

HOUSE BILL 637

Introduced by Phillips

2/13	Introduced
2/13	Referred to Ed. Fund. Select Committee
2/15	Fiscal Note Requested
2/16	Hearing
2/21	Fiscal Note Received
2/28	Fiscal Note Printed
3/02	Hearing
3/04	Hearing
3/07	Hearing
3/08	Tabled in Committee

1 House BILL NO. 637
 2 INTRODUCED BY Phillips
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO INCREASE STATE
 5 EQUALIZATION OF PUBLIC SCHOOL FUNDING FOR THE PURPOSE OF
 6 PROVIDING FURTHER EDUCATIONAL OPPORTUNITY FOR MONTANA
 7 STUDENTS; TO ELIMINATE THE COUNTY RETIREMENT LEVY AND THE
 8 DISTRICT PERMISSIVE LEVY; TO LIMIT, WITH A PHASE-IN PERIOD,
 9 A DISTRICT GENERAL FUND BUDGET; TO PROVIDE FOR STATE
 10 EQUALIZATION OF A PORTION OF A DISTRICT VOTED LEVY; TO
 11 INCLUDE SCHOOL DISTRICT PERSONNEL RETIREMENT AND WORKERS'
 12 COMPENSATION OBLIGATIONS IN THE DISTRICT GENERAL FUND
 13 BUDGET; TO CREATE ELEMENTARY SCHOOL AND HIGH SCHOOL
 14 FOUNDATION PROGRAM FUNDING SCHEDULES THAT INCLUDE A FUNDING
 15 FACTOR FOR TEACHER EXPERIENCE; TO INCREASE THE BASIC COUNTY
 16 LEVIES FOR COUNTY EQUALIZATION; AMENDING SECTIONS 17-3-213,
 17 19-4-605, 20-3-106, 20-3-324, 20-3-331, 20-5-305, 20-5-312,
 18 20-6-603, 20-7-306, 20-9-141, 20-9-143, 20-9-201, 20-9-212,
 19 20-9-301, 20-9-303, 20-9-320, 20-9-321, 20-9-331, 20-9-333,
 20 20-9-343, 20-9-353, AND 23-5-1027, MCA; REPEALING SECTIONS
 21 20-9-315 THROUGH 20-9-319, 20-9-322, 20-9-352, 20-9-501,
 22 20-9-531, AND 20-9-532, MCA; AND PROVIDING AN EFFECTIVE
 23 DATE."
 24
 25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

1 NEW SECTION. Section 1. Foundation program schedules
 2 for elementary schools and high schools for school fiscal
 3 years 1990 and 1991. (1) The following schedule is used to
 4 calculate the foundation program schedule amount for
 5 elementary schools for school fiscal year 1990, based on the
 6 ANB of each district as calculated under the provisions of
 7 20-9-311:
 8 DISTRICT ANB BASE AMOUNT ADDITIONAL AMOUNT PER ANB
 9 1-15 \$ 31,801 plus \$ 135 per ANB
 10 16-22 33,825 plus 4,059 for each ANB over 15
 11 23-40 61,500 plus 796 for each ANB over 22
 12 41-60 75,850 plus 3,285 for each ANB over 40
 13 61-88 141,450 plus 4,544 for each ANB over 60
 14 89-200 271,625 plus 996 for each ANB over 88
 15 201 or more 381,300 plus 1,714 for each ANB over 200
 16 (2) The following schedule is used to calculate the
 17 foundation program schedule amount for high schools for
 18 school fiscal year 1990, based on the ANB of each district
 19 as calculated under the provisions of 20-9-311:
 20 DISTRICT ANB BASE AMOUNT ADDITIONAL AMOUNT PER ANB
 21 0-50 \$194,750 plus \$1,394 per ANB
 22 51-85 264,450 plus 1,121 for each ANB over 50
 23 86-110 303,400 plus 4,100 for each ANB over 85
 24 111-205 405,900 plus 1,671 for each ANB over 110
 25 206 or more 563,750 plus 2,099 for each ANB over 205

(3) The following schedule is used to calculate the foundation program schedule amount for elementary schools for school fiscal year 1991, based on the ANB of each district as calculated under the provisions of 20-9-311:

DISTRICT ANB	BASE AMOUNT	ADDITIONAL AMOUNT PER ANB
1-15	\$ 33,476 plus	\$ 142 per ANB
16-22	35,607 plus	4,273 for each ANB over 15
23-40	64,740 plus	838 for each ANB over 22
41-60	79,846 plus	3,458 for each ANB over 40
61-88	148,902 plus	4,783 for each ANB over 60
89-200	285,935 plus	1,049 for each ANB over 88
201 or more	401,388 plus	1,804 for each ANB over 200

(4) The following schedule is used to calculate the foundation program schedule amount for high schools for school fiscal year 1991, based on the ANB of each district as calculated under the provisions of 20-9-311:

DISTRICT ANB	BASE AMOUNT	ADDITIONAL AMOUNT PER ANB
0-50	\$205,010 plus	\$1,467 per ANB
51-85	278,382 plus	1,180 for each ANB over 50
86-110	319,384 plus	4,316 for each ANB over 85
111-205	427,284 plus	1,759 for each ANB over 110
206 or more	593,450 plus	2,210 for each ANB over 205

(5) Except as provided in 20-9-311(3)(a), all elementary schools of an elementary district and all high schools of a high school district operated within the

incorporated limits of a city or town must be treated as one elementary school or one high school for the purposes of this schedule.

NEW SECTION. Section 2. Calculation of total foundation program amount. The total foundation program amount for a district is calculated in the following manner:

(1) determine the base foundation program amount in [section 1] for the appropriate school fiscal year by using the ANB of the district as calculated according to 20-9-311 for an elementary school or for a high school district;

(2) determine the total additional amount by multiplying the ANB by the additional amount per ANB indicated for that size school in [section 1];

(3) add the base amount in subsection (1) to the total additional amount in subsection (2); and

(4) multiply the foundation program amount determined in subsection (3) by the appropriate factor in [subsection (2) of section 3] representing the teacher experience level calculated for the district for the previous school fiscal year.

NEW SECTION. Section 3. Calculation of district teacher experience level -- factors representing teacher experience level. (1) For the purposes of this section, the following definitions apply:

(a) "Teacher" means a person who:

(i) holds a valid Montana teacher certificate or specialist certificate which has been issued under the provisions of Title 20; and

(ii) is employed by a district as an instructional staff member or as a specialist whose primary duties include direct supervision of pupils rather than direct supervision of other staff members.

(b) "Teacher experience" means the total credited experience of a teacher that a district acknowledges for the purposes of placement of the teacher on the adopted pay matrix of the district or otherwise indicated by the district's written contract with the teacher.

(2) The trustees of a district shall determine the teacher experience level and the teacher experience factor to calculate the total foundation program amount for the district under the provisions of [section 2], using the following criteria:

(a) Level 1--A district with 65% or more of its teachers having 3 years or less of credited experience is assigned a teacher experience factor of 1.

(b) Level 2--A district with 35% or more of its teachers having more than 3 and not more than 7 years of credited experience is assigned a teacher experience factor of 1.16.

(c) Level 3--A district with more than 65% of its

teachers having more than 7 years of credited experience is assigned a teacher experience factor of 1.27.

(3) The trustees of the district shall report the following to the county superintendent in the manner provided for school district budget reporting in this title:

(a) the district's calculated teacher experience level for the previous school fiscal year; and

(b) all documentation used by the district in calculating the teacher experience level for the district.

NEW SECTION. **Section 4.** Limitation of general fund budget. (1) Except as provided in subsection (2), after school fiscal year 1993, the trustees of a district may not adopt a general fund budget that is in excess of 125% of the total foundation program amount in [section 2].

(2) Until the state meets the federal test for use of federal funds under Title 1 of Public Law 81-874 as a local source of wealth, as set forth in 20 U.S.C. 240(d), the trustees of a district may adopt a general fund budget in excess of the limitations in subsection (1) if Public Law 81-874 funds are the sole source of funding for the excess amount.

NEW SECTION. **Section 5.** State equalization for up to ten percent above total foundation program amount. (1) Whenever the trustees of a district receive approval of the electors under 20-9-353 to adopt a general fund budget in

1 excess of the total foundation program amount calculated
 2 under the provisions of [section 2], any amount of the
 3 excess that does not exceed 10% of the total foundation
 4 program amount must be equalized by the state by a guarantee
 5 that each mill levied by a district to raise this amount
 6 will yield \$100 per ANB. A district that is not able to
 7 generate the guaranteed amount according to the formula in
 8 subsection (2) must be subsidized from the state special
 9 revenue fund for state equalization aid to the public
 10 schools. A district that generates more than the guaranteed
 11 amount according to the formula in subsection (2) shall
 12 remit the excess amount to the state special revenue fund
 13 for state equalization aid to the public schools.

14 (2) To determine the number of mills that must be
 15 levied by a district to fund the district share of the
 16 amount above the total foundation program as provided for in
 17 subsection (1), the trustees shall:

18 (a) subtract from that amount any anticipated revenue
 19 available to the district under the provisions of
 20 20-9-141(1)(b)(ii) through (1)(b)(ix);

21 (b) divide the amount determined in subsection (2)(a)
 22 by the product of the district ANB and \$100; and

23 (c) certify to the county superintendent, in the manner
 24 provided for in this chapter, the resulting number as the
 25 number of district mills required for the district share of

1 funding.

2 (3) If the mill levy calculated in subsection (2) does
 3 not yield the revenue required for the amount adopted by the
 4 trustees and provided for in subsection (1), the state shall
 5 guarantee the remainder in the manner provided for in
 6 subsection (1).

7 (4) If the levy calculated in subsection (2) yields
 8 more than the adopted amount, the trustees shall remit the
 9 excess in the manner provided in subsection (1).

10 (5) The superintendent of public instruction shall
 11 administer the distribution of state equalization aid
 12 provided for in this section. The program is funded from
 13 the school district revenue remitted under the provisions of
 14 subsection (4) and by any biennial appropriation by the
 15 legislature for this purpose.

16 **Section 6.** Section 17-3-213, MCA, is amended to read:

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

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

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

(i) the annual basic tax levy for elementary schools provided for in 20-9-331;

(ii) the annual special tax for high schools provided for in 20-9-333; and

(iii) the high school transportation fund provided for in 20-10-143;

~~(iv) the elementary teacher retirement and social security fund provided for in 20-9-501;~~

~~(v) the high school teacher retirement and social security fund provided for in 20-9-501.~~

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

(3) In counties ~~wherein~~ in which special road districts have been created according to law, the board of county commissioners shall distribute a proportionate share of the 66 2/3% of the total amount received for the general road fund to ~~such the~~ special road ~~district or~~ districts within

the county based upon the percentage that the total area of ~~such the~~ road district bears to the total area of the entire county."

Section 7. Section 19-4-605, MCA, is amended to read:

"19-4-605. Pension accumulation fund -- employer's contribution. The pension accumulation fund is the fund in which the reserves for payment of pensions and annuities ~~shall~~ must be accumulated and from which pensions, annuities, and benefits in lieu thereof ~~shall~~ of pensions and annuities must be paid to or on account of beneficiaries credited with prior service. Contributions to and payments from the pension accumulation fund ~~shall~~ must be made as follows:

(1) Each employer shall pay into the pension accumulation fund an amount equal to 7.428% of the earned compensation of each member employed during the whole or part of the preceding payroll period.

(2) If the employer is a district or community college district, the trustees shall budget and pay for the employer's contribution ~~under the provisions of 20-9-501.~~

(3) If the employer is the superintendent of public instruction, a public institution of the state of Montana, a unit of the Montana university system, or the Montana state school for the deaf and blind, the legislature shall appropriate to the employer an adequate amount to allow the

1 payment of the employer's contribution.

2 (4) If the employer is a county, the county
3 commissioners shall budget and pay for the employer's
4 contribution in the manner provided by law for the adoption
5 of a county budget and for payments under the budget.

6 (5) All interest and other earnings realized on the
7 ~~moneys~~ money of the retirement system ~~shall~~ must be credited
8 to the pension accumulation fund, and the amount required to
9 allow regular interest on the annuity savings fund ~~shall~~
10 must be transferred to that fund from the pension
11 accumulation fund.

12 (6) All pensions, annuities, and benefits in lieu
13 ~~thereof--shall~~ of pensions and annuities must be paid from
14 the pension accumulation fund.

15 (7) The retirement board may, in its discretion,
16 transfer from the pension accumulation fund an amount
17 necessary to cover expenses of administration."

18 **Section 8.** Section 20-3-106, MCA, is amended to read:

19 "20-3-106. Supervision of schools -- powers and duties.

20 The superintendent of public instruction has the general
21 supervision of the public schools and districts of the
22 state, and he shall perform the following duties or acts in
23 implementing and enforcing the provisions of this title:

24 (1) resolve any controversy resulting from the
25 proration of costs by a joint board of trustees under the

1 provisions of 20-3-362;

2 (2) issue, renew, or deny teacher certification and
3 emergency authorizations of employment;

4 (3) negotiate reciprocal tuition agreements with other
5 states in accordance with the provisions of 20-5-314;

6 (4) serve on the teachers' retirement board in
7 accordance with the provisions of 2-15-1010;

8 (5) approve or disapprove the orders of a high school
9 boundary commission in accordance with the provisions of
10 20-6-311;

11 (6) approve or disapprove the opening or reopening of a
12 school in accordance with the provisions of 20-6-502,
13 20-6-503, 20-6-504, or 20-6-505;

14 (7) approve or disapprove school isolation within the
15 limitations prescribed by 20-9-302;

16 (8) generally supervise the school budgeting procedures
17 prescribed by law in accordance with the provisions of
18 20-9-102 and prescribe the school budget format in
19 accordance with the provisions of 20-9-103 and 20-9-506;

20 (9) establish a system of communication for calculating
21 joint district revenues in accordance with the provisions of
22 20-9-151;

23 (10) approve or disapprove the adoption of a district's
24 emergency budget resolution under the conditions prescribed
25 in 20-9-163 and publish rules for an application for

1 additional state aid for an emergency budget in accordance
2 with the approval and disbursement provisions of 20-9-166;

3 (11) generally supervise the school financial
4 administration provisions as prescribed by 20-9-201(2);

5 (12) prescribe and furnish the annual report forms to
6 enable the districts to report to the county superintendent
7 in accordance with the provisions of 20-9-213(5) and the
8 annual report forms to enable the county superintendents to
9 report to the superintendent of public instruction in
10 accordance with the provisions of 20-3-209;

11 (13) approve, disapprove, or adjust an increase of the
12 average number belonging (ANB) in accordance with the
13 provisions of 20-9-313 and 20-9-314;

14 (14) distribute state equalization aid in support of the
15 foundation program in accordance with the provisions of
16 20-9-342, 20-9-346, and 20-9-347 and in support of district
17 levy equalization in accordance with [section 5];

18 (15) distribute state impact aid in accordance with the
19 provisions of 20-9-304;

20 (16) provide for the uniform and equal provision of
21 transportation by performing the duties prescribed by the
22 provisions of 20-10-112;

23 (17) approve or disapprove an adult education program
24 for which a district proposes to levy a tax in accordance
25 with the provisions of 20-7-705;

1 (18) request, accept, deposit, and expend federal **moneys**
2 money in accordance with the provisions of 20-9-603;

3 (19) authorize the use of federal **moneys** money for the
4 support of an interlocal cooