ 21 mills produces more
23 revenue than is required to finance the difference
24 determined above, the county commissioners shall order the
25 county treasurer to remit the surplus to the state treasurer

1 for deposit to the earmarked revenue fund, state
2 equalization aid account, not later than June 1 of the
3 fiscal year for which the levy has been set.

4 (2) The proceeds realized from the county's portion of
5 the levy prescribed in this section and the revenues from
6 the following sources shall be used for the equalization of
7 the high school district foundation programs of the county
8 as prescribed in 20-9-334, and a separate accounting shall
9 be kept of these proceeds by the county treasurer in
10 accordance with 20-9-212(1):

11 (a) any money remaining at the end of the immediately
12 preceding school fiscal year in the county treasurer's
13 account for deposit of the proceeds from the levy
14 established in this section; and

15 (b) any federal or state moneys distributed to the
16 county as a payment in lieu of the property taxation
17 established by the county levy required by this section."

18 Section 16. Section 20-9-343, MCA, is amended to read:

19 "20-9-343. Definition of and revenue for state
20 equalization aid. (1) As used in this title, the term "state
21 equalization aid" means those moneys deposited in the
22 earmarked revenue fund as required in this section plus any
23 legislative appropriation of moneys from other sources for
24 distribution to the public schools for the purpose of
25 equalization of the foundation program.

(2) The legislative appropriation for state equalization aid shall be made in a single sum for the biennium. The superintendent of public instruction has authority to spend such appropriation, together with the earmarked revenues provided in subsection (3), as required for foundation program purposes throughout the biennium.

(3) The following shall be paid into the earmarked revenue fund for state equalization aid to public schools of the state:

(a) 25% of all moneys received from the collection of income taxes under chapter 30 of Title 15;

(b) 25% of all moneys, except as provided in 15-31-702, received from the collection of corporation license taxes under chapter 31 of Title 15, as provided by 15-1-501;

(c) 10% of the moneys received from the collection of the severance tax on coal under chapter 35 of Title 15;

(d) 62 1/2% of the moneys received from the treasurer of the United States as the state's shares of oil, gas, and other mineral royalties under the federal Mineral Lands Leasing Act, as amended;

(e) interest and income moneys described in 20-9-341 and 20-9-342;

(f) income from the local impact and education trust fund account; and

(q) in addition to these revenues, the surplus revenues collected by the counties for foundation program support according to 20-9-331 and 20-9-333 shall be paid into the same earmarked revenue fund.

(4) Any surplus revenue in the state equalization aid account in the second year of a biennium may be used to reduce the appropriation required for the next succeeding biennium ~~for--may--be--transferred--to--the--state--permissive account--if--revenues--in--that--fund--are--insufficient--to--meet the--state's--permissive--amount--obligationj.~~"

Section 17. Section 20-9-351, MCA, is amended to read:

"20-9-351. Funding of deficiency in state equalization aid. If the estimated state equalization level made under the provisions of 20-9-348 is less than 100% ~~or--if--the permissive--funding--level--made--under--the--provisions--of 20-9-352--is--less--than--100%~~, it shall be the duty of the superintendent of public instruction to request the budget director to submit a request for a supplemental appropriation in the second year of the biennium that would be sufficient to complete the funding of the foundation programs prescribed under 20-9-348 ~~and--of--the--permissive programs--prescribed--under--20-9-352--of--the--elementary--or secondary--schools--or--both~~, for the current biennium."

Section 18. Section 20-9-353, MCA, is amended to read:

"20-9-353. Additional levy for general fund --

election for authorization to impose. (1) The trustees of any district may propose to adopt a general fund budget in excess of the general fund budget amount for such district as established by ~~the schedules in 20-9-316 through 20-9-321~~ 20-9-303 for any of the following purposes:

(a) building, altering, repairing, or enlarging any schoolhouse of the district;

(b) furnishing additional school facilities for the district;

(c) acquisition of land for the district;

(d) proper maintenance and operation of the school programs of the district.

(2) When the trustees of any district determine that an additional amount of financing is required for the general fund budget that is in excess of the statutory schedule amount, the trustees shall submit the proposition of an additional levy to raise such excess amount of general fund financing to the electors who are qualified under 20-20-301 to vote upon such proposition except that no election shall be required to permit the school trustees to use federal funds received under Title I of Public Law 81-874 to increase the school district's general fund budget as established in 20-9-316 through 20-9-321 by the amount of these funds. Such special election shall be called and conducted in the manner prescribed by this title for school

elections. The ballot for such election shall state the amount of money to be raised by additional property taxation, the approximate number of mills required to raise such money, and the purpose for which such money will be expended, and it shall be in the following format:

PROPOSITION

Shall a levy be made in addition to the levies authorized by law in such number of mills as may be necessary to raise the sum of (state the amount to be raised by additional tax levy), and being approximately (give number) mills, for the purpose of (insert the purpose for which the additional tax levy is made)?

☐ FOR the additional levy.

☐ AGAINST the additional levy.

(3) If the election on any additional levy for the general fund is approved by a majority vote of those electors voting at such election, the proposition shall carry and the trustees may use any portion or all of the authorized amount in adopting the preliminary general fund budget. The trustees shall certify the additional levy amount authorized by such a special election on the budget form that is submitted to the county superintendent, and the county commissioners shall levy such number of mills on the taxable value of all taxable property within the district, as prescribed in 20-9-141, as are required to raise the

1 amount of such additional levy.

2 (4) Authorization to levy an additional tax under the
3 provisions of this section shall be effective for only 1
4 school fiscal year and shall be authorized by a special
5 election conducted before August 1 of the school fiscal year
6 for which it is effective."

7 Section 19. Repealer. Sections 20-9-315 and 20-9-352,
8 MCA, are repealed.

-End-

STATE OF MONTANA

REQUEST NO. 087-83

FISCAL NOTE

Form BD-15

In compliance with a written request received January 13, 19 83, there is hereby submitted a Fiscal Note for Senate Bill 94 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

Senate Bill 94 is an act to eliminate the permissive levy, provide a new definition of the Foundation Program, and increase the basic county levy in support of local and state equalization.

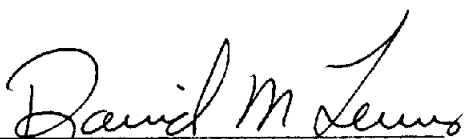
ASSUMPTIONS:

- 1) The county equalization levy for schools is increased from 40 to 55 mills and the permissive levy is eliminated.
- 2) The reimbursement schedules remain at the 1983 level.
- 3) Enrollments are as projected by the Office of Superintendent of Public Instruction.
- 4) The foundation program would be increased from 80% to 100% of the statutory schedule amount for the various sized districts.

FISCAL IMPACT:

If the levy increases were effective in 1983, property taxes would increase as follows:

Big Horn County	\$ 1.3	Million
Blaine	.2	Million
Fallon	1.5	Million
Musselshell	.2	Million
Phillips	.2	Million
Powder River	1.0	Million
Richland	1.2	Million
Roosevelt	.3	Million
Rosebud	1.6	Million
Sheridan	.9	Million
Toole	.4	Million
Wibaux	.3	Million
All Other Counties	.9	Million
TOTAL INCREASE IN TAXES	\$ 9.97	Million

Continued

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-17-83

-2-

The amount of state aid required to fund the foundation program would be reduced by approximately 10 million per year. This would be available to reduce the state general fund contribution or fund schedule increases in FY 84 and FY 85.

FISCAL NOTE 4:Q/2

STATE OF MONTANA

REQUEST NO. 377-83

FISCAL NOTE

Form BD-15

In compliance with a written request received February 12, , 19 83 , there is hereby submitted a Fiscal Note for Senate Bill 94, Amended, pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

Senate Bill 94, amended, phases out the permissive levy; provides a new definition of the Foundation Program; and increases the basic county levy in support of local and state equalization over a three year period.

ASSUMPTIONS:

- 1) Total permissive amount remains constant at \$55,815,666.
- 2) Taxable value remains constant.
- 3) State aid parameters remain constant for every school district.

FISCAL IMPACT:

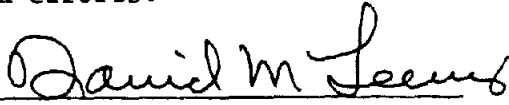
	<u>FY84</u>	<u>FY85</u>	<u>Biennium</u>
<u>Revenue:</u>			
County Equalization Levy			
Under Current Law	\$ 87,673,000	\$ 87,673,000	\$175,346,000
Under Proposed Law	98,632,000	109,592,000	208,224,000
Increase	<u>\$ 10,959,000</u>	<u>\$ 21,919,000</u>	<u>\$ 32,878,000</u>
<u>Expenditures:</u>			
State Permissive			
Under Current Law	\$ 32,904,000	\$ 32,904,000	\$ 65,808,000
Under Proposed Law	39,195,000	46,363,000	85,558,000
Increase	<u>\$ 6,291,000</u>	<u>\$ 13,459,000</u>	<u>\$ 19,750,000</u>
<u>Excess Revenue Generated</u>	<u>\$ 4,668,000</u>	<u>\$ 8,460,000</u>	<u>\$ 13,128,000</u>

The excess revenue generated would be available to reduce the state general fund contribution or fund schedule increases in FY 84 and 85.

LONG TERM IMPACT:

Beginning in FY 1986, assuming the same parameters, the fiscal impact addressed in the original fiscal note would occur. This impact equals approximately \$10 million dollars per year in additional revenue for school equalization efforts.

FISCAL NOTE 13:V/1



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-16-83

STATE OF MONTANA

FISCAL NOTE

Request No. 377-83

In compliance with a written request received March 15, 1983, there is hereby submitted a Fiscal Note for Senate Bill 94, Amended, pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

DESCRIPTION OF PROPOSED LEGISLATION:

Senate Bill 94, amended, revises the permissive levy and increases the basic county levy in support of local and state equalization. The county levy is increased from 40 to 45 mills and the permissive is reduced from 15 to 10 mills in FY 85.

ASSUMPTIONS:

- 1) Total permissive amount remains constant at \$55,815,666.
- 2) Taxable value remains constant.
- 3) State aid parameters remain constant for every school district.
- 4) The effective date is July 1, 1984.

FISCAL IMPACT:

	<u>FY 84</u>	<u>FY 85</u>	<u>Biennium</u>
<u>Revenue:</u>			
County Equalization Levy			
Under Current Law	\$87,673,000	\$87,673,000	
Under Proposed Law	<u>87,673,000</u>	<u>98,632,000</u>	
Increase	- 0 -	\$10,959,000	
<u>Revenue:</u>			
State Permissive			
Under Current Law	\$32,904,000	\$32,904,000	
Under Proposed Law	<u>32,904,000</u>	<u>39,195,000</u>	
Increase	- 0 -	\$ 6,291,000	
<u>Excess Revenue Generated</u>	- 0 -	<u>\$ 4,668,000</u>	<u>\$4,668,000</u>

The excess revenue generated would be available to reduce the state general fund contribution or fund schedule increases in FY 85.

LONG TERM IMPACT:

The revenue raised in FY 85 would be available each year in the future. If the bill's effective date is amended to July 1, 1983, the revenue generated will be \$9,336,000 for the biennium.

Daniel M. Lewis

BUDGET DIRECTOR
Office of Budget and
Program Planning
March 15, 1983

Approved by committee
on Taxation

SENATE BILL NO. 94

INTRODUCED BY REGAN, B. BROWN, BLAYLOCK, STEPHENS,

EUOAILY, DONALOSON, BENGTON, VINCENT

BY REQUEST OF THE JOINT SUBCOMMITTEE ON EDUCATION

A BILL FOR AN ACT ENTITLED: "AN ACT TO ELIMINATE PHASE QUI
THE PERMISSIVE AMOUNT AND THE PERMISSIVE LEVY ALLOWED SCHOOL
DISTRICTS OVER A 3-YEAR PERIOD; TO PROVIDE A NEW DEFINITION
OF THE FOUNDATION PROGRAM; AND TO INCREASE THE BASIC COUNTY
LEVIES IN SUPPORT OF LOCAL AND STATE EQUALIZATION OF THE
FOUNDATION PROGRAMS OF THE ELEMENTARY AND HIGH SCHOOL
DISTRICTS; AMENDING SECTIONS 20-3-324, 20-5-305, 20-5-312,
20-6-506, 20-6-603, 20-7-414, 20-7-422, 20-7-431, 20-9-141,
20-9-301, 20-9-303, 20-9-320, 20-9-321, 20-9-331, 20-9-333,
20-9-343, AND 20-9-351;--AND THROUGH 20-9-353, MCA; AND
REPEALING SECTIONS 20-9-315 AND 20-9-352, MCA; AND PROVIDING
AN EFFECTIVE DATE."

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

Section 1. Section 20-3-324, MCA, is amended to read:

"20-3-324. Powers and duties. As prescribed elsewhere
in this title, the trustees of each district shall have the
power and it shall be their duty to perform the following
duties or acts:

(1) employ or dismiss a teacher, principal, or other

assistant upon the recommendation of the district
superintendent, the county high school principal, or other
principal as the board may deem necessary, accepting or
rejecting such recommendation as the trustees shall in their
sole discretion determine, in accordance with the provisions
of Title 20, chapter 4;

(2) employ and dismiss administrative personnel,
clerks, secretaries, teacher aides, custodians, maintenance
personnel, school bus drivers, food service personnel,
nurses, and any other personnel deemed necessary to carry
out the various services of the district;

(3) administer the attendance and tuition provisions
and otherwise govern the pupils of the district in
accordance with the provisions of the pupils chapter of this
title;

(4) call, conduct, and certify the elections of the
district in accordance with the provisions of the school
elections chapter of this title;

(5) participate in the teachers' retirement system of
the state of Montana in accordance with the provisions of
the teachers' retirement system chapter of Title 19;

(6) participate in district boundary change actions in
accordance with the provisions of the districts chapter of
this title;

(7) organize, open, close, or acquire isolation status

1 for the schools of the district in accordance with the
2 provisions of the school organization part of this title;

3 (8) adopt and administer the annual budget or an
4 emergency budget of the district in accordance with the
5 provisions of the school budget system part of this title;

6 (9) conduct the fiscal business of the district in
7 accordance with the provisions of the school financial
8 administration part of this title;

9 (10) establish the ANB, foundation program, ~~permissive~~
10 ~~levy~~, additional levy, cash reserve, and state impact aid
11 amount for the general fund of the district in accordance
12 with the provisions of the general fund part of this title;

13 (11) establish, maintain, budget, and finance the
14 transportation program of the district in accordance with
15 the provisions of the transportation parts of this title;

16 (12) issue, refund, sell, budget, and redeem the bonds
17 of the district in accordance with the provisions of the
18 bonds parts of this title;

19 (13) when applicable, establish, financially
20 administer, and budget for the tuition fund, retirement
21 fund, building reserve fund, adult education fund,
22 nonoperating fund, school food services fund, miscellaneous
23 federal programs fund, building fund, housing and dormitory
24 fund, traffic education fund, and interlocal cooperative
25 agreement fund in accordance with the provisions of the

1 other school funds parts of this title;

2 (14) when applicable, administer any interlocal
3 cooperative agreement, gifts, legacies, or devises in
4 accordance with the provisions of the miscellaneous
5 financial parts of this title;

6 (15) hold in trust, acquire, and dispose of the real
7 and personal property of the district in accordance with the
8 provisions of the school sites and facilities part of this
9 title;

10 (16) operate the schools of the district in accordance
11 with the provisions of the school calendar part of this
12 title;

13 (17) establish and maintain the instructional services
14 of the schools of the district in accordance with the
15 provisions of the instructional services, textbooks,
16 vocational education, and special education parts of this
17 title;

18 (18) establish and maintain the school food services of
19 the district in accordance with the provisions of the school
20 food services parts of this title;

21 (19) make such reports from time to time as the county
22 superintendent, superintendent of public instruction, and
23 board of public education may require;

24 (20) retain, when deemed advisable, a physician or
25 registered nurse to inspect the sanitary conditions of the

1 school or the general health conditions of each pupil and,
2 upon request, make available to any parent or guardian any
3 medical reports or health records maintained by the district
4 pertaining to his child;

5 (21) for each member of the trustees, visit each school
6 of the district not less than once each school fiscal year
7 to examine its management, conditions, and needs;

8 (22) procure and display outside daily in suitable
9 weather at each school of the district an American flag
10 which shall be not less than 4 feet by 6 feet; and

11 (23) perform any other duty and enforce any other
12 requirements for the government of the schools prescribed by
13 this title, the policies of the board of public education,
14 or the rules of the superintendent of public instruction."

15 Section 2. Section 20-5-305, MCA, is amended to read:

16 "20-5-305. Elementary tuition rates. Whenever a pupil
17 of an elementary district has been granted approval to
18 attend a school outside of the district in which he resides,
19 under the provisions of 20-5-301 or 20-5-302, such district
20 shall pay tuition to the elementary district where the pupil
21 attends school on the basis of the rate of tuition
22 determined by the attended district. The rate of tuition
23 shall be determined by:

24 (1) totaling the actual expenditures from the district
25 general fund, retirement fund, and debt service fund;

1 (2) dividing the amount determined in subsection (1)
2 above by the ANB of the district for the current fiscal
3 year, as determined under the provisions of 20-9-311; and

4 (3) subtracting the total of the per-ANB amount
5 allowed by 20-9-316 through 20-9-321 that represents the
6 foundation program, as prescribed by 20-9-303 ~~plus--the~~
7 ~~per-ANB-amount-determined-by-dividing-the-state-financing-of~~
8 ~~the--district--permissive--levy--by-the-ANB-of-the-district,~~
9 from the amount determined in subsection (2) above."

10 Section 3. Section 20-5-312, MCA, is amended to read:

11 "20-5-312. Reporting, budgeting, and payment for high
12 school tuition. (1) At the close of the school term of each
13 school fiscal year, the trustees of each high school
14 district shall determine the rate of tuition for the current
15 school fiscal year by:

16 (a) totaling the actual expenditures from the district
17 general fund, retirement fund, and debt service fund;

18 (b) dividing the amount determined in subsection
19 (1)(a) above by the ANB of the district for the current
20 fiscal year, as determined under the provisions of 20-9-311;
21 and

22 (c) subtracting the total of the per-ANB amount
23 allowed by 20-9-316 through 20-9-321 that represents the
24 foundation program, as prescribed by 20-9-303 ~~plus--the~~
25 ~~per-ANB-amount-determined-by-dividing-the-state-financing-of~~

~~the--district--permissive--levy--by--the--ANS--of--the--district,~~
from the amount determined in subsection (1)(b) above.

(2) Before July 15, the trustees shall report to the county superintendent of the county in which the district is located:

(a) the names, addresses, and resident districts of the pupils attending the schools of the district under an approved tuition agreement;

(b) the number of days of school attended by each pupil;

(c) the amount, if any, of each pupil's tuition payment that the trustees, in their discretion, shall have the authority to waive; and

(d) the rate of current school fiscal year tuition, as determined under the provisions of this section.

(3) When the county superintendent receives a tuition report from a district, he shall immediately send the reported information to the superintendent of each district in which the reported pupils reside.

(4) When the district superintendent receives a tuition report or reports for high school pupils residing in his district and attending an out-of-district high school under approved tuition agreements, he shall determine the total amount of tuition due such out-of-district high schools on the basis of the following per-pupil schedule:

the rate of tuition, number of pupils attending under an approved tuition agreement, and other information provided by each high school district where resident district pupils have attended school.

(5) The total amount of the high school tuition, with consideration of any tuition waivers, for pupils attending a high school outside the county of residence shall be financed by the county basic special tax for high schools as provided in 20-9-334. In December, the county superintendent shall cause the payment by county warrant of the high school tuition obligations established under this section out of the first moneys realized from the county basic special tax for high schools. The payment shall be made to the county treasurer of the county where each high school entitled to tuition is located. The county treasurer shall credit such tuition receipts to the general fund of the applicable high school district, and the tuition receipts shall be used in accordance with the provisions of 20-9-141.

(6) For pupils attending a high school outside their district of residence but within the county of residence, the total amount of the tuition, with consideration of any tuition waivers, must be paid during the ensuing school fiscal year. The trustees of the sending high school district shall include the tuition amount in the tuition fund of the preliminary and final budgets. This budgeted

1 tuition amount is not subject to the budget adjustment
 2 provisions of 20-9-132. The county superintendent shall
 3 report the net tuition fund levy requirement for each high
 4 school district to the county commissioners on the second
 5 Monday of August, and a levy on the district shall be made
 6 by the county commissioners in accordance with 20-9-142.
 7 This levy requirement shall be calculated by subtracting
 8 from the total expenditure amount authorized in the final
 9 tuition fund budget the sum of the cash balance in the
 10 tuition fund at the end of the immediately preceding school
 11 fiscal year plus any other anticipated money that may be
 12 realized in the tuition fund. The trustees shall pay by
 13 warrants drawn on the tuition fund the tuition amounts owed
 14 to each district included in the county superintendent's
 15 notification. Payments shall be made whenever there is a
 16 sufficient amount of cash available in the tuition fund but
 17 no later than the end of the school fiscal year for which
 18 the budget is adopted. However, if the trustees of either
 19 the sending or receiving high school feel the transfer
 20 privilege provided by this subsection is being abused they
 21 may appeal to the county superintendent of schools who shall
 22 hold a hearing and either approve or disapprove the
 23 transfer."

24 Section 4. Section 20-6-506, MCA, is amended to read:
 25 "20-6-506. Budgeting and cost sharing when junior high

1 school operated by elementary district and high school
 2 district operating a county high school. (1) Whenever the
 3 opening of a junior high school is approved for the ensuing
 4 school fiscal year under 20-6-505, the county superintendent
 5 shall estimate the average number belonging (ANB) after
 6 investigating the probable enrollment for the junior high
 7 school. The ANB determined by the county superintendent and
 8 the ANB actually realized in subsequent school fiscal years
 9 shall be applied under 20-9-320 to prorate the
 10 ~~maximum-general-fund-budget-without-a-voted-levy foundation~~
 11 ~~program--amount~~ between the elementary and high school
 12 districts. Each district shall adopt its general fund budget
 13 on the basis of the prorated amount and shall finance its
 14 proportionate share of the cost of operating the junior high
 15 school.

16 (2) The cost of operating the junior high school shall
 17 be prorated between the elementary district and the high
 18 school district on the basis of the ratio that the number of
 19 pupils of their district is to the total enrollment of the
 20 junior high school."

21 Section 5. Section 20-6-603, MCA, is amended to read:
 22 "20-6-603. Trustees' authority to acquire or dispose
 23 of sites and buildings -- when election required. (1) The
 24 trustees of any district shall have the authority to
 25 purchase, build, exchange, or otherwise acquire or sell or

1 otherwise dispose of sites and buildings of the district.
 2 Such action shall not be taken by the trustees without the
 3 approval of the qualified electors of the district at an
 4 election called for such approval unless:

5 (a) a bond issue has been authorized for the purpose
 6 of constructing, purchasing, or acquiring the site or
 7 building;

8 (b) an additional levy under the provisions of
 9 20-9-353 has been approved for the purpose of constructing,
 10 purchasing, or acquiring the site or building;

11 (c) the cost of constructing, purchasing, or acquiring
 12 the site or building is financed without exceeding the
 13 ~~maximum-general-fund-budget-without-a-vote~~ foundation
 14 ~~program~~ amount prescribed in 20-9-316 through 20-9-321 and,
 15 in the case of a site purchase, the site has been approved
 16 under the provisions of 20-6-621; or

17 (d) moneys are otherwise available under the
 18 provisions of this title and the ballot for the site
 19 approval for such building incorporated a description of the
 20 building to be located on the site.

21 (2) When an election is conducted under the provisions
 22 of this section, it shall be called under the provisions of
 23 20-20-201 and shall be conducted in the manner prescribed by
 24 this title for school elections. An elector qualified to
 25 vote under the provisions of 20-20-301 shall be permitted to

1 vote in such election. If a majority of those electors
 2 voting at the election approve the proposed action, the
 3 trustees may take the proposed action."

4 Section 6. Section 20-7-414, MCA, is amended to read:
 5 "20-7-414. Determination of children in need and type
 6 of special education needed -- approval of classes and
 7 programs by superintendent. (1) The determination of the
 8 children requiring special education and the type of special
 9 education needed by these children shall be the
 10 responsibility of the trustees, and such determination shall
 11 be made in compliance with the procedures established in the
 12 rules of the superintendent of public instruction.

13 (2) Whenever the trustees of any district intend to
 14 establish a special education class or program, they shall
 15 apply for approval and funding of the class or program by
 16 the superintendent of public instruction. The superintendent
 17 of public instruction shall approve or disapprove the
 18 application for the special education class or program on
 19 the basis of its compliance with the laws of the state of
 20 Montana, the special education policies adopted by the board
 21 of public education, and the rules of the superintendent of
 22 public instruction. No special education class may be
 23 operated by the trustees without the approval of the
 24 superintendent of public instruction. Each special education
 25 class or program must be approved annually to be funded as

1 part of the ~~maximum-budget-without-a-vote~~ foundation program
2 for special education."

3 Section 7. Section 20-7-422, MCA, is amended to read:

4 "20-7-422. Out-of-state tuition for special education
5 children. (1) If the trustees of any district recommend to
6 the superintendent of public instruction the attendance of
7 a child in need of special education in a special education
8 program offered outside of the state of Montana, such
9 arrangements shall not be subject to the out-of-state
10 attendance provisions of the laws governing the attendance
11 of pupils in schools outside the state of Montana.

12 (2) Whenever the attendance of a child at an
13 out-of-state special education program is approved by the
14 superintendent of public instruction, it shall be the
15 responsibility of the superintendent of public instruction,
16 in cooperation with the department of social and
17 rehabilitation services and the department of institutions,
18 to negotiate the program for the child and the amount and
19 manner of payment of tuition. The amount of tuition shall be
20 included as a contracted service in 20-7-431(1)(a)(iii)(A)
21 in the ~~maximum-budget-without-a-vote~~ foundation program for
22 special education."

23 Section 8. Section 20-7-431, MCA, is amended to read:

24 "20-7-431. Allowable cost schedule for special
25 programs -- superintendent to make rules -- annual

1 accounting. (1) For the purpose of determining the
2 ~~maximum-budget-without-a-vote~~ foundation program for special
3 education as defined in 20-9-321, the following schedule of
4 allowable costs shall be followed by the school district in
5 preparation of its special education budget for state aid
6 request purposes and by the superintendent of public
7 instruction in his review and approval of the budget (for
8 the purposes of determining the amount of the
9 ~~maximum-budget-without-a-vote~~ foundation program for special
10 education for the district, and as used in this schedule,
11 "full-time special pupil" and "regular ANB" are to be
12 determined in accordance with 20-9-311 and 20-9-313):

13 (a) instruction: salaries, benefits, supplies,
14 textbooks, and other expenses including:

15 (i) salaries and benefits of special program teachers,
16 regular program teachers, teacher aides, special education
17 supervisors, audiologists, and speech and hearing
18 clinicians--the entire cost if employed full time in the
19 special program; if such personnel are shared between
20 special and regular programs--a portion of the entire cost
21 corresponding to the entire working time which each such
22 person devotes to the special program;

23 (ii) teaching supplies and textbooks if used
24 exclusively for special programs--the actual total cost;

25 (iii) other expenses:

1 (4) contracted services, including fees paid for
2 professional advice and consultation regarding special
3 students or the special program, and the delivery of special
4 education services by public or private agencies--the actual
5 total cost;

6 (8) transportation costs for special education
7 personnel who must travel on an itinerant basis from school
8 to school or district to district or to in-state child study
9 team meetings or in-state individualized education program
10 meetings--the actual cost to the district calculated on the
11 same mileage rate used by the district for other travel
12 reimbursement purposes;

13 (b) supportive services, including:

14 (i) salaries and benefits of professional supportive
15 personnel--the entire cost if employed full time in the
16 special program; if such personnel are shared between
17 special and regular programs--a portion of the entire cost
18 corresponding to the entire working time which each such
19 person devotes to the special program. Professional
20 supportive personnel may include counselors, social workers,
21 psychologists, psychometrists, physicians, nurses, and
22 physical and occupational therapists.

23 (ii) salaries and benefits of clerical personnel for
24 professional personnel in supportive services--the entire
25 cost if employed full time in the special program; if such

1 personnel are shared between special and regular programs--a
2 portion of the entire cost corresponding to the entire
3 working time which each such person devotes to the special
4 program;

5 (c) equipment:

6 (i) equipment--the actual total cost;

7 (ii) special equipment for district-owned school buses
8 necessary to accommodate special students--the actual total
9 cost;

10 (iii) special equipment for school buses contracted to
11 transport special students--that portion of the contract
12 price attributable to the cost of special equipment or
13 personnel required to accommodate special students--the
14 actual special cost;

15 (d) room and board costs when the special pupil has to
16 attend a program at such a distance from his home that
17 commuting is undesirable as determined by the superintendent
18 of public instruction.

19 (2) The superintendent of public instruction shall,
20 prior to September 1, 1977, revise the rules in accordance
21 with the policies of the board of public education for:

22 (a) keeping necessary records for supportive and
23 administrative personnel and any personnel shared between
24 special and regular programs;

25 (b) defining the total special program caseload that

1 shall be assigned to specific support persons and the kinds
2 of professional specialties to be considered relevant to the
3 program before the district may count an allowable cost
4 under subsection (1)(b) of this section; and

5 (c) defining the kinds or types of equipment whose
6 costs may be counted under subsection (1)(c)(i) of this
7 section.

8 (3) An annual accounting of all expenditures of school
9 district general fund moneys for special education shall be
10 made by the district trustees on forms furnished by the
11 superintendent of public instruction. The superintendent of
12 public instruction shall make rules for such accounting.

13 (4) If a board of trustees chooses to exceed the
14 budget approved by the superintendent of public instruction,
15 costs in excess of the approved budget may not be reimbursed
16 under the ~~maximum-budget-without-a-vote foundation program~~
17 for special education.

18 (5) Allowable costs prescribed in this section do not
19 include the costs of the teachers' retirement system, the
20 public employees' retirement system, the federal social
21 security system, or the costs for unemployment compensation
22 insurance.

23 (6) (a) Notwithstanding other provisions of the law,
24 the superintendent of public instruction shall not approve a
25 ~~maximum-budget-without-a-vote foundation program~~ for special

1 education which exceeds legislative appropriations.

2 (b) If special education budgets approved by the
3 superintendent of public instruction exceed legislative
4 appropriations available for special education, each
5 district shall receive a pro rata share of the available
6 appropriations based upon its budget as a percent of all
7 approved special education budgets. The amount of the
8 approved budgets in excess of the available appropriations
9 may not be reimbursed under the
10 ~~maximum-budget-without-a-vote foundation program~~ for special
11 education and is the responsibility of the school district."

12 Section 9. Section 20-9-141, MCA, is amended to read:
13 "20-9-141. Computation of general fund net levy
14 requirement by county superintendent. (1) The county
15 superintendent shall compute the levy requirement for each
16 district's general fund on the basis of the following
17 procedure:

18 (a) Determine the total of the district's nonisolated
19 school foundation program requirement to be met by a
20 district levy as provided in 20-9-303~~y--the--district's~~
21 ~~permissive-levy-amount-as--provided--in--20-9-352,~~ and any
22 additional levies authorized by the electors of the district
23 under the provisions of 20-9-353, except that the total of
24 the ~~permissive-and~~ additional levies shall not exceed the
25 total amount of the final general fund budget less the

1 foundation program.

2 (b) Determine the total of the moneys available for
3 the reduction of the property tax on the district for the
4 general fund by totaling:

5 (i) anticipated federal moneys received under the
6 provisions of Title I of Public Law 81-874 or other
7 anticipated federal moneys received in lieu of such federal
8 act;

9 (ii) anticipated tuition payments for out-of-district
10 pupils under the provisions of 20-5-303, 20-5-307, 20-5-312,
11 and 20-5-313;

12 (iii) general fund cash reappropriated, as established
13 under the provisions of 20-9-104;

14 (iv) anticipated state impact aid received under the
15 provisions of 20-9-304;

16 (v) anticipated interest to be earned by the
17 investment of general fund cash in accordance with the
18 provisions of 20-9-213(4); and

19 (vi) any other revenue anticipated by the trustees to
20 be received during the ensuing school fiscal year which may
21 be used to finance the general fund.

22 (c) Subtract the total of the moneys available to
23 reduce the property tax required to finance the general fund
24 that has been determined in subsection (1)(b) from the total
25 levy requirement determined in subsection (1)(a).

1 (2) The net general fund levy requirement determined
2 in subsection (1)(c) shall be reported to the county
3 commissioners on the second Monday of August by the county
4 superintendent as the general fund levy requirement for the
5 district, and a levy shall be made by the county
6 commissioners in accordance with 20-9-142."

7 Section 10. Section 20-9-301, MCA, is amended to read:

8 "20-9-301. Purpose and definition of foundation
9 program and general fund. (1) A uniform system of free
10 public schools sufficient for the education of and open to
11 all school age children of the state shall be established
12 and maintained throughout the state of Montana. The state
13 shall aid in the support of its several school districts on
14 the basis of their financial need as measured by the
15 foundation program and in the manner established in this
16 title.

17 (2) The principal budgetary vehicle for achieving the
18 minimum financing as established by the foundation program
19 shall be the general fund of the district. The purpose of
20 the general fund shall be to finance those general
21 maintenance and operational costs of a district not financed
22 by other funds established for special purposes in this
23 title.

24 (3) The amount of the general fund budget for each
25 school fiscal year shall not exceed the financing

1 limitations established by this title but shall be no less
 2 than the amount established by law as the foundation
 3 program. The general fund budget shall be financed by the
 4 foundation program revenues and may be supplemented by the
 5 ~~permissive--levy--and~~ additional voted levies in the manner
 6 provided by law."

7 Section 11. Section 20-9-303, MCA, is amended to read:

8 "20-9-303. Definition of foundation program and--its
 9 ~~proportion--of-the-maximum-general-fund-without-a-voted-levy~~
 10 ~~schedule-amount --~~ nonisolated school foundation program
 11 financing -- special education funds. (1) As used in this
 12 title, the term "foundation program" shall mean: ~~the minimum~~
 13 ~~operating-expenditures--as--established--herein--that--are~~
 14 ~~sufficient--to--provide--for--the--educational--program--of--a~~
 15 ~~school.~~

16 ~~(a) the maximum general fund budget of any district as~~
 17 ~~specified in the schedules set forth in 20-9-316 through~~
 18 ~~20-9-320 on the basis of calculations for determination of~~
 19 ~~the average number belonging as provided in 20-9-311 through~~
 20 ~~20-9-313i.~~

21 ~~(b) in addition to subsection (a), the foundation~~
 22 ~~program for special education as specified in 20-9-321.~~

23 (2) The foundation program relates only to those
 24 expenditures authorized by a district's general fund budget
 25 and shall not include expenditures from any other fund. It

1 shall be financed by:

2 (a) county equalization moneys; and

3 (b) state equalization aid.

4 ~~(3) The total amount of the general fund of a district~~
 5 ~~may not be greater than the amount specified in subsection~~
 6 ~~(1) except when the district has adopted an emergency~~
 7 ~~general fund budget under the provisions of 20-9-165 or when~~
 8 ~~the district satisfies the requirements for an additional~~
 9 ~~levy for the general fund budget under the provisions of~~
 10 ~~20-9-352.~~

11 ~~(2)(4) The dollar amount--of--the--foundation--program~~
 12 ~~shall-----be-----80%-----of-----the~~
 13 ~~maximum-general-fund-budget-without-a-voted-levy--limitation~~
 14 ~~as--set-forth-in-the-schedules-in-20-9-316-through-20-9-321.~~
 15 The foundation program of an elementary school having an ANB
 16 of nine or fewer pupils for 2 consecutive years which is not
 17 approved as an isolated school under the provisions of
 18 20-9-302 shall be 80% 100% of the schedule amount set forth
 19 in 20-9-316 through 20-9-321, but the county and state shall
 20 participate in financing one-half of the foundation program,
 21 and the district shall finance the remaining one-half by a
 22 tax levied on the property of the district. When a school of
 23 nine or fewer pupils is approved as isolated under the
 24 provisions of 20-9-302, the county and state shall
 25 participate in the financing of the total amount of the

1 foundation program.

2 ~~f3}~~**[51** Funds provided to support the special education
 3 accounting budget may be expended only for special education
 4 purposes as approved by the superintendent of public
 5 instruction in accordance with the special education
 6 budgeting provisions of this title. Expenditures for special
 7 education shall be accounted for separately from the balance
 8 of the school district general fund. Transfers between items
 9 within the special education budget for accounting purposes
 10 may be made at the discretion of the board of trustees in
 11 accordance with the financial administration part of this
 12 title. The unexpended balance of the special education
 13 accounting budget shall carry over to the next year to
 14 reduce the amount of funding required to finance the
 15 district's ensuing year's ~~maximum-budget-without-a-vote~~
 16 foundation_program for special education."

17 Section 12. Section 20-9-320, MCA, is amended to read:
 18 "20-9-320. ~~Maximum---general---fund---budget~~ Foundation
 19 program for junior high school. (1) The general fund budget
 20 amount for an approved and accredited junior high school
 21 shall be prorated between the elementary district general
 22 fund budget and the high school district general fund budget
 23 in the following manner:

24 (a) determine the per-ANB schedule amount for the
 25 school, as defined by 20-9-317 and 20-9-319, from the high

1 school schedule;

2 (b) calculate the ANB for the regularly enrolled
 3 full-time pupils enrolled in the 7th and 8th grades of the
 4 junior high school;

5 (c) multiply the per-ANB schedule amount determined in
 6 subsection (1)(a) by the ANB calculated in subsection (1)(b)
 7 to determine the authorized general fund budget amount which
 8 shall be available for the elementary district general fund
 9 budget; and

10 (d) subtract the amount determined in subsection
 11 (1)(c) from the total authorized general fund budget amount
 12 for the school to determine the authorized general fund
 13 budget amount which shall be available for the high school
 14 district general fund budget.

15 (2) The general fund budget amount determined for each
 16 school of a district under the schedules provided in
 17 20-9-316 through 20-9-319 shall be totaled to determine the
 18 ~~maximum-general-fund-budget-without-a-voted-levy~~ foundation
 19 program_amount for such district."

20 Section 13. Section 20-9-321, MCA, is amended to read:
 21 "20-9-321. ~~Maximum---general---fund~~ Foundation_program
 22 budget for special education. (1) For the purpose of
 23 establishing the ~~maximum-budget-without-a-vote~~ foundation
 24 program amount for ~~the~~ current year special education
 25 program for a school district, the superintendent of public

1 instruction will determine the total estimated cost of the
 2 special education program for the school district on the
 3 basis of a special education program budget submitted by the
 4 district. The budget will be prepared on forms provided by
 5 the superintendent of public instruction and will set out
 6 for each program:

7 (a) the estimated allowable costs associated with
 8 operating the program where allowable costs are as defined
 9 in 20-7-431;

10 (b) the number of pupils expected to be enrolled in
 11 the program; and

12 (c) any other data required by the superintendent of
 13 public instruction for budget justification purposes and to
 14 administer the provisions of ~~20-9-315~~ ~~20-9-316~~ through
 15 20-9-321.

16 (2) The total amount of allowable costs approved by
 17 the superintendent of public instruction shall be the
 18 special education ~~maximum-budget-without-a-vote~~ foundation
 19 ~~program~~ amount for current year special education program
 20 purposes. The total amount of allowable costs that are
 21 approved for the special education budget shall not, under
 22 any condition, be less than the
 23 ~~maximum-budget-without-a-vote~~ foundation-program amount for
 24 one regular ANB for each special full-time pupil in the
 25 school district.

1 (3) If a special education program is implemented or
 2 expanded during a given school term too late to be included
 3 in the determination of the district
 4 ~~maximum-budget-without-a-vote~~ foundation-program amount for
 5 the school year as prescribed in this part, then subject to
 6 the approval of the program by the superintendent under the
 7 emergency budget provisions of 20-9-161(5), allowable costs
 8 approved under the budgeting provisions of subsections (1)
 9 and (2) for the operation of the program during the given
 10 year may be added to the ~~maximum-budget-without-a-vote~~
 11 foundation-program amount for special education for the
 12 subsequent school year. Such costs must be recorded as
 13 previous year special education expenses in the school
 14 district budget for the subsequent school year.

15 (4) The sum of the previous year special education
 16 expenses as defined in subsection (3) above and the
 17 ~~maximum-budget-without-a-vote~~ foundation-program for current
 18 year special education as defined in subsections (1) and (2)
 19 shall be the special education budget for accounting
 20 purposes.

21 (5) The ~~maximum-budget-without-a-vote~~ foundation
 22 ~~program~~ for special education will be added to the
 23 ~~maximum-budget-without-a-vote~~ foundation-program amount of
 24 the regular program ANB defined in 20-9-311 and 20-9-313 to
 25 obtain the total ~~maximum-budget-without-a-vote~~ foundation

1 ~~DEPOSIT AMOUNT~~ for the district."

2 Section 14. Section 20-9-331, MCA, is amended to read:

3 "20-9-331. Basic county tax and other revenues for
4 county equalization of the elementary district foundation
5 program. (1) It shall be the duty of the county
6 commissioners of each county to levy an annual basic tax of
7 ~~25 28 MILLS IN FISCAL YEAR 1983-84, 31 MILLS IN FISCAL YEAR~~
8 ~~1984-85, AND 34 MILLS IN FISCAL YEAR 1985-86 AND THEREAFTER~~
9 on the dollars of the taxable value of all taxable property
10 within the county for the purposes of local and state
11 foundation program support. The revenue to be collected from
12 this levy shall be apportioned to the support of the
13 foundation programs of the elementary school districts in
14 the county and to the earmarked revenue fund, state
15 equalization aid account, in the following manner:

16 (a) In order to determine the amount of revenue raised
17 by this levy which is retained by the county, the sum of the
18 estimated revenues identified in subsections (2)(a) through
19 (2)(f) below shall be subtracted from the sum of the county
20 elementary transportation obligation and the total of the
21 foundation programs of all elementary districts of the
22 county.

23 (b) If the basic levy ~~of 25-34 mills PRESCRIBED BY~~
24 ~~THIS SECTION~~ produces more revenue than is required to
25 finance the difference determined above, the county

1 commissioners shall order the county treasurer to remit the
2 surplus funds to the state treasurer for deposit to the
3 earmarked revenue fund, state equalization aid account, not
4 later than June 1 of the fiscal year for which the levy has
5 been set.

6 (2) The proceeds realized from the county's portion of
7 the levy prescribed by this section and the revenues from
8 the following sources shall be used for the equalization of
9 the elementary district foundation programs of the county as
10 prescribed in 20-9-334, and a separate accounting shall be
11 kept of such proceeds and revenues by the county treasurer
12 in accordance with 20-9-212(1):

13 (a) the portion of the federal forest reserve funds
14 distributed to a county and designated for the common school
15 fund under the provisions of 17-3-213;

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

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

23 (d) all moneys which are paid into the county treasury
24 as a result of fines for violations of law and the use of
25 which is not otherwise specified by law;

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

(f) any federal or state moneys distributed to the county as payment in lieu of the property taxation established by the county levy required by this section."

Section 15. Section 20-9-333, MCA, is amended to read:

"20-9-333. Basic special levy and other revenues for county equalization of high school district foundation program. (1) It shall be the duty of the county commissioners of each county to levy an annual basic special tax for high schools of ~~15 17 MILLS IN FISCAL YEAR 1983-84, 19 MILLS IN FISCAL YEAR 1984-85, AND 21 MILLS IN FISCAL YEAR 1985-86 AND THEREAFTER~~ on the dollar of the taxable value of all taxable property within the county for the purposes of local and state foundation program support. The revenue to be collected from this levy shall be apportioned to the support of the foundation programs of high school districts in the county and to the earmarked revenue fund, state equalization aid account, in the following manner:

(a) In order to determine the amount of revenue raised by this levy which is retained by the county, the estimated revenues identified in subsections (2)(a) and (2)(b) below shall be subtracted from the sum of the county's high school

tuition obligation and the total of the foundation programs of all high school districts of the county.

(b) If the basic levy ~~for 15-21 mills~~ PRESCRIBED BY THIS SECTION produces more revenue than is required to finance the difference determined above, the county commissioners shall order the county treasurer to remit the surplus to the state treasurer for deposit to the earmarked revenue fund, state equalization aid account, not later than June 1 of the fiscal year for which the levy has been set.

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

(a) any money remaining at the end of the immediately preceding school fiscal year in the county treasurer's account for deposit of the proceeds from the levy established in this section; and

(b) any federal or state moneys distributed to the county as a payment in lieu of the property taxation established by the county levy required by this section."

Section 16. Section 20-9-343, MCA, is amended to read:

"20-9-343. Definition of and revenue for state

equalization aid. (1) As used in this title, the term "state equalization aid" means those moneys deposited in the earmarked revenue fund as required in this section plus any legislative appropriation of moneys from other sources for distribution to the public schools for the purpose of equalization of the foundation program.

(2) The legislative appropriation for state equalization aid shall be made in a single sum for the biennium. The superintendent of public instruction has authority to spend such appropriation, together with the earmarked revenues provided in subsection (3), as required for foundation program purposes throughout the biennium.

(3) The following shall be paid into the earmarked revenue fund for state equalization aid to public schools of the state:

(a) 25% of all moneys received from the collection of income taxes under chapter 30 of Title 15;

(b) 25% of all moneys, except as provided in 15-31-702, received from the collection of corporation license taxes under chapter 31 of Title 15, as provided by 15-1-501;

(c) 10% of the moneys received from the collection of the severance tax on coal under chapter 35 of Title 15;

(d) 62 1/2% of the moneys received from the treasurer of the United States as the state's shares of oil, gas, and

other mineral royalties under the federal Mineral Lands Leasing Act, as amended;

(e) interest and income moneys described in 20-9-341 and 20-9-342;

(f) income from the local impact and education trust fund account; and

(g) in addition to these revenues, the surplus revenues collected by the counties for foundation program support according to 20-9-331 and 20-9-333 shall be paid into the same earmarked revenue fund.

(4) Any surplus revenue in the state equalization aid account in the second year of a biennium may be used to reduce the appropriation required for the next succeeding biennium ~~for may be transferred to the state permissive account if revenues in that fund are insufficient to meet the state's permissive amount obligation.~~

Section 17. Section 20-9-351, MCA, is amended to read:

"20-9-351. Funding of deficiency in state equalization aid. If the estimated state equalization level made under the provisions of 20-9-348 is less than 100% ~~or if the permissive funding level made under the provisions of 20-9-352 is less than 100%~~, it shall be the duty of the superintendent of public instruction to request the budget director to submit a request for a supplemental appropriation in the second year of the biennium that would

1 be sufficient to complete the funding of the foundation
 2 programs prescribed under 20-9-348 ~~and--of--the--permissive~~
 3 ~~programs--prescribed--under--20-9-352--of--the--elementary--or~~
 4 ~~secondary--schools--or--both~~ for the current biennium."

5 SECTION 18. ~~SECTION 20-9-352, MCA, IS AMENDED TO READ:~~

6 "20-9-352. Permissive amount and permissive levy. (1)
 7 Whenever the trustees of any district shall deem it
 8 necessary to adopt a general fund budget in excess of the
 9 foundation program amount but not in excess of the maximum
 10 general fund budget amount for such district as established
 11 by the schedules in 20-9-316 through 20-9-321, the trustees
 12 shall adopt a resolution stating the reasons and purposes
 13 for exceeding the foundation program amount. Such excess
 14 above the foundation program amount shall be known as the
 15 "permissive amount", and it shall be financed by a levy on
 16 the taxable value of all taxable property within the
 17 district as prescribed in 20-9-141, supplemented with any
 18 biennial appropriation by the legislature for this purpose.

19 (2) The district levies to be set for the purpose of
 20 funding the permissive amount are determined as follows:

21 (a) For each elementary school district, the county
 22 commissioners shall annually set a levy not exceeding 9
 23 ~~mills in fiscal year 1983-84 and 3 mills in fiscal~~
 24 ~~year 1984-85~~ on all the taxable property in the district for
 25 the purpose of funding the permissive amount of the

1 district. The permissive levy in mills shall be obtained by
 2 multiplying the ratio of the permissive amount to the
 3 maximum permissive amount by ~~9 in fiscal year 1983-84 and~~
 4 ~~2 in fiscal year 1984-85~~ or by using the number of mills
 5 which would fund the permissive amount, whichever is less.
 6 If the amount of revenue raised by this levy is not
 7 sufficient to fund the permissive amount in full, the amount
 8 of the deficiency shall be paid to the district from the
 9 earmarked revenue fund according to the provisions of
 10 20-9-351 and subsection (3) of this section.

11 (b) For each high school district, the county
 12 commissioners shall annually set a levy not exceeding ~~6 1/2~~
 13 ~~mills in fiscal year 1983-84 and 2 mills in fiscal year~~
 14 ~~1984-85~~ on all taxable property in the district for the
 15 purpose of funding the permissive amount of the district.
 16 The permissive levy in mills shall be obtained by
 17 multiplying the ratio of the permissive levy to the maximum
 18 permissive amount by ~~6 1/2 in fiscal year 1983-84 and 2 in~~
 19 ~~fiscal year 1984-85~~ or by using the number of mills which
 20 would fund the permissive amount, whichever is less. If the
 21 amount of revenue raised by this levy is not sufficient to
 22 fund the permissive amount in full, the amount of the
 23 deficiency shall be paid to the district from the earmarked
 24 revenue fund according to the provisions of 20-9-351 and
 25 subsection (3) of this section. The superintendent of

public instruction shall, if the appropriation by the legislature for the permissive account [program] for the biennium is insufficient, request the budget director to submit a request for a supplemental appropriation in the second year of the biennium.

(3) Such distribution shall be made in two payments. The first payment shall be made at the same time as the first distribution of state equalization aid is made after January 1 of the fiscal year. The second payment shall be made at the same time as the last payment of state equalization aid is made for the fiscal year. If the appropriation is not sufficient to finance the deficiencies of the districts as determined according to subsection (2), each district will receive the same percentage of its deficiency. Surplus revenue in the second year of the biennium may be used to reduce the appropriation required for the next succeeding biennium or may be transferred to the state equalization aid earmarked revenue fund if revenues in that fund are insufficient to meet foundation program requirements."

Section 19. Section 20-9-353, MCA, is amended to read:

"20-9-353. Additional levy for general fund -- election for authorization to impose. (1) The trustees of any district may propose to adopt a general fund budget in excess of the general fund budget amount for such district

as established by ~~the schedules in 20-9-316 through 20-9-321~~ 20-2-323 for any of the following purposes:

(a) building, altering, repairing, or enlarging any schoolhouse of the district;

(b) furnishing additional school facilities for the district;

(c) acquisition of land for the district;

(d) proper maintenance and operation of the school programs of the district.

(2) When the trustees of any district determine that an additional amount of financing is required for the general fund budget that is in excess of the statutory schedule amount, the trustees shall submit the proposition of an additional levy to raise such excess amount of general fund financing to the electors who are qualified under 20-20-301 to vote upon such proposition except that no election shall be required to permit the school trustees to use federal funds received under Title I of Public Law 81-874 to increase the school district's general fund budget as established in 20-9-316 through 20-9-321 by the amount of these funds. Such special election shall be called and conducted in the manner prescribed by this title for school elections. The ballot for such election shall state the amount of money to be raised by additional property taxation, the approximate number of mills required to raise

1 such money, and the purpose for which such money will be
2 expended, and it shall be in the following format:

3 PROPOSITION

4 Shall a levy be made in addition to the levies
5 authorized by law in such number of mills as may be
6 necessary to raise the sum of (state the amount to be raised
7 by additional tax levy), and being approximately (give
8 number) mills, for the purpose of (insert the purpose for
9 which the additional tax levy is made)?

10 FOR the additional levy.

11 AGAINST the additional levy.

12 (3) If the election on any additional levy for the
13 general fund is approved by a majority vote of those
14 electors voting at such election, the proposition shall
15 carry and the trustees may use any portion or all of the
16 authorized amount in adopting the preliminary general fund
17 budget. The trustees shall certify the additional levy
18 amount authorized by such a special election on the budget
19 form that is submitted to the county superintendent, and the
20 county commissioners shall levy such number of mills on the
21 taxable value of all taxable property within the district,
22 as prescribed in 20-9-141, as are required to raise the
23 amount of such additional levy.

24 (4) Authorization to levy an additional tax under the
25 provisions of this section shall be effective for only 1

1 school fiscal year and shall be authorized by a special
2 election conducted before August 1 of the school fiscal year
3 for which it is effective."

4 Section 20. Repealer. Sections 20-9-315 and 20-9-352,
5 MCA, are repealed.

6 ~~SECTION 21. EFFECTIVE DATE. (1) EXCEPT AS PROVIDED IN~~
7 ~~SUBSECTION (2), THIS ACT IS EFFECTIVE ON JULY 1, 1985.~~

8 ~~(2) SECTIONS 14, 15, AND 18 ARE EFFECTIVE ON PASSAGE~~
9 ~~AND APPROVAL.~~

-End-

SENATE BILL NO. 94

INTRODUCED BY REGAN, B. BROWN, BLAYLOCK, STEPHENS,

EUDAILY, DONALDSON, BENGTSON, VINCENT

BY REQUEST OF THE JOINT SUBCOMMITTEE ON EDUCATION

A BILL FOR AN ACT ENTITLED: "AN ACT TO ELIMINATE PHASE OUT
THE PERMISSIVE AMOUNT AND THE PERMISSIVE LEVY ALLOWED SCHOOL
DISTRICTS OVER A 3-YEAR PERIOD; TO PROVIDE A NEW DEFINITION
OF THE FOUNDATION PROGRAM; AND TO INCREASE THE BASIC COUNTY
LEVIES IN SUPPORT OF LOCAL AND STATE EQUALIZATION OF THE
FOUNDATION PROGRAMS OF THE ELEMENTARY AND HIGH SCHOOL
DISTRICTS; AMENDING SECTIONS 20-3-324, 20-5-305, 20-5-312,
20-6-506, 20-6-603, 20-7-414, 20-7-422, 20-7-431, 20-9-141,
20-9-301, 20-9-303, 20-9-320, 20-9-321, 20-9-331, 20-9-333,
20-9-343, AND 20-9-351;--AND THROUGH 20-9-353, MCA; AND
REPEALING SECTIONS 20-9-315 AND 20-9-352, MCA; AND PROVIDING
AN EFFECTIVE DATE."

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

Section 1. Section 20-3-324, MCA, is amended to read:

"20-3-324. Powers and duties. As prescribed elsewhere
in this title, the trustees of each district shall have the
power and it shall be their duty to perform the following
duties or acts:

(1) employ or dismiss a teacher, principal, or other

assistant upon the recommendation of the district
superintendent, the county high school principal, or other
principal as the board may deem necessary, accepting or
rejecting such recommendation as the trustees shall in their
sole discretion determine, in accordance with the provisions
of Title 20, chapter 4;

(2) employ and dismiss administrative personnel,
clerks, secretaries, teacher aides, custodians, maintenance
personnel, school bus drivers, food service personnel,
nurses, and any other personnel deemed necessary to carry
out the various services of the district;

(3) administer the attendance and tuition provisions
and otherwise govern the pupils of the district in
accordance with the provisions of the pupils chapter of this
title;

(4) call, conduct, and certify the elections of the
district in accordance with the provisions of the school
elections chapter of this title;

(5) participate in the teachers' retirement system of
the state of Montana in accordance with the provisions of
the teachers' retirement system chapter of Title 19;

(6) participate in district boundary change actions in
accordance with the provisions of the districts chapter of
this title;

(7) organize, open, close, or acquire isolation status

1 for the schools of the district in accordance with the
2 provisions of the school organization part of this title;

3 (8) adopt and administer the annual budget or an
4 emergency budget of the district in accordance with the
5 provisions of the school budget system part of this title;

6 (9) conduct the fiscal business of the district in
7 accordance with the provisions of the school financial
8 administration part of this title;

9 (10) establish the ANB, foundation program, permissive
10 levy, additional levy, cash reserve, and state impact aid
11 amount for the general fund of the district in accordance
12 with the provisions of the general fund part of this title;

13 (11) establish, maintain, budget, and finance the
14 transportation program of the district in accordance with
15 the provisions of the transportation parts of this title;

16 (12) issue, refund, sell, budget, and redeem the bonds
17 of the district in accordance with the provisions of the
18 bonds parts of this title;

19 (13) when applicable, establish, financially
20 administer, and budget for the tuition fund, retirement
21 fund, building reserve fund, adult education fund,
22 nonoperating fund, school food services fund, miscellaneous
23 federal programs fund, building fund, housing and dormitory
24 fund, traffic education fund, and interlocal cooperative
25 agreement fund in accordance with the provisions of the

1 other school funds parts of this title;

2 (14) when applicable, administer any interlocal
3 cooperative agreement, gifts, legacies, or devises in
4 accordance with the provisions of the miscellaneous
5 financial parts of this title;

6 (15) hold in trust, acquire, and dispose of the real
7 and personal property of the district in accordance with the
8 provisions of the school sites and facilities part of this
9 title;

10 (16) operate the schools of the district in accordance
11 with the provisions of the school calendar part of this
12 title;

13 (17) establish and maintain the instructional services
14 of the schools of the district in accordance with the
15 provisions of the instructional services, textbooks,
16 vocational education, and special education parts of this
17 title;

18 (18) establish and maintain the school food services of
19 the district in accordance with the provisions of the school
20 food services parts of this title;

21 (19) make such reports from time to time as the county
22 superintendent, superintendent of public instruction, and
23 board of public education may require;

24 (20) retain, when deemed advisable, a physician or
25 registered nurse to inspect the sanitary conditions of the

1 school or the general health conditions of each pupil and,
2 upon request, make available to any parent or guardian any
3 medical reports or health records maintained by the district
4 pertaining to his child;

5 (21) for each member of the trustees, visit each school
6 of the district not less than once each school fiscal year
7 to examine its management, conditions, and needs;

8 (22) procure and display outside daily in suitable
9 weather at each school of the district an American flag
10 which shall be not less than 4 feet by 6 feet; and

11 (23) perform any other duty and enforce any other
12 requirements for the government of the schools prescribed by
13 this title, the policies of the board of public education,
14 or the rules of the superintendent of public instruction."

15 Section 2. Section 20-5-305, MCA, is amended to read:

16 "20-5-305. Elementary tuition rates. Whenever a pupil
17 of an elementary district has been granted approval to
18 attend a school outside of the district in which he resides,
19 under the provisions of 20-5-301 or 20-5-302, such district
20 shall pay tuition to the elementary district where the pupil
21 attends school on the basis of the rate of tuition
22 determined by the attended district. The rate of tuition
23 shall be determined by:

24 (1) totaling the actual expenditures from the district
25 general fund, retirement fund, and debt service fund;

1 (2) dividing the amount determined in subsection (1)
2 above by the ANB of the district for the current fiscal
3 year, as determined under the provisions of 20-9-311; and

4 (3) subtracting the total of the per-ANB amount
5 allowed by 20-9-316 through 20-9-321 that represents the
6 foundation program, as prescribed by 20-9-303 plus--the
7 per-ANB-amount-determined-by-dividing-the-state-financing-of
8 the--district--permissive--levy--by-the-ANB-of-the-district,
9 from the amount determined in subsection (2) above."

10 Section 3. Section 20-5-312, MCA, is amended to read:

11 "20-5-312. Reporting, budgeting, and payment for high
12 school tuition. (1) At the close of the school term of each
13 school fiscal year, the trustees of each high school
14 district shall determine the rate of tuition for the current
15 school fiscal year by:

16 (a) totaling the actual expenditures from the district
17 general fund, retirement fund, and debt service fund;

18 (b) dividing the amount determined in subsection
19 (1)(a) above by the ANB of the district for the current
20 fiscal year, as determined under the provisions of 20-9-311;
21 and

22 (c) subtracting the total of the per-ANB amount
23 allowed by 20-9-316 through 20-9-321 that represents the
24 foundation program, as prescribed by 20-9-303 plus--the
25 per-ANB-amount-determined-by-dividing-the-state-financing-of

1 ~~the--district--permissive--levy--by--the--ANB--of--the--district,~~
2 from the amount determined in subsection (1)(b) above.

3 (2) Before July 15, the trustees shall report to the
4 county superintendent of the county in which the district is
5 located:

6 (a) the names, addresses, and resident districts of
7 the pupils attending the schools of the district under an
8 approved tuition agreement;

9 (b) the number of days of school attended by each
10 pupil;

11 (c) the amount, if any, of each pupil's tuition
12 payment that the trustees, in their discretion, shall have
13 the authority to waive; and

14 (d) the rate of current school fiscal year tuition, as
15 determined under the provisions of this section.

16 (3) When the county superintendent receives a tuition
17 report from a district, he shall immediately send the
18 reported information to the superintendent of each district
19 in which the reported pupils reside.

20 (4) When the district superintendent receives a
21 tuition report or reports for high school pupils residing in
22 his district and attending an out-of-district high school
23 under approved tuition agreements, he shall determine the
24 total amount of tuition due such out-of-district high
25 schools on the basis of the following per-pupil schedule:

1 the rate of tuition, number of pupils attending under an
2 approved tuition agreement, and other information provided
3 by each high school district where resident district pupils
4 have attended school.

5 (5) The total amount of the high school tuition, with
6 consideration of any tuition waivers, for pupils attending a
7 high school outside the county of residence shall be
8 financed by the county basic special tax for high schools as
9 provided in 20-9-334. In December, the county superintendent
10 shall cause the payment by county warrant of the high school
11 tuition obligations established under this section out of
12 the first moneys realized from the county basic special tax
13 for high schools. The payment shall be made to the county
14 treasurer of the county where each high school entitled to
15 tuition is located. The county treasurer shall credit such
16 tuition receipts to the general fund of the applicable high
17 school district, and the tuition receipts shall be used in
18 accordance with the provisions of 20-9-141.

19 (6) For pupils attending a high school outside their
20 district of residence but within the county of residence,
21 the total amount of the tuition, with consideration of any
22 tuition waivers, must be paid during the ensuing school
23 fiscal year. The trustees of the sending high school
24 district shall include the tuition amount in the tuition
25 fund of the preliminary and final budgets. This budgeted

1 tuition amount is not subject to the budget adjustment
 2 provisions of 20-9-132. The county superintendent shall
 3 report the net tuition fund levy requirement for each high
 4 school district to the county commissioners on the second
 5 Monday of August, and a levy on the district shall be made
 6 by the county commissioners in accordance with 20-9-142.
 7 This levy requirement shall be calculated by subtracting
 8 from the total expenditure amount authorized in the final
 9 tuition fund budget the sum of the cash balance in the
 10 tuition fund at the end of the immediately preceding school
 11 fiscal year plus any other anticipated money that may be
 12 realized in the tuition fund. The trustees shall pay by
 13 warrants drawn on the tuition fund the tuition amounts owed
 14 to each district included in the county superintendent's
 15 notification. Payments shall be made whenever there is a
 16 sufficient amount of cash available in the tuition fund but
 17 no later than the end of the school fiscal year for which
 18 the budget is adopted. However, if the trustees of either
 19 the sending or receiving high school feel the transfer
 20 privilege provided by this subsection is being abused they
 21 may appeal to the county superintendent of schools who shall
 22 hold a hearing and either approve or disapprove the
 23 transfer."

24 Section 4. Section 20-6-506, MCA, is amended to read:
 25 "20-6-506. Budgeting and cost sharing when junior high

1 school operated by elementary district and high school
 2 district operating a county high school. (1) Whenever the
 3 opening of a junior high school is approved for the ensuing
 4 school fiscal year under 20-6-505, the county superintendent
 5 shall estimate the average number belonging (ANB) after
 6 investigating the probable enrollment for the junior high
 7 school. The ANB determined by the county superintendent and
 8 the ANB actually realized in subsequent school fiscal years
 9 shall be applied under 20-9-320 to prorate the
 10 ~~maximum-general-fund-budget-without-a-voted-levy~~ foundation
 11 ~~prorated amount~~ between the elementary and high school
 12 districts. Each district shall adopt its general fund budget
 13 on the basis of the prorated amount and shall finance its
 14 proportionate share of the cost of operating the junior high
 15 school.

16 (2) The cost of operating the junior high school shall
 17 be prorated between the elementary district and the high
 18 school district on the basis of the ratio that the number of
 19 pupils of their district is to the total enrollment of the
 20 junior high school."

21 Section 5. Section 20-6-603, MCA, is amended to read:
 22 "20-6-603. Trustees' authority to acquire or dispose
 23 of sites and buildings -- when election required. (1) The
 24 trustees of any district shall have the authority to
 25 purchase, build, exchange, or otherwise acquire or sell or

1 otherwise dispose of sites and buildings of the district.
 2 Such action shall not be taken by the trustees without the
 3 approval of the qualified electors of the district at an
 4 election called for such approval unless:

5 (a) a bond issue has been authorized for the purpose
 6 of constructing, purchasing, or acquiring the site or
 7 building;

8 (b) an additional levy under the provisions of
 9 20-9-353 has been approved for the purpose of constructing,
 10 purchasing, or acquiring the site or building;

11 (c) the cost of constructing, purchasing, or acquiring
 12 the site or building is financed without exceeding the
 13 ~~maximum-general-fund-budget-without-a-vote~~ foundation
 14 ~~program~~ amount prescribed in 20-9-316 through 20-9-321 and,
 15 in the case of a site purchase, the site has been approved
 16 under the provisions of 20-6-621; or

17 (d) moneys are otherwise available under the
 18 provisions of this title and the ballot for the site
 19 approval for such building incorporated a description of the
 20 building to be located on the site.

21 (2) When an election is conducted under the provisions
 22 of this section, it shall be called under the provisions of
 23 20-20-201 and shall be conducted in the manner prescribed by
 24 this title for school elections. An elector qualified to
 25 vote under the provisions of 20-20-301 shall be permitted to

1 vote in such election. If a majority of those electors
 2 voting at the election approve the proposed action, the
 3 trustees may take the proposed action."

4 Section 6. Section 20-7-414, MCA, is amended to read:
 5 "20-7-414. Determination of children in need and type
 6 of special education needed -- approval of classes and
 7 programs by superintendent. (1) The determination of the
 8 children requiring special education and the type of special
 9 education needed by these children shall be the
 10 responsibility of the trustees, and such determination shall
 11 be made in compliance with the procedures established in the
 12 rules of the superintendent of public instruction.

13 (2) Whenever the trustees of any district intend to
 14 establish a special education class or program, they shall
 15 apply for approval and funding of the class or program by
 16 the superintendent of public instruction. The superintendent
 17 of public instruction shall approve or disapprove the
 18 application for the special education class or program on
 19 the basis of its compliance with the laws of the state of
 20 Montana, the special education policies adopted by the board
 21 of public education, and the rules of the superintendent of
 22 public instruction. No special education class may be
 23 operated by the trustees without the approval of the
 24 superintendent of public instruction. Each special education
 25 class or program must be approved annually to be funded as

part of the ~~maximum-budget-without-a-vote foundation program~~
for special education."

Section 7. Section 20-7-422, MCA, is amended to read:

"20-7-422. Out-of-state tuition for special education children. (1) If the trustees of any district recommend to the superintendent of public instruction the attendance of a child in need of special education in a special education program offered outside of the state of Montana, such arrangements shall not be subject to the out-of-state attendance provisions of the laws governing the attendance of pupils in schools outside the state of Montana.

(2) Whenever the attendance of a child at an out-of-state special education program is approved by the superintendent of public instruction, it shall be the responsibility of the superintendent of public instruction, in cooperation with the department of social and rehabilitation services and the department of institutions, to negotiate the program for the child and the amount and manner of payment of tuition. The amount of tuition shall be included as a contracted service in 20-7-431(1)(a)(iii)(A) in the ~~maximum-budget-without-a-vote foundation program~~ for special education."

Section 8. Section 20-7-431, MCA, is amended to read:

"20-7-431. Allowable cost schedule for special programs -- superintendent to make rules -- annual

accounting. (1) For the purpose of determining the ~~maximum-budget-without-a-vote foundation program~~ for special education as defined in 20-9-321, the following schedule of allowable costs shall be followed by the school district in preparation of its special education budget for state aid request purposes and by the superintendent of public instruction in his review and approval of the budget (for the purposes of determining the amount of the ~~maximum-budget-without-a-vote foundation program~~ for special education for the district, and as used in this schedule, "full-time special pupil" and "regular ANB" are to be determined in accordance with 20-9-311 and 20-9-313):

(a) instruction: salaries, benefits, supplies, textbooks, and other expenses including:

(i) salaries and benefits of special program teachers, regular program teachers, teacher aides, special education supervisors, audiologists, and speech and hearing clinicians--the entire cost if employed full time in the special program; if such personnel are shared between special and regular programs--a portion of the entire cost corresponding to the entire working time which each such person devotes to the special program;

(ii) teaching supplies and textbooks if used exclusively for special programs--the actual total cost;

(iii) other expenses:

1 (A) contracted services, including fees paid for
2 professional advice and consultation regarding special
3 students or the special program, and the delivery of special
4 education services by public or private agencies--the actual
5 total cost;

6 (B) transportation costs for special education
7 personnel who must travel on an itinerant basis from school
8 to school or district to district or to in-state child study
9 team meetings or in-state individualized education program
10 meetings--the actual cost to the district calculated on the
11 same mileage rate used by the district for other travel
12 reimbursement purposes;

13 (b) supportive services, including:

14 (i) salaries and benefits of professional supportive
15 personnel--the entire cost if employed full time in the
16 special program; if such personnel are shared between
17 special and regular programs--a portion of the entire cost
18 corresponding to the entire working time which each such
19 person devotes to the special program. Professional
20 supportive personnel may include counselors, social workers,
21 psychologists, psychometrists, physicians, nurses, and
22 physical and occupational therapists.

23 (ii) salaries and benefits of clerical personnel for
24 professional personnel in supportive services--the entire
25 cost if employed full time in the special program; if such

1 personnel are shared between special and regular programs--a
2 portion of the entire cost corresponding to the entire
3 working time which each such person devotes to the special
4 program;

5 (c) equipment:

6 (i) equipment--the actual total cost;

7 (ii) special equipment for district-owned school buses
8 necessary to accommodate special students--the actual total
9 cost;

10 (iii) special equipment for school buses contracted to
11 transport special students--that portion of the contract
12 price attributable to the cost of special equipment or
13 personnel required to accommodate special students--the
14 actual special cost;

15 (d) room and board costs when the special pupil has to
16 attend a program at such a distance from his home that
17 commuting is undesirable as determined by the superintendent
18 of public instruction.

19 (2) The superintendent of public instruction shall,
20 prior to September 1, 1977, revise the rules in accordance
21 with the policies of the board of public education for:

22 (a) keeping necessary records for supportive and
23 administrative personnel and any personnel shared between
24 special and regular programs;

25 (b) defining the total special program caseload that

shall be assigned to specific support persons and the kinds of professional specialties to be considered relevant to the program before the district may count an allowable cost under subsection (1)(b) of this section; and

(c) defining the kinds or types of equipment whose costs may be counted under subsection (1)(c)(i) of this section.

(3) An annual accounting of all expenditures of school district general fund moneys for special education shall be made by the district trustees on forms furnished by the superintendent of public instruction. The superintendent of public instruction shall make rules for such accounting.

(4) If a board of trustees chooses to exceed the budget approved by the superintendent of public instruction, costs in excess of the approved budget may not be reimbursed under the ~~maximum-budget-without-a-vote~~ foundation program for special education.

(5) Allowable costs prescribed in this section do not include the costs of the teachers' retirement system, the public employees' retirement system, the federal social security system, or the costs for unemployment compensation insurance.

(6) (a) Notwithstanding other provisions of the law, the superintendent of public instruction shall not approve a ~~maximum-budget-without-a-vote~~ foundation program for special

education which exceeds legislative appropriations.

(b) If special education budgets approved by the superintendent of public instruction exceed legislative appropriations available for special education, each district shall receive a pro rata share of the available appropriations based upon its budget as a percent of all approved special education budgets. The amount of the approved budgets in excess of the available appropriations may not be reimbursed under the ~~maximum-budget-without-a-vote~~ foundation program for special education and is the responsibility of the school district."

Section 9. Section 20-9-141, MCA, is amended to read:

"20-9-141. Computation of general fund net levy requirement by county superintendent. (1) The county superintendent shall compute the levy requirement for each district's general fund on the basis of the following procedure:

(a) Determine the total of the district's nonisolated school foundation program requirement to be met by a district levy as provided in 20-9-303, ~~the district's~~ ~~permissive-levy-amount-as-provided-in-20-9-352,~~ and any additional levies authorized by the electors of the district under the provisions of 20-9-353, except that the total of the ~~permissive-and~~ additional levies shall not exceed the total amount of the final general fund budget less the

1 foundation program.

2 (b) Determine the total of the moneys available for
3 the reduction of the property tax on the district for the
4 general fund by totaling:

5 (i) anticipated federal moneys received under the
6 provisions of Title I of Public Law 81-874 or other
7 anticipated federal moneys received in lieu of such federal
8 act;

9 (ii) anticipated tuition payments for out-of-district
10 pupils under the provisions of 20-5-303, 20-5-307, 20-5-312,
11 and 20-5-313;

12 (iii) general fund cash reappropriated, as established
13 under the provisions of 20-9-104;

14 (iv) anticipated state impact aid received under the
15 provisions of 20-9-304;

16 (v) anticipated interest to be earned by the
17 investment of general fund cash in accordance with the
18 provisions of 20-9-213(4); and

19 (vi) any other revenue anticipated by the trustees to
20 be received during the ensuing school fiscal year which may
21 be used to finance the general fund.

22 (c) Subtract the total of the moneys available to
23 reduce the property tax required to finance the general fund
24 that has been determined in subsection (1)(b) from the total
25 levy requirement determined in subsection (1)(a).

1 (2) The net general fund levy requirement determined
2 in subsection (1)(c) shall be reported to the county
3 commissioners on the second Monday of August by the county
4 superintendent as the general fund levy requirement for the
5 district, and a levy shall be made by the county
6 commissioners in accordance with 20-9-142."

7 Section 10. Section 20-9-301, MCA, is amended to read:

8 "20-9-301. Purpose and definition of foundation
9 program and general fund. (1) A uniform system of free
10 public schools sufficient for the education of and open to
11 all school age children of the state shall be established
12 and maintained throughout the state of Montana. The state
13 shall aid in the support of its several school districts on
14 the basis of their financial need as measured by the
15 foundation program and in the manner established in this
16 title.

17 (2) The principal budgetary vehicle for achieving the
18 minimum financing as established by the foundation program
19 shall be the general fund of the district. The purpose of
20 the general fund shall be to finance those general
21 maintenance and operational costs of a district not financed
22 by other funds established for special purposes in this
23 title.

24 (3) The amount of the general fund budget for each
25 school fiscal year shall not exceed the financing

1 limitations established by this title but shall be no less
2 than the amount established by law as the foundation
3 program. The general fund budget shall be financed by the
4 foundation program revenues and may be supplemented by the
5 ~~permissive--levy--and~~ additional voted levies in the manner
6 provided by law."

7 Section 11. Section 20-9-303, MCA, is amended to read:

8 "20-9-303. Definition of foundation program and--its
9 ~~proportion--of-the-maximum-general-fund-without-a-voted-levy~~
10 ~~schedule-amount --~~ nonisolated school foundation program
11 financing -- special education funds. (1) As used in this
12 title, the term "foundation program" shall mean: ~~the-minimum~~
13 ~~operating-expenditures--as--established--herein--that--are~~
14 ~~sufficient--to--provide--for--the--educational--program--of--a~~
15 ~~school.~~

16 (a) the maximum general fund budget of any district as
17 specified in the schedules set forth in 20-9-316 through
18 20-9-320 on the basis of calculations for determination of
19 the average number belonging as provided in 20-9-311 through
20 20-9-313;

21 (b) in addition to subsection (a), the foundation
22 program for special education as specified in 20-9-321.

23 (2) The foundation program relates only to those
24 expenditures authorized by a district's general fund budget
25 and shall not include expenditures from any other fund. It

1 shall be financed by:

2 (a) county equalization moneys; and

3 (b) state equalization aid.

4 (3) The total amount of the general fund of a district
5 may not be greater than the amount specified in subsection
6 (1) except when the district has adopted an emergency
7 general fund budget under the provisions of 20-9-165 or when
8 the district satisfies the requirements for an additional
9 levy for the general fund budget under the provisions of
10 20-9-353.

11 ~~(2)(4) The dollar amount of the foundation program~~
12 ~~shall-----be-----88%-----of-----the~~
13 ~~maximum-general-fund-budget-without-a-voted-levy--limitation~~
14 ~~as--set-forth-in-the-schedules-in-20-9-316-through-20-9-321.~~
15 The foundation program of an elementary school having an ANB
16 of nine or fewer pupils for 2 consecutive years which is not
17 approved as an isolated school under the provisions of
18 20-9-302 shall be ~~88%~~ 100% of the schedule amount ~~set forth~~
19 ~~in 20-9-316 through 20-9-321,~~ but the county and state shall
20 participate in financing one-half of the foundation program,
21 and the district shall finance the remaining one-half by a
22 tax levied on the property of the district. When a school of
23 nine or fewer pupils is approved as isolated under the
24 provisions of 20-9-302, the county and state shall
25 participate in the financing of the total amount of the

1 foundation program.

2 (3) Funds provided to support the special education
3 accounting budget may be expended only for special education
4 purposes as approved by the superintendent of public
5 instruction in accordance with the special education
6 budgeting provisions of this title. Expenditures for special
7 education shall be accounted for separately from the balance
8 of the school district general fund. Transfers between items
9 within the special education budget for accounting purposes
10 may be made at the discretion of the board of trustees in
11 accordance with the financial administration part of this
12 title. The unexpended balance of the special education
13 accounting budget shall carry over to the next year to
14 reduce the amount of funding required to finance the
15 district's ensuing year's ~~maximum-budget-without-a-vote~~
16 foundation_program for special education."

17 Section 12. Section 20-9-320, MCA, is amended to read:

18 "20-9-320. ~~Maximum--general--fund--budget~~ Foundation
19 program for junior high school. (1) The general fund budget
20 amount for an approved and accredited junior high school
21 shall be prorated between the elementary district general
22 fund budget and the high school district general fund budget
23 in the following manner:

24 (a) determine the per-ANB schedule amount for the
25 school, as defined by 20-9-317 and 20-9-319, from the high

1 school schedule;

2 (b) calculate the ANB for the regularly enrolled
3 full-time pupils enrolled in the 7th and 8th grades of the
4 junior high school;

5 (c) multiply the per-ANB schedule amount determined in
6 subsection (1)(a) by the ANB calculated in subsection (1)(b)
7 to determine the authorized general fund budget amount which
8 shall be available for the elementary district general fund
9 budget; and

10 (d) subtract the amount determined in subsection
11 (1)(c) from the total authorized general fund budget amount
12 for the school to determine the authorized general fund
13 budget amount which shall be available for the high school
14 district general fund budget.

15 (2) The general fund budget amount determined for each
16 school of a district under the schedules provided in
17 20-9-316 through 20-9-319 shall be totaled to determine the
18 ~~maximum-general-fund-budget-without-a-voted-levy~~ foundation
19 program_amount for such district."

20 Section 13. Section 20-9-321, MCA, is amended to read:

21 "20-9-321. ~~Maximum--general--fund~~ Foundation_program
22 budget for special education. (1) For the purpose of
23 establishing the ~~maximum-budget-without-a-vote~~ foundation
24 program amount for the current year special education
25 program for a school district, the superintendent of public

instruction will determine the total estimated cost of the special education program for the school district on the basis of a special education program budget submitted by the district. The budget will be prepared on forms provided by the superintendent of public instruction and will set out for each program:

(a) the estimated allowable costs associated with operating the program where allowable costs are as defined in 20-7-431;

(b) the number of pupils expected to be enrolled in the program; and

(c) any other data required by the superintendent of public instruction for budget justification purposes and to administer the provisions of ~~20-9-315~~ ~~20-9-316~~ through 20-9-321.

(2) The total amount of allowable costs approved by the superintendent of public instruction shall be the special education ~~maximum-budget-without-a-vote~~ ~~foundation~~ ~~program~~ amount for current year special education program purposes. The total amount of allowable costs that are approved for the special education budget shall not, under any condition, be less than the ~~maximum-budget-without-a-vote~~ ~~foundation-program~~ amount for one regular ANB for each special full-time pupil in the school district.

(3) If a special education program is implemented or expanded during a given school term too late to be included in the determination of the district ~~maximum-budget-without-a-vote~~ ~~foundation-program~~ amount for the school year as prescribed in this part, then subject to the approval of the program by the superintendent under the emergency budget provisions of 20-9-161(5), allowable costs approved under the budgeting provisions of subsections (1) and (2) for the operation of the program during the given year may be added to the ~~maximum-budget-without-a-vote~~ ~~foundation-program~~ amount for special education for the subsequent school year. Such costs must be recorded as previous year special education expenses in the school district budget for the subsequent school year.

(4) The sum of the previous year special education expenses as defined in subsection (3) above and the ~~maximum-budget-without-a-vote~~ ~~foundation-program~~ for current year special education as defined in subsections (1) and (2) shall be the special education budget for accounting purposes.

(5) The ~~maximum-budget-without-a-vote~~ ~~foundation~~ ~~program~~ for special education will be added to the ~~maximum-budget-without-a-vote~~ ~~foundation-program~~ amount of the regular program ANB defined in 20-9-311 and 20-9-313 to obtain the total ~~maximum-budget-without-a-vote~~ ~~foundation~~

1 program amount for the district."

2 Section 14. Section 20-9-331, MCA, is amended to read:

3 "20-9-331. Basic county tax and other revenues for
4 county equalization of the elementary district foundation
5 program. (1) It shall be the duty of the county
6 commissioners of each county to levy an annual basic tax of
7 ~~25 28 MILLS IN FISCAL YEAR 1983-84, 31 MILLS IN FISCAL YEAR~~
8 ~~1984-85, AND 34 MILLS IN FISCAL YEAR 1985-86 AND THEREAFTER~~
9 on the dollars of the taxable value of all taxable property
10 within the county for the purposes of local and state
11 foundation program support. The revenue to be collected from
12 this levy shall be apportioned to the support of the
13 foundation programs of the elementary school districts in
14 the county and to the earmarked revenue fund, state
15 equalization aid account, in the following manner:

16 (a) In order to determine the amount of revenue raised
17 by this levy which is retained by the county, the sum of the
18 estimated revenues identified in subsections (2)(a) through
19 (2)(f) below shall be subtracted from the sum of the county
20 elementary transportation obligation and the total of the
21 foundation programs of all elementary districts of the
22 county.

23 (b) If the basic levy of ~~25-34 mills~~ PRESCRIBED BY
24 THIS SECTION produces more revenue than is required to
25 finance the difference determined above, the county

1 commissioners shall order the county treasurer to remit the
2 surplus funds to the state treasurer for deposit to the
3 earmarked revenue fund, state equalization aid account, not
4 later than June 1 of the fiscal year for which the levy has
5 been set.

6 (2) The proceeds realized from the county's portion of
7 the levy prescribed by this section and the revenues from
8 the following sources shall be used for the equalization of
9 the elementary district foundation programs of the county as
10 prescribed in 20-9-334, and a separate accounting shall be
11 kept of such proceeds and revenues by the county treasurer
12 in accordance with 20-9-212(1):

13 (a) the portion of the federal forest reserve funds
14 distributed to a county and designated for the common school
15 fund under the provisions of 17-3-213;

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

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

23 (d) all moneys which are paid into the county treasury
24 as a result of fines for violations of law and the use of
25 which is not otherwise specified by law;

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

(f) any federal or state moneys distributed to the county as payment in lieu of the property taxation established by the county levy required by this section."

Section 15. Section 20-9-333, MCA, is amended to read:

"20-9-333. Basic special levy and other revenues for county equalization of high school district foundation program. (1) It shall be the duty of the county commissioners of each county to levy an annual basic special tax for high schools of ~~15 17 MILLS IN FISCAL YEAR 1983-84, 19 MILLS IN FISCAL YEAR 1984-85, AND 21 MILLS IN FISCAL YEAR 1985-86 AND THEREAFTER~~ on the dollar of the taxable value of all taxable property within the county for the purposes of local and state foundation program support. The revenue to be collected from this levy shall be apportioned to the support of the foundation programs of high school districts in the county and to the earmarked revenue fund, state equalization aid account, in the following manner:

(a) In order to determine the amount of revenue raised by this levy which is retained by the county, the estimated revenues identified in subsections (2)(a) and (2)(b) below shall be subtracted from the sum of the county's high school

tuition obligation and the total of the foundation programs of all high school districts of the county.

(b) If the basic levy for ~~15-21 mills~~ PREScribed BY THIS SECTION produces more revenue than is required to finance the difference determined above, the county commissioners shall order the county treasurer to remit the surplus to the state treasurer for deposit to the earmarked revenue fund, state equalization aid account, not later than June 1 of the fiscal year for which the levy has been set.

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

(a) any money remaining at the end of the immediately preceding school fiscal year in the county treasurer's account for deposit of the proceeds from the levy established in this section; and

(b) any federal or state moneys distributed to the county as a payment in lieu of the property taxation established by the county levy required by this section."

Section 16. Section 20-9-343, MCA, is amended to read:

"20-9-343. Definition of and revenue for state

equalization aid. (1) As used in this title, the term "state equalization aid" means those moneys deposited in the earmarked revenue fund as required in this section plus any legislative appropriation of moneys from other sources for distribution to the public schools for the purpose of equalization of the foundation program.

(2) The legislative appropriation for state equalization aid shall be made in a single sum for the biennium. The superintendent of public instruction has authority to spend such appropriation, together with the earmarked revenues provided in subsection (3), as required for foundation program purposes throughout the biennium.

(3) The following shall be paid into the earmarked revenue fund for state equalization aid to public schools of the state:

(a) 25% of all moneys received from the collection of income taxes under chapter 30 of Title 15;

(b) 25% of all moneys, except as provided in 15-31-702, received from the collection of corporation license taxes under chapter 31 of Title 15, as provided by 15-1-501;

(c) 10% of the moneys received from the collection of the severance tax on coal under chapter 35 of Title 15;

(d) 62 1/2% of the moneys received from the treasurer of the United States as the state's shares of oil, gas, and

other mineral royalties under the federal Mineral Lands Leasing Act, as amended;

(e) interest and income moneys described in 20-9-341 and 20-9-342;

(f) income from the local impact and education trust fund account; and

(g) in addition to these revenues, the surplus revenues collected by the counties for foundation program support according to 20-9-331 and 20-9-333 shall be paid into the same earmarked revenue fund.

(4) Any surplus revenue in the state equalization aid account in the second year of a biennium may be used to reduce the appropriation required for the next succeeding biennium ~~for may be transferred to the state permissive account if revenues in that fund are insufficient to meet the state's permissive amount obligation.~~

Section 17. Section 20-9-351, MCA, is amended to read:

"20-9-351. Funding of deficiency in state equalization aid. If the estimated state equalization level made under the provisions of 20-9-348 is less than 100% ~~or if the permissive funding level made under the provisions of 20-9-352 is less than 100%~~, it shall be the duty of the superintendent of public instruction to request the budget director to submit a request for a supplemental appropriation in the second year of the biennium that would

be sufficient to complete the funding of the foundation programs prescribed under 20-9-348 and--of--the--permissive programs--prescribed--under--20-9-352--of--the--elementary--or--secondary--schools--or--both, for the current biennium."

SECTION 18. SECTION 20-9-352, MCA, IS AMENDED TO READ:

"20-9-352. Permissive amount and permissive levy. (1)

Whenever the trustees of any district shall deem it necessary to adopt a general fund budget in excess of the foundation program amount but not in excess of the maximum general fund budget amount for such district as established by the schedules in 20-9-316 through 20-9-321, the trustees shall adopt a resolution stating the reasons and purposes for exceeding the foundation program amount. Such excess above the foundation program amount shall be known as the "permissive amount", and it shall be financed by a levy on the taxable value of all taxable property within the district as prescribed in 20-9-141, supplemented with any biennial appropriation by the legislature for this purpose.

(2) The district levies to be set for the purpose of funding the permissive amount are determined as follows:

(a) For each elementary school district, the county commissioners shall annually set a levy not exceeding 9 ~~mills~~ 6 mills in fiscal year 1983-84 and 3 mills in fiscal year 1984-85 on all the taxable property in the district for the purpose of funding the permissive amount of the

district. The permissive levy in mills shall be obtained by multiplying the ratio of the permissive amount to the maximum permissive amount by 9 6 in fiscal year 1983-84 and 3 in fiscal year 1984-85 or by using the number of mills which would fund the permissive amount, whichever is less. If the amount of revenue raised by this levy is not sufficient to fund the permissive amount in full, the amount of the deficiency shall be paid to the district from the earmarked revenue fund according to the provisions of 20-9-351 and subsection (3) of this section.

(b) For each high school district, the county commissioners shall annually set a levy not exceeding 6 4 ~~mills in fiscal year 1983-84 and 2 mills in fiscal year 1984-85~~ on all taxable property in the district for the purpose of funding the permissive amount of the district. The permissive levy in mills shall be obtained by multiplying the ratio of the permissive levy to the maximum permissive amount by 6 4 in fiscal year 1983-84 and 2 in fiscal year 1984-85 or by using the number of mills which would fund the permissive amount, whichever is less. If the amount of revenue raised by this levy is not sufficient to fund the permissive amount in full, the amount of the deficiency shall be paid to the district from the earmarked revenue fund according to the provisions of 20-9-351 and subsection (3) of this section. The superintendent of

1 public instruction shall, if the appropriation by the
2 legislature for the permissive account [program] for the
3 biennium is insufficient, request the budget director to
4 submit a request for a supplemental appropriation in the
5 second year of the biennium.

6 (3) Such distribution shall be made in two payments.
7 The first payment shall be made at the same time as the
8 first distribution of state equalization aid is made after
9 January 1 of the fiscal year. The second payment shall be
10 made at the same time as the last payment of state
11 equalization aid is made for the fiscal year. If the
12 appropriation is not sufficient to finance the deficiencies
13 of the districts as determined according to subsection (2),
14 each district will receive the same percentage of its
15 deficiency. Surplus revenue in the second year of the
16 biennium may be used to reduce the appropriation required
17 for the next succeeding biennium or may be transferred to
18 the state equalization aid earmarked revenue fund if
19 revenues in that fund are insufficient to meet foundation
20 program requirements."

21 Section 19. Section 20-9-353, MCA, is amended to read:

22 "20-9-353. Additional levy for general fund --
23 election for authorization to impose. (1) The trustees of
24 any district may propose to adopt a general fund budget in
25 excess of the general fund budget amount for such district

1 as established by ~~the schedules in 20-9-316 through 20-9-321~~
2 ~~20-9-313~~ for any of the following purposes:

3 (a) building, altering, repairing, or enlarging any
4 schoolhouse of the district;

5 (b) furnishing additional school facilities for the
6 district;

7 (c) acquisition of land for the district;

8 (d) proper maintenance and operation of the school
9 programs of the district.

10 (2) When the trustees of any district determine that
11 an additional amount of financing is required for the
12 general fund budget that is in excess of the statutory
13 schedule amount, the trustees shall submit the proposition
14 of an additional levy to raise such excess amount of general
15 fund financing to the electors who are qualified under
16 20-20-301 to vote upon such proposition except that no
17 election shall be required to permit the school trustees to
18 use federal funds received under Title I of Public Law
19 81-874 to increase the school district's general fund budget
20 as established in 20-9-316 through 20-9-321 by the amount of
21 these funds. Such special election shall be called and
22 conducted in the manner prescribed by this title for school
23 elections. The ballot for such election shall state the
24 amount of money to be raised by additional property
25 taxation, the approximate number of mills required to raise

1 such money, and the purpose for which such money will be
2 expended, and it shall be in the following format:

3 PROPOSITION

4 Shall a levy be made in addition to the levies
5 authorized by law in such number of mills as may be
6 necessary to raise the sum of (state the amount to be raised
7 by additional tax levy), and being approximately (give
8 number) mills, for the purpose of (insert the purpose for
9 which the additional tax levy is made)?

10 FOR the additional levy.

11 AGAINST the additional levy.

12 (3) If the election on any additional levy for the
13 general fund is approved by a majority vote of those
14 electors voting at such election, the proposition shall
15 carry and the trustees may use any portion or all of the
16 authorized amount in adopting the preliminary general fund
17 budget. The trustees shall certify the additional levy
18 amount authorized by such a special election on the budget
19 form that is submitted to the county superintendent, and the
20 county commissioners shall levy such number of mills on the
21 taxable value of all taxable property within the district,
22 as prescribed in 20-9-141, as are required to raise the
23 amount of such additional levy.

24 (4) Authorization to levy an additional tax under the
25 provisions of this section shall be effective for only 1

1 school fiscal year and shall be authorized by a special
2 election conducted before August 1 of the school fiscal year
3 for which it is effective."

4 Section 20. Repealer. Sections 20-9-315 and 20-9-352,
5 HCA, are repealed.

6 ~~SECTION 21. EFFECTIVE DATE. (1) EXCEPT AS PROVIDED IN~~
7 ~~SUBSECTION (2), THIS ACT IS EFFECTIVE ON JULY 1, 1985.~~

8 ~~(2) SECTIONS 14, 15, AND 18 ARE EFFECTIVE ON PASSAGE~~
9 ~~AND APPROVAL.~~

-End-

HOUSE OF REPRESENTATIVES

March 15, 1983

Committee of the Whole

Amend Senate Bill 94 Third reading blue copy, with amendments adopted by House Taxation Committee on March 14, 1983, as follows:

1. Amendment #14.
Strike: "July 1, 1984"
Insert: "July 1, 1983"

HOUSE OF REPRESENTATIVES

March 15, 1983

Committee of the Whole

Amend Senate Bill 94 Third reading blue copy, with amendments adopted by House Taxation Committee on March 14, 1983, as follows:

1. Amendment #14.

Strike: "July 1, 1984"

Insert: "July 1, 1983"

AMENDMENTS TO SENATE BILL 94 THIRD READING COPY (BLUE) ADOPTED BY
HOUSE TAXATION COMMITTEE, March 14, 1983, BROUGHT TO HOUSE FLOOR
BY MOTION, MARCH 14, 1983

1. Title, line 6.

Strike: "PHASE OUT"

Insert: "REVISE"

2. Title, line 8 and line 9.

Following: "DISTRICTS"

Strike: line 8 through "PROGRAM" on line 9

3. Title, lines 12 through 14.

Following: "SECTIONS"

Strike: line 12 through "20-9-321," on line 14

4. Title, line 15.

Strike: line 15 through "THROUGH"

Insert: "20-9-352, AND"

5. Title, line 16.

Strike: line 16 through "MCA;"

6. Page 1, lines 20 through line 1 on page 27.

Strike: sections 1 through 13 in their entirety

Renumber: subsequent sections accordingly

7. Page 27, lines 7 and 8.

Following: "28 MILLS"

Strike: remainder of line 7 through line 8

8. Page 29, lines 13 through 15.

Following: "MILLS" on line 13

Strike: remainder of line 13 through "THEREAFTER" on line 15

9. Page 30, lines 24 through line 4 on page 33.

Strike: sections 16 and 17 in their entirety

Renumber: subsequent sections accordingly

10. Page 33, lines 23 and 24.

Following: "6 mills"

Strike: remainder of line 23 through "1984-85" on line 24

11. Page 34, lines 3 and 4.

Following: "6"

Strike: remainder of line 3 through "1984-85" on line 4

12. Page 34, lines 13 and 14.

Following: "mills"

Strike: remainder of line 13 through "1984-85" on line 14

13. Page 34, lines 18 and 19.

Following: "4"

Strike: remainder of line 18 through "1984-85" on line 19

14. Page 35, lines 21 through line 9 on page 38.

Strike: sections 19 through 21 in their entirety

Insert: "NEW SECTION. Section 4. Effective date. This act is effective July 1, 1984."

ADOPT

REJECT

SENATE BILL NO. 94

INTRODUCED BY REGAN, B. BROWN, BLAYLOCK, STEPHENS,

EUDAILY, DONALDSON, BENGTSON, VINCENT

BY REQUEST OF THE JOINT SUBCOMMITTEE ON EDUCATION

A BILL FOR AN ACT ENTITLED: "AN ACT TO ~~ELIMINATE PHASE ONE~~
~~REVISE~~ THE PERMISSIVE AMOUNT AND THE PERMISSIVE LEVY ALLOWED
 SCHOOL DISTRICTS ~~OVER A 3-YEAR PERIOD~~ TO PROVIDE A NEW
 DEFINITION OF THE FOUNDATION PROGRAM; AND TO INCREASE THE
 BASIC COUNTY LEVIES IN SUPPORT OF LOCAL AND STATE
 EQUALIZATION OF THE FOUNDATION PROGRAMS OF THE ELEMENTARY
 AND HIGH SCHOOL DISTRICTS; AMENDING SECTIONS 20-3-324,
 20-5-305, 20-5-312, 20-6-506, 20-6-603, 20-7-414, 20-7-422,
 20-7-431, 20-9-141, 20-9-301, 20-9-303, 20-9-320, 20-9-321,
 20-9-331, 20-9-333, 20-9-343, AND 20-9-351, AND ~~THROUGH~~ AND
 20-9-352, 20-9-353, MCA; AND REPEALING SECTIONS 20-9-315 AND
 20-9-352, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 20-3-324, MCA, is amended to read:

"20-3-324. Powers and duties. As prescribed elsewhere
 in this title, the trustees of each district shall have the
 power and it shall be their duty to perform the following
 duties or acts:

(1) employ or dismiss a teacher, principal, or other

assistant upon the recommendation of the district
 superintendent, the county high school principal, or other
 principal as the board may deem necessary, accepting or
 rejecting such recommendation as the trustees shall in their
 sole discretion determine in accordance with the provisions
 of title 20, chapter 4;

(2) employ and dismiss administrative personnel,
 clerks, secretaries, teacher aides, custodians, maintenance
 personnel, school bus drivers, food service personnel,
 nurses, and any other personnel deemed necessary to carry
 out the various services of the district;

(3) administer the attendance and tuition provisions
 and otherwise govern the pupils of the district in
 accordance with the provisions of the pupils chapter of this
 title;

(4) carry, conduct, and certify the elections of the
 district in accordance with the provisions of the school
 elections chapter of this title;

(5) participate in the teachers' retirement system of
 the state of Montana in accordance with the provisions of
 the teachers' retirement system chapter of title 19;

(6) participate in district boundary change actions in
 accordance with the provisions of the districts chapter of
 this title;

(7) organize, open, close, or acquire isolation status

1 for--the--schools--of--the--district--in--accordance--with--the
 2 provisions--of--the--school--organization--part--of--this--title;
 3 (8)--adopt--and--administer--the--annual--budget--or--an
 4 emergency--budget--of--the--district--in--accordance--with--the
 5 provisions--of--the--school--budget--system--part--of--this--title;
 6 (9)--conduct--the--fiscal--business--of--the--district--in
 7 accordance--with--the--provisions--of--the--school--financial
 8 administration--part--of--this--title;
 9 (10)--establish--the--ANBY--foundation--program--permissive
 10 levy--additional--levy--cash--reserve--and--state--impact--aid
 11 amount--for--the--general--fund--of--the--district--in--accordance
 12 with--the--provisions--of--the--general--fund--part--of--this--title;
 13 (11)--establish--maintain--budgets--and--finance--the
 14 transportation--program--of--the--district--in--accordance--with
 15 the--provisions--of--the--transportation--parts--of--this--title;
 16 (12)--issue--refund--sell--budget--and--redeem--the--bonds
 17 of--the--district--in--accordance--with--the--provisions--of--the
 18 bonds--parts--of--this--title;
 19 (13)--when--applicable--establish--financially
 20 administer--and--budget--for--the--tuition--fund--retirement
 21 fund--building--reserve--fund--adult--education--fund
 22 nonoperating--fund--school--food--services--fund--miscellaneous
 23 federal--programs--fund--building--fund--housing--and--dormitory
 24 fund--traffic--education--fund--and--interlocal--cooperative
 25 agreement--fund--in--accordance--with--the--provisions--of--the

1 other--school--funds--parts--of--this--title;
 2 (14)--when--applicable--administer--any--interlocal
 3 cooperative--agreements--gifts--legacies--or--devises--in
 4 accordance--with--the--provisions--of--the--miscellaneous
 5 financial--parts--of--this--title;
 6 (15)--hold--in--trust--acquire--and--dispose--of--the--real
 7 and--personal--property--of--the--district--in--accordance--with--the
 8 provisions--of--the--school--sites--and--facilities--part--of--this
 9 title;
 10 (16)--operate--the--schools--of--the--district--in--accordance
 11 with--the--provisions--of--the--school--calendar--part--of--this
 12 title;
 13 (17)--establish--and--maintain--the--instructional--services
 14 of--the--schools--of--the--district--in--accordance--with--the
 15 provisions--of--the--instructional--services--textbooks
 16 vocational--education--and--special--education--parts--of--this
 17 title;
 18 (18)--establish--and--maintain--the--school--food--services--of
 19 the--district--in--accordance--with--the--provisions--of--the--school
 20 food--services--parts--of--this--title;
 21 (19)--make--such--reports--from--time--to--time--as--the--county
 22 superintendent--superintendent--of--public--instruction--and
 23 board--of--public--education--may--require;
 24 (20)--retain--when--deemed--advisable--a--physician--or
 25 registered--nurse--to--inspect--the--sanitary--conditions--of--the

1 school--or--the--general--health--conditions--of--each--pupil--and
2 upon--request--make--available--to--any--parent--or--guardian--any
3 medical--reports--or--health--records--maintained--by--the--district
4 pertaining--to--his--child;

5 (21)--for--each--member--of--the--trustees--visit--each--school
6 of--the--district--not--less--than--once--each--school--fiscal--year
7 to--examine--its--management--conditions--and--needs;

8 (22)--procure--and--display--outside--daily--in--suitable
9 weather--at--each--school--of--the--district--an--American--flag
10 which--shall--be--not--less--than--4--feet--by--6--feet--and

11 (23)--perform--any--other--duty--and--enforce--any--other
12 requirements--for--the--government--of--the--schools--prescribed--by
13 this--title--the--policies--of--the--board--of--public--education--or
14 or--the--rules--of--the--superintendent--of--public--instruction;"

15 Section--2s--Section--20-5-305v--MEAY--is--amended--to--read:
16 "20-5-305v--Elementary--tuition--rates--Whenever--a--pupil

17 of--an--elementary--district--has--been--granted--approval--to
18 attend--a--school--outside--of--the--district--in--which--he--resides
19 under--the--provisions--of--20-5-301--or--20-5-302v--such--district
20 shall--pay--tuition--to--the--elementary--district--where--the--pupil
21 attends--school--on--the--basis--of--the--rate--of--tuition
22 determined--by--the--attended--districts--The--rate--of--tuition
23 shall--be--determined--by:

24 (1)--totaling--the--actual--expenditures--from--the--district
25 general--fund--retirement--fund--and--debt--service--fund;

1 (2)--dividing--the--amount--determined--in--subsection--(1)
2 above--by--the--ANB--of--the--district--for--the--current--fiscal
3 year--as--determined--under--the--provisions--of--20-9-311--and

4 (3)--subtracting--the--total--of--the--per-ANB--amount
5 allowed--by--20-9-316--through--20-9-321--that--represents--the
6 foundation--program--as--prescribed--by--20-9-303--plus--the
7 per-ANB--amount--determined--by--dividing--the--state--financing--of
8 the--district--permissive--levy--by--the--ANB--of--the--district
9 from--the--amount--determined--in--subsection--(2)--above;"

10 Section--3s--Section--20-5-312v--MEAY--is--amended--to--read:

11 "20-5-312v--Reporting--budgeting--and--payment--for--high
12 school--tuition--(1)--At--the--close--of--the--school--term--of--each
13 school--fiscal--year--the--trustees--of--each--high--school
14 district--shall--determine--the--rate--of--tuition--for--the--current
15 school--fiscal--year--by:

16 (a)--totaling--the--actual--expenditures--from--the--district
17 general--fund--retirement--fund--and--debt--service--fund;

18 (b)--dividing--the--amount--determined--in--subsection
19 (1)(a)--above--by--the--ANB--of--the--district--for--the--current
20 fiscal--year--as--determined--under--the--provisions--of--20-9-311
21 and

22 (c)--subtracting--the--total--of--the--per-ANB--amount
23 allowed--by--20-9-316--through--20-9-321--that--represents--the
24 foundation--program--as--prescribed--by--20-9-303--plus--the
25 per-ANB--amount--determined--by--dividing--the--state--financing--of

~~the district permissive levy by the ANB of the district
from the amount determined in subsection (1)(b) above~~

~~(2) Before July 15, the trustees shall report to the
county superintendent of the county in which the district is
located:~~

~~(a) the names, addresses, and resident districts of
the pupils attending the schools of the district under an
approved tuition agreement;~~

~~(b) the number of days of school attended by each
pupil;~~

~~(c) the amount, if any, of each pupil's tuition
payment that the trustees in their discretion shall have
the authority to waive; and~~

~~(d) the rate of current school fiscal year tuition as
determined under the provisions of this section.~~

~~(3) When the county superintendent receives a tuition
report from a district, he shall immediately send the
reported information to the superintendent of each district
in which the reported pupils reside.~~

~~(4) When the district superintendent receives a
tuition report or reports for high school pupils residing in
his district and attending an out-of-district high school
under approved tuition agreements, he shall determine the
total amount of tuition due such out-of-district high
schools on the basis of the following per-pupil schedules:~~

~~the rate of tuition, number of pupils attending under an
approved tuition agreement, and other information provided
by each high school district where resident district pupils
have attended schools.~~

~~(5) The total amount of the high school tuition, with
consideration of any tuition waiver, for pupils attending a
high school outside the county of residence shall be
financed by the county basic special tax for high schools as
provided in 20-9-334. In December, the county superintendent
shall cause the payment by county warrant of the high school
tuition obligations established under this section out of
the first moneys realized from the county basic special tax
for high schools. The payment shall be made to the county
treasurer of the county where each high school entitled to
tuition is located. The county treasurer shall credit such
tuition receipts to the general fund of the applicable high
school district, and the tuition receipts shall be used in
accordance with the provisions of 20-9-141.~~

~~(6) For pupils attending a high school outside their
district of residence but within the county of residence,
the total amount of the tuition, with consideration of any
tuition waiver, must be paid during the ensuing school
fiscal year. The trustees of the sending high school
district shall include the tuition amount in the tuition
fund of the preliminary and final budgets. This budgeted~~

1 tuition amount is not subject to the budget adjustment
 2 provisions of 20-9-132. The county superintendent shall
 3 report the net tuition fund levy requirement for each high
 4 school district to the county commissioners on the second
 5 Monday of August and a levy on the district shall be made
 6 by the county commissioners in accordance with 20-9-142.
 7 This levy requirement shall be calculated by subtracting
 8 from the total expenditure amount authorized in the final
 9 tuition fund budget the sum of the cash balance in the
 10 tuition fund at the end of the immediately preceding school
 11 fiscal year plus any other anticipated money that may be
 12 realized in the tuition funds. The trustees shall pay by
 13 warrants drawn on the tuition fund the tuition amounts owed
 14 to each district included in the county superintendent's
 15 notification. Payments shall be made whenever there is a
 16 sufficient amount of cash available in the tuition fund but
 17 no later than the end of the school fiscal year for which
 18 the budget is adopted. However, if the trustees of either
 19 the sending or receiving high school feel the transfer
 20 privilege provided by this subsection is being abused they
 21 may appeal to the county superintendent of schools who shall
 22 hold a hearing and either approve or disapprove the
 23 transfers.

24 Section 4. Section 20-6-506, MCA, is amended to read:
 25 "20-6-506. Budgeting and cost sharing when junior-high

1 school operated by elementary district and high school
 2 district operating a county high school. (1) Whenever the
 3 opening of a junior high school is approved for the ensuing
 4 school fiscal year under 20-6-505, the county superintendent
 5 shall estimate the average number belonging (ANB) after
 6 investigating the probable enrollment for the junior high
 7 schools. The ANB determined by the county superintendent and
 8 the ANB actually realized in subsequent school fiscal years
 9 shall be applied under 20-9-320 to prorate the
 10 maximum general fund budget without a voted levy foundation
 11 proportion between the elementary and high school
 12 districts. Each district shall adopt its general fund budget
 13 on the basis of the prorated amount and shall finance its
 14 proportionate share of the cost of operating the junior high
 15 schools.

16 (2) The cost of operating the junior high school shall
 17 be prorated between the elementary district and the high
 18 school district on the basis of the ratio that the number of
 19 pupils of their district is to the total enrollment of the
 20 junior high schools.

21 Section 5. Section 20-6-603, MCA, is amended to read:
 22 "20-6-603. Trustees' authority to acquire or dispose
 23 of sites and buildings when election required. (1) The
 24 trustees of any district shall have the authority to
 25 purchase, build, exchange or otherwise acquire or sell or

1 otherwise dispose of sites and buildings of the districts
2 such action shall not be taken by the trustees without the
3 approval of the qualified electors of the district at an
4 election called for such approval unless:

5 (a) a bond issue has been authorized for the purpose
6 of constructing, purchasing, or acquiring the site or
7 building;

8 (b) an additional levy under the provisions of
9 20-9-353 has been approved for the purpose of constructing
10 purchasing or acquiring the site or building;

11 (c) the cost of constructing, purchasing, or acquiring
12 the site or building is financed without exceeding the
13 maximum general fund budget without a vote ~~foundation~~
14 program amount prescribed in 20-9-316 through 20-9-321 and
15 in the case of a site purchase the site has been approved
16 under the provisions of 20-6-621 or

17 (d) moneys are otherwise available under the
18 provisions of this title and the ballot for the site
19 approval for such building incorporated a description of the
20 building to be located on the site;

21 (2) When an election is conducted under the provisions
22 of this section, it shall be called under the provisions of
23 20-20-201 and shall be conducted in the manner prescribed by
24 this title for school elections. An elector qualified to
25 vote under the provisions of 20-20-301 shall be permitted to

1 vote in such elections if a majority of those electors
2 voting at the election approve the proposed action; the
3 trustees may take the proposed actions.

4 Section 6. Section 20-7-414, MCA, is amended to read:
5 "20-7-414. Determination of children in need and type
6 of special education needed. Approval of classes and
7 programs by superintendents. (1) The determination of the
8 children requiring special education and the type of special
9 education needed by these children shall be the
10 responsibility of the trustees and such determination shall
11 be made in compliance with the procedures established in the
12 rules of the superintendent of public instruction.

13 (2) Whenever the trustees of any district intend to
14 establish a special education class or program, they shall
15 apply for approval and funding of the class or program by
16 the superintendent of public instruction. The superintendent
17 of public instruction shall approve or disapprove the
18 application for the special education class or program on
19 the basis of its compliance with the laws of the state of
20 Montana, the special education policies adopted by the board
21 of public education, and the rules of the superintendent of
22 public instruction. No special education class may be
23 operated by the trustees without the approval of the
24 superintendent of public instruction. Each special education
25 class or program must be approved annually to be funded as

1 part-of-the-maximum-budget-without-a-vote ~~foundation-program~~
2 for-special-education."

3 Section-7--Section-20-7-422--H&A--is-amended-to--read:
4 "20-7-422--Out-of-state--tuition-for-special-education
5 children--(1)--If-the-trustees-of-any-district-recommend--to
6 the--superintendent--of-public-instruction-the-attendance-of
7 a-child-in-need-of-special-education-in-a-special--education
8 program--offered--outside--of--the--state--of--Montana--such
9 arrangements--shall--not--be--subject--to--the--out-of-state
10 attendance--provisions--of-the-laws-governing-the-attendance
11 of-pupils-in-schools-outside-the-state-of-Montana;

12 (2)--Whenever--the--attendance--of--a--child--at--an
13 out-of-state--special--education--program-is-approved-by-the
14 superintendent--of--public--instruction--it--shall--be--the
15 responsibility--of-the-superintendent-of-public-instruction
16 in-cooperation--with--the--department--of--social--and
17 rehabilitation--services-and-the-department-of-institutions
18 to-negotiate-the-program-for-the-child-and--the--amount--and
19 manner-of-payment-of-tuition--The-amount-of-tuition-shall-be
20 included--as--a-contracted-service-in-20-7-431(1)(a)(iii)(A)
21 in-the-maximum-budget-without-a-vote ~~foundation-program~~--for
22 special-education."

23 Section-8--Section-20-7-431--H&A--is-amended-to--read:
24 "20-7-431--Allowable--cost--schedule--for--special
25 programs-----superintendent--to--make--rules-----annual

1 accountings--(1)--For--the--purpose--of--determining--the
2 maximum-budget-without-a-vote ~~foundation-program~~--for-special
3 education--as-defined-in-20-9-321--the-following-schedule-of
4 allowable-costs-shall-be-followed-by-the-school-district--in
5 preparation--of--its--special-education-budget-for-state-aid
6 request--purposes--and--by--the--superintendent--of--public
7 instruction--in--his--review-and-approval-of-the-budget--(for
8 the--purposes--of--determining--the--amount--of--the
9 maximum-budget-without-a-vote ~~foundation-program~~--for-special
10 education--for--the--district--and--as-used-in-this-schedule
11 "full-time-special-pupil"--and--"regular--ANS"--are--to--be
12 determined-in-accordance-with-20-9-321-and-20-9-323);

13 (a)--instructions--salaries--benefits--supplies
14 textbooks--and-other-expenses-including:

15 (i)--salaries-and-benefits-of-special-program-teachers
16 regular-program-teachers--teacher-aides--special-education
17 supervisors--audiologists--and--speech--and--hearing
18 clinicians--the-entire-cost-if-employed--full-time--in--the
19 special-program--if-such-personnel--are--shared--between
20 special-and-regular-programs--a-portion-of-the-entire-cost
21 corresponding--to--the--entire--working-time-which-each-such
22 person-devotes-to-the-special-program;

23 (ii)--teaching--supplies--and--textbooks--if--used
24 exclusively-for-special-programs--the-actual-total-cost
25 (iii)--other-expenses;

1 (A)--contracted--services--including--fees--paid--for
2 professional--advice--and--consultation--regarding--special
3 students--or--the--special--program--and--the--delivery--of--special
4 education--services--by--public--or--private--agencies--the--actual
5 total--costs

6 (B)--transportation--costs--for--special--education
7 personnel--who--must--travel--on--an--itinerant--basis--from--school
8 to--school--or--district--to--district--or--to--in--state--child--study
9 team--meetings--or--in--state--individualized--education--program
10 meetings--the--actual--cost--to--the--district--calculated--on--the
11 same--mileage--rate--used--by--the--district--for--other--travel
12 reimbursement--purposes

13 (b)--supportive--services--including

14 (i)--salaries--and--benefits--of--professional--supportive
15 personnel--the--entire--cost--if--employed--full--time--in--the
16 special--program--if--such--personnel--are--shared--between
17 special--and--regular--programs--a--portion--of--the--entire--cost
18 corresponding--to--the--entire--working--time--which--each--such
19 person--devotes--to--the--special--program--Professional
20 supportive--personnel--may--include--counselors--social--workers--
21 psychologists--psychometrists--physicians--nurses--and
22 physical--and--occupational--therapists

23 (ii)--salaries--and--benefits--of--clerical--personnel--for
24 professional--personnel--in--supportive--services--the--entire
25 cost--if--employed--full--time--in--the--special--program--if--such

1 personnel--are--shared--between--special--and--regular--programs--a
2 portion--of--the--entire--cost--corresponding--to--the--entire
3 working--time--which--each--such--person--devotes--to--the--special
4 program

5 (c)--equipment

6 (i)--equipment--the--actual--total--costs

7 (ii)--special--equipment--for--district--owned--school--buses
8 necessary--to--accommodate--special--students--the--actual--total
9 cost

10 (iii)--special--equipment--for--school--buses--contracted--to
11 transport--special--students--that--portion--of--the--contract
12 price--attributable--to--the--cost--of--special--equipment--or
13 personnel--required--to--accommodate--special--students--the
14 actual--special--costs

15 (d)--room--and--board--costs--when--the--special--pupil--has--to
16 attend--a--program--at--such--a--distance--from--his--home--that
17 commuting--is--undesirable--as--determined--by--the--superintendent
18 of--public--instruction

19 (2)--The--superintendent--of--public--instruction--shall
20 prior--to--September--15--1977--revise--the--rates--in--accordance
21 with--the--policies--of--the--board--of--public--education--for

22 (a)--keeping--necessary--records--for--supportive--and
23 administrative--personnel--and--any--personnel--shared--between
24 special--and--regular--programs

25 (b)--defining--the--total--special--program--caseload--that

1 shall be assigned to specific support persons and the kinds
2 of professional specialties to be considered relevant to the
3 program before the district may count an allowable cost
4 under subsection (1)(b) of this section and

5 (c) defining the kinds or types of equipment whose
6 costs may be counted under subsection (1)(c)(i) of this
7 section.

8 (3) An annual accounting of all expenditures of school
9 district general fund moneys for special education shall be
10 made by the district trustees on forms furnished by the
11 superintendent of public instruction. The superintendent of
12 public instruction shall make rules for such accounting.

13 (4) If a board of trustees chooses to exceed the
14 budget approved by the superintendent of public instruction,
15 costs in excess of the approved budget may not be reimbursed
16 under the maximum budget without a vote ~~foundation program~~
17 for special education.

18 (5) Allowable costs prescribed in this section do not
19 include the costs of the teachers' retirement system, the
20 public employees' retirement system, the federal social
21 security system or the costs for unemployment compensation
22 insurance.

23 (6) (a) Notwithstanding other provisions of the law
24 the superintendent of public instruction shall not approve a
25 maximum budget without a vote ~~foundation program~~ for special

1 education which exceeds legislative appropriations.

2 (b) If special education budgets approved by the
3 superintendent of public instruction exceed legislative
4 appropriations available for special education, each
5 district shall receive a pro rata share of the available
6 appropriations based upon its budget as a percent of all
7 approved special education budgets. The amount of the
8 approved budgets in excess of the available appropriations
9 may not be reimbursed under the
10 maximum budget without a vote ~~foundation program~~ for special
11 education and is the responsibility of the school districts.

12 Section 9, Section 20-9-141, MCA, is amended to read:
13 "20-9-141. Computation of general fund net levy
14 requirement by county superintendents. (1) The county
15 superintendent shall compute the levy requirement for each
16 district's general fund on the basis of the following
17 procedure:

18 (a) Determine the total of the district's nonisolated
19 school foundation program requirement to be met by a
20 district levy as provided in 20-9-303, the district's
21 permissive levy amount as provided in 20-9-352, and any
22 additional levies authorized by the electors of the district
23 under the provisions of 20-9-353, except that the total of
24 the permissive and additional levies shall not exceed the
25 total amount of the final general fund budget less the

1 foundation-program
 2 (b)--Determine--the--total--of--the--moneys--available--for
 3 the--reduction--of--the--property--tax--on--the--district--for--the
 4 general--fund--by--totaling:
 5 (i)--anticipated--federal--moneys--received--under--the
 6 provisions--of--Title--I--of--Public--Law--81-874--or--other
 7 anticipated--federal--moneys--received--in--lieu--of--such--federal
 8 act;
 9 (ii)--anticipated--tuition--payments--for--out--of--district
 10 pupils--under--the--provisions--of--28-5-303, 28-5-307, 28-5-312,
 11 and--28-5-313;
 12 (iii)--general--fund--cash--reappropriated, as established
 13 under--the--provisions--of--28-9-104;
 14 (iv)--anticipated--state--impact--aid--received--under--the
 15 provisions--of--28-9-304;
 16 (v)--anticipated--interest--to--be--earned--by--the
 17 investment--of--general--fund--cash--in--accordance--with--the
 18 provisions--of--28-9-213(4)--and
 19 (vi)--any--other--revenue--anticipated--by--the--trustees--to
 20 be--received--during--the--ensuing--school--fiscal--year--which--may
 21 be--used--to--finance--the--general--fund;
 22 (c)--Subtract--the--total--of--the--moneys--available--to
 23 reduce--the--property--tax--required--to--finance--the--general--fund
 24 that--has--been--determined--in--subsection--(i)(b)--from--the--total
 25 levy--requirement--determined--in--subsection--(i)(a).

1 (2)--The--net--general--fund--levy--requirement--determined
 2 in--subsection--(1)(c)--shall--be--reported--to--the--county
 3 commissioners--on--the--second--Monday--of--August--by--the--county
 4 superintendent--as--the--general--fund--levy--requirement--for--the
 5 district, and a levy shall be made by the county
 6 commissioners in accordance with 28-9-142.
 7 Section--18--Section--28-9-301, MCA, is amended to read:
 8 "28-9-301--Purpose--and--definition--of--foundation
 9 program--and--general--funds--(1)--A--uniform--system--of--free
 10 public--schools--sufficient--for--the--education--of--and--open--to
 11 all--school--age--children--of--the--state--shall--be--established
 12 and--maintained--throughout--the--state--of--Montana. The state
 13 shall aid in the support of its several school districts on
 14 the basis of their financial need as measured by the
 15 foundation program and in the manner established in this
 16 title.
 17 (2)--The--principal--budgetary--vehicle--for--achieving--the
 18 minimum--financing--as--established--by--the--foundation--program
 19 shall--be--the--general--fund--of--the--districts. The purpose of
 20 the--general--fund--shall--be--to--finance--those--general
 21 maintenance--and--operational--costs--of--a--district--not--financed
 22 by--other--funds--established--for--special--purposes--in--this
 23 title.
 24 (3)--The--amount--of--the--general--fund--budget--for--each
 25 school--fiscal--year--shall--not--exceed--the--financing

1 limitations established by this title but shall be no less
2 than the amount established by law as the foundation
3 program. The general fund budget shall be financed by the
4 foundation program revenues and may be supplemented by the
5 permissive levy and additional voted levies in the manner
6 provided by law.

7 Section 11--Section 28-9-303, MCA, is amended to read
8 "28-9-303. Definition of foundation program and its
9 proportion of the maximum general fund without a voted levy
10 schedule amount--nonisolated school foundation program
11 financing--special education funds--(1) As used in this
12 title, the term "foundation program" shall mean the minimum
13 operating expenditures, as established herein, that are
14 sufficient to provide for the educational program of a
15 school.

16 (a) the maximum general fund budget of any district as
17 specified in the schedules set forth in 28-9-316 through
18 28-9-328 on the basis of calculations for determination of
19 the average number belonging as provided in 28-9-311 through
20 28-9-313.

21 (b) in addition to subsection (a), the foundation
22 program for special education as specified in 28-9-321.

23 (2) The foundation program relates only to those
24 expenditures authorized by a district's general fund budget
25 and shall not include expenditures from any other funds it

1 shall be financed by:

2 (a) county equalization money; and

3 (b) state equalization aid.

4 (3) the total amount of the general fund of a district
5 may not be greater than the amount specified in subsection
6 (1), except when the district has adopted an emergency
7 general fund budget under the provisions of 28-9-165 or when
8 the district satisfies the requirements for an additional
9 levy for the general fund budget under the provisions of
10 28-9-353.

11 (2)(i) The dollar amount of the foundation program
12 shall be 80% of the
13 maximum general fund budget without a voted levy limitation
14 as set forth in the schedules in 28-9-316 through 28-9-321.
15 The foundation program of an elementary school having an ANS
16 of nine or fewer pupils for 2 consecutive years which is not
17 approved as an isolated school under the provisions of
18 28-9-302 shall be 80% of the schedule amount set forth
19 in 28-9-316 through 28-9-321, but the county and state shall
20 participate in financing one-half of the foundation program
21 and the district shall finance the remaining one-half by a
22 tax levied on the property of the districts when a school of
23 nine or fewer pupils is approved as isolated under the
24 provisions of 28-9-302, the county and state shall
25 participate in the financing of the total amount of the

1 foundation-program⁺
 2 {3}{15}--Funds-provided-to-support-the-special-education
 3 accounting-budget-may-be-expended-only-for-special-education
 4 purposes--as--approved--by--the--superintendent--of--public
 5 instruction--in--accordance--with--the--special--education
 6 budgeting-provisions-of-this-title--Expenditures-for-special
 7 education-shall-be-accounted-for-separately-from-the-balance
 8 of-the-school-district-general-funds--Transfers-between-items
 9 within-the-special-education-budget-for-accounting--purposes
 10 may--be--made--at-the-discretion-of-the-board-of-trustees-in
 11 accordance-with-the-financial-administration-part--of--this
 12 title--the-unexpended-balance--of--the--special-education
 13 accounting-budget-shall-carry-over--to--the--next--year--to
 14 reduce--the--amount--of--funding--required--to--finance--the
 15 district's--ensuing--year's--maximum-budget-without-a-vote
 16 ~~foundation-program-for-special-education~~⁺
 17 Section-12--Section-20-9-320-MCA-is-amended-to-read:
 18 "20-9-320--Maximum--general--fund--budget ~~Foundation~~
 19 ~~program~~ for-junior-high-schools--(1)-The-general-fund-budget
 20 amount-for-an-approved-and--accredited--junior--high--school
 21 shall-be-prorated--between-the-elementary-district-general
 22 fund-budget-and-the-high-school-district-general-fund-budget
 23 in-the-following-manner:
 24 {a)--determine-the-per-ANB-schedule-amount--for--the
 25 school--as--defined-by-20-9-317-and-20-9-319--from-the-high

1 school-schedule;
 2 {b)--calculate--the--ANB--for--the--regularly--enrolled
 3 full-time-pupils--enrolled-in-the-7th-and-8th-grades-of-the
 4 junior-high-school;
 5 {c)--multiply-the-per-ANB-schedule-amount-determined-in
 6 subsection-(1)(a)-by-the-ANB-calculated-in-subsection-(1)(b)
 7 to-determine-the-authorized-general-fund-budget-amount-which
 8 shall-be-available-for-the-elementary-district-general--fund
 9 budget--and
 10 {d)--subtract--the--amount--determined--in--subsection
 11 (1)(c)-from-the-total-authorized-general-fund-budget--amount
 12 for--the--school--to--determine--the-authorized-general-fund
 13 budget-amount-which-shall-be-available-for-the--high--school
 14 district-general-fund-budget;
 15 {2)--The-general-fund-budget-amount-determined-for-each
 16 school--of--a--district--under--the--schedules--provided--in
 17 20-9-316-through-20-9-319-shall-be-totaled-to-determine--the
 18 maximum-general-fund-budget-without-a-voted--levy ~~foundation~~
 19 ~~program-amount~~ for-such-districts⁺
 20 Section-13--Section-20-9-321-MCA-is-amended-to-read:
 21 "20-9-321--Maximum--general--fund ~~Foundation--program~~
 22 budget--for--special--educations {1)--For--the--purpose--of
 23 establishing--the--maximum-budget-without-a-vote ~~foundation~~
 24 ~~program--amount--for--the~~ current--year--special--education
 25 program-for-a-school-district--the-superintendent-of--public

1 instruction--will--determine-the-total-estimated-cost-of-the
 2 special-education-program-for-the--school--district--on--the
 3 basis-of-a-special-education-program-budget-submitted-by-the
 4 districts--The--budget-will-be-prepared-on-forms-provided-by
 5 the-superintendent-of-public-instruction-and--will--set-out
 6 for-each-program*

7 {a)--the--estimated--allowable--costs--associated--with
 8 operating-the-program-where-allowable-costs-are--as--defined
 9 in-20-7-431*

10 {b)--the--number--of--pupils-expected-to-be-enrolled-in
 11 the-program--and

12 {c)--any-other-data-required-by-the--superintendent--of
 13 public--instruction-for-budget-justification-purposes-and-to
 14 administer--the--provisions--of--20-9-315 20-9-316--through
 15 20-9-321*

16 {2)--The--total--amount--of--allowable-costs-approved-by
 17 the--superintendent--of--public--instruction--shall--be--the
 18 special--education--maximum-budget-without-a-vote ~~foundation~~
 19 ~~program~~ amount-for-current-year--special--education--program
 20 purposes--The--total--amount--of--allowable--costs-that-are
 21 approved-for-the-special-education-budget-shall--not--under
 22 any--condition--be--less--than--the
 23 maximum-budget-without-a-vote ~~foundation-program~~ amount--for
 24 one--regular--ANS--for--each--special--full-time-pupil--in-the
 25 school-districts

1 {3)--If-a-special-education-program-is--implemented--or
 2 expanded--during-a-given-school-term-too-late-to-be-included
 3 in--the--determination--of--the--district
 4 maximum-budget-without-a-vote ~~foundation-program~~ amount for
 5 the-school-year-as-prescribed-in-this-party-then-subject--to
 6 the--approval-of-the-program-by-the-superintendent-under-the
 7 emergency-budget-provisions-of-20-9-161(5)--allowable--costs
 8 approved--under--the-budgeting-provisions-of-subsections-(1)
 9 and-(2)--for-the-operation-of-the-program--during--the--given
 10 year--may--be-added--to--the--maximum-budget-without-a-vote
 11 ~~foundation-program~~ amount--for--special--education--for--the
 12 subsequent--school--years--Such--costs--must--be-recorded-as
 13 previous-year--special--education--expenses--in--the--school
 14 district-budget-for-the-subsequent-school-years

15 {4)--The--sum--of--the--previous-year-special-education
 16 expenses--as--defined--in--subsection--(3)--above--and--the
 17 maximum-budget-without-a-vote ~~foundation-program~~ for-current
 18 year-special-education-as-defined-in-subsections-(1) and-(2)
 19 shall--be--the--special--education--budget--for--accounting
 20 purposes

21 {5)--The--maximum-budget-without-a-vote ~~foundation~~
 22 ~~program~~ --for--special--education--will--be-added--to--the
 23 maximum-budget-without-a-vote ~~foundation-program~~ amount--of
 24 the--regular-program-ANS-defined-in-20-9-311-and-20-9-313-to
 25 obtain-the--total--maximum-budget-without-a-vote ~~foundation~~

1 ~~PROGRAM AMOUNT for the districts~~

2 Section 1. Section 20-9-331, MCA, is amended to read:

3 "20-9-331. Basic county tax and other revenues for
4 county equalization of the elementary district foundation
5 program. (1) It shall be the duty of the county
6 commissioners of each county to levy an annual basic tax of
7 ~~25.28 MILLS IN FISCAL YEAR 1983-84, 31 MILLS IN FISCAL YEAR~~
8 ~~1984-85, AND 34 MILLS IN FISCAL YEAR 1985-86 AND THEREAFTER~~
9 on the dollars of the taxable value of all taxable property
10 within the county for the purposes of local and state
11 foundation program support. The revenue to be collected from
12 this levy shall be apportioned to the support of the
13 foundation programs of the elementary school districts in
14 the county and to the earmarked revenue fund, state
15 equalization aid account, in the following manner:

16 (a) In order to determine the amount of revenue raised
17 by this levy which is retained by the county, the sum of the
18 estimated revenues identified in subsections (2)(a) through
19 (2)(f) below shall be subtracted from the sum of the county
20 elementary transportation obligation and the total of the
21 foundation programs of all elementary districts of the
22 county.

23 (b) If the basic levy of ~~25.28 mills~~ PRESCRIBED BY
24 THIS SECTION produces more revenue than is required to
25 finance the difference determined above, the county

1 commissioners shall order the county treasurer to remit the
2 surplus funds to the state treasurer for deposit to the
3 earmarked revenue fund, state equalization aid account, not
4 later than June 1 of the fiscal year for which the levy has
5 been set.

6 (2) The proceeds realized from the county's portion of
7 the levy prescribed by this section and the revenues from
8 the following sources shall be used for the equalization of
9 the elementary district foundation programs of the county as
10 prescribed in 20-9-334, and a separate accounting shall be
11 kept of such proceeds and revenues by the county treasurer
12 in accordance with 20-9-212(1):

13 (a) the portion of the federal forest reserve funds
14 distributed to a county and designated for the common school
15 fund under the provisions of 17-3-213;

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

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

23 (d) all moneys which are paid into the county treasury
24 as a result of fines for violations of law and the use of
25 which is not otherwise specified by law;

1 (e) any money remaining at the end of the immediately
2 preceding school fiscal year in the county treasurer's
3 account for the various sources of revenue established or
4 referred to in this section; and

5 (f) any federal or state moneys distributed to the
6 county as payment in lieu of the property taxation
7 established by the county levy required by this section."

8 Section 2. Section 20-9-333, MCA, is amended to read:

9 "20-9-333. Basic special levy and other revenues for
10 county equalization of high school district foundation
11 program. (1) It shall be the duty of the county
12 commissioners of each county to levy an annual basic special
13 tax for high schools of ~~15 17 MILLS IN FISCAL YEAR 1983-84,~~
14 ~~19 MILLS IN FISCAL YEAR 1984-85, AND 21 MILLS IN FISCAL YEAR~~
15 ~~1985-86 AND THEREAFTER~~ on the dollar of the taxable value of
16 all taxable property within the county for the purposes of
17 local and state foundation program support. The revenue to
18 be collected from this levy shall be apportioned to the
19 support of the foundation programs of high school districts
20 in the county and to the earmarked revenue fund, state
21 equalization aid account, in the following manner:

22 (a) In order to determine the amount of revenue raised
23 by this levy which is retained by the county, the estimated
24 revenues identified in subsections (2)(a) and (2)(b) below
25 shall be subtracted from the sum of the county's high school

1 tuition obligation and the total of the foundation programs
2 of all high school districts of the county.

3 (b) If the basic levy for ~~15-21 MILLS~~ PREScribed BY
4 THIS SECTION produces more revenue than is required to
5 finance the difference determined above, the county
6 commissioners shall order the county treasurer to remit the
7 surplus to the state treasurer for deposit to the earmarked
8 revenue fund, state equalization aid account, not later than
9 June 1 of the fiscal year for which the levy has been set.

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

17 (a) any money remaining at the end of the immediately
18 preceding school fiscal year in the county treasurer's
19 account for deposit of the proceeds from the levy
20 established in this section; and

21 (b) any federal or state moneys distributed to the
22 county as a payment in lieu of the property taxation
23 established by the county levy required by this section."

24 ~~Section 16--Section 20-9-343, MCA, is amended to read:~~
25 ~~"20-9-343. Definition of and revenue for state~~

1 equatization aid--(1)--As used in this title, the term
 2 "state equatization aid" means those moneys deposited in the
 3 earmarked revenue fund as required in this section plus any
 4 legislative appropriation of moneys from other sources for
 5 distribution to the public schools for the purpose of
 6 equatization of the foundation programs.

7 (2)--The legislative appropriation for state
 8 equatization aid shall be made in a single sum for the
 9 biennium. The superintendent of public instruction has
 10 authority to spend such appropriation together with the
 11 earmarked revenues provided in subsection (3) as required
 12 for foundation program purposes throughout the biennium.

13 (3)--The following shall be paid into the earmarked
 14 revenue fund for state equatization aid to public schools of
 15 the state:

16 (a)--25% of all moneys received from the collection of
 17 income taxes under chapter 38 of title 15;

18 (b)--25% of all moneys, except as provided in
 19 15-31-702, received from the collection of corporation
 20 license taxes under chapter 31 of title 15 as provided by
 21 15-1-501;

22 (c)--10% of the moneys received from the collection of
 23 the severance tax on coal under chapter 35 of title 15;

24 (d)--62 1/2% of the moneys received from the treasurer
 25 of the United States as the state's shares of oil, gas, and

1 other mineral royalties under the federal Mineral Lands
 2 Leasing Act as amended;

3 (e)--interest and income moneys described in 20-9-341
 4 and 20-9-342;

5 (f)--income from the local impact and education trust
 6 fund account; and

7 (g)--in addition to these revenues, the surplus
 8 revenues collected by the counties for foundation program
 9 support according to 20-9-331 and 20-9-333 shall be paid
 10 into the same earmarked revenue funds.

11 (4)--Any surplus revenue in the state equatization aid
 12 account in the second year of a biennium may be used to
 13 reduce the appropriation required for the next succeeding
 14 biennium, or may be transferred to the state permissive
 15 account if revenues in that fund are insufficient to meet
 16 the state's permissive amount obligation.

17 Section 17--Section 20-9-351, MCA, is amended to read:

18 "20-9-351--Funding of deficiency in state equatization
 19 aid--If the estimated state equatization level made under
 20 the provisions of 20-9-348 is less than 100% or if the
 21 permissive funding level made under the provisions of
 22 20-9-352 is less than 100%, it shall be the duty of the
 23 superintendent of public instruction to request the budget
 24 director to submit a request for a supplemental
 25 appropriation in the second year of the biennium that would

be sufficient to complete the funding of the foundation programs prescribed under 20-9-348 and of the permissive programs prescribed under 20-9-352 of the elementary or secondary schools or both for the current biennium."

SECTION 3. SECTION 20-9-352, MCA, IS AMENDED TO READ:

"20-9-352. Permissive amount and permissive levy. (1)

Whenever the trustees of any district shall deem it necessary to adopt a general fund budget in excess of the foundation program amount but not in excess of the maximum general fund budget amount for such district as established by the schedules in 20-9-316 through 20-9-321, the trustees shall adopt a resolution stating the reasons and purposes for exceeding the foundation program amount. Such excess above the foundation program amount shall be known as the "permissive amount", and it shall be financed by a levy on the taxable value of all taxable property within the district as prescribed in 20-9-141, supplemented with any biennial appropriation by the legislature for this purpose.

(2) The district levies to be set for the purpose of funding the permissive amount are determined as follows:

(a) For each elementary school district, the county commissioners shall annually set a levy not exceeding 9 mills ~~in fiscal year 1983-84 and 3 mills in fiscal year 1984-85~~ on all the taxable property in the district for the purpose of funding the permissive amount of the

district. The permissive levy in mills shall be obtained by multiplying the ratio of the permissive amount to the maximum permissive amount by 9 ~~in fiscal year 1983-84 and 3 in fiscal year 1984-85~~ or by using the number of mills which would fund the permissive amount, whichever is less. If the amount of revenue raised by this levy is not sufficient to fund the permissive amount in full, the amount of the deficiency shall be paid to the district from the earmarked revenue fund according to the provisions of 20-9-351 and subsection (3) of this section.

(b) For each high school district, the county commissioners shall annually set a levy not exceeding 6 ~~in fiscal year 1983-84 and 2 mills in fiscal year 1984-85~~ on all taxable property in the district for the purpose of funding the permissive amount of the district. The permissive levy in mills shall be obtained by multiplying the ratio of the permissive levy to the maximum permissive amount by 6 ~~in fiscal year 1983-84 and 2 in fiscal year 1984-85~~ or by using the number of mills which would fund the permissive amount, whichever is less. If the amount of revenue raised by this levy is not sufficient to fund the permissive amount in full, the amount of the deficiency shall be paid to the district from the earmarked revenue fund according to the provisions of 20-9-351 and subsection (3) of this section. The superintendent of

1 public instruction shall, if the appropriation by the
2 legislature for the permissive account [program] for the
3 biennium is insufficient, request the budget director to
4 submit a request for a supplemental appropriation in the
5 second year of the biennium.

6 (3) Such distribution shall be made in two payments.
7 The first payment shall be made at the same time as the
8 first distribution of state equalization aid is made after
9 January 1 of the fiscal year. The second payment shall be
10 made at the same time as the last payment of state
11 equalization aid is made for the fiscal year. If the
12 appropriation is not sufficient to finance the deficiencies
13 of the districts as determined according to subsection (2),
14 each district will receive the same percentage of its
15 deficiency. Surplus revenue in the second year of the
16 biennium may be used to reduce the appropriation required
17 for the next succeeding biennium or may be transferred to
18 the state equalization aid earmarked revenue fund if
19 revenues in that fund are insufficient to meet foundation
20 program requirements."

21 Section 19, Section 28-9-353, MEA, is amended to read:

22 "28-9-353. Additional levy for general fund
23 election for authorization to impose. (1) The trustees of
24 any district may propose to adopt a general fund budget in
25 excess of the general fund budget amount for such district

1 as established by the schedules in 28-9-316 through 28-9-321
2 28-9-321 for any of the following purposes:

3 (a) building, altering, repairing, or enlarging any
4 schoolhouse of the district;

5 (b) furnishing additional school facilities for the
6 district;

7 (c) acquisition of land for the district;

8 (d) proper maintenance and operation of the school
9 programs of the district;

10 (2) When the trustees of any district determine that
11 an additional amount of financing is required for the
12 general fund budget that is in excess of the statutory
13 schedule amount, the trustees shall submit the proposition
14 of an additional levy to raise such excess amount of general
15 fund financing to the electors who are qualified under
16 28-28-381 to vote upon such proposition except that no
17 election shall be required to permit the school trustees to
18 use federal funds received under Title I of Public Law
19 81-874 to increase the school district's general fund budget
20 as established in 28-9-316 through 28-9-321 by the amount of
21 these funds. Such special election shall be called and
22 conducted in the manner prescribed by this title for school
23 elections. The ballot for such election shall state the
24 amount of money to be raised by additional property
25 taxation, the approximate number of mills required to raise

1 such--money--and--the--purpose--for--which--such--money--will--be
2 expended--and--it--shall--be--in--the--following--format:

3 PROPOSITION

4 Shall--a--levy--be--made--in--addition--to--the--levies
5 authorized--by--law--in--such--number--of--mills--as--may--be
6 necessary--to--raise--the--sum--of--(state--the--amount--to--be--raised
7 by--additional--tax--levy)--and--being--approximately--(give
8 number)--mills--for--the--purpose--of--(insert--the--purpose--for
9 which--the--additional--tax--levy--is--made)?

10 ☐ FOR the additional levy.

11 ☐ AGAINST the additional levy.

12 (3)--If the election on any additional levy for the
13 general fund is approved by a majority vote of those
14 electors voting at such election, the proposition shall
15 carry and the trustees may use any portion or all of the
16 authorized amount in adopting the preliminary general fund
17 budget. The trustees shall certify the additional levy
18 amount authorized by such a special election on the budget
19 form that is submitted to the county superintendent and the
20 county commissioners shall levy such number of mills on the
21 taxable value of all taxable property within the districts
22 as prescribed in 20-9-141 as are required to raise the
23 amount of such additional levy.

24 (4)--Authorization to levy an additional tax under the
25 provisions of this section shall be effective for only 1

1 school fiscal year and shall be authorized by a special
2 election conducted before August 1 of the school fiscal year
3 for which it is effective.

4 Section 20--Repeater--Sections 20-9-315 and 20-9-352
5 MAY be repeated.

6 SECTION 21--EFFECTIVE DATE--(1)--EXCEPT AS PROVIDED IN

7 SUBSECTION (2)--THIS ACT IS EFFECTIVE ON JULY 1, 1985.

8 (2)--SECTIONS 141, 151 AND 18 ARE EFFECTIVE ON PASSAGE

9 AND APPROVAL.

10 SECTION 4. EFFECTIVE DATE. THIS ACT IS EFFECTIVE JULY

11 1, 1985, 1983.

-End-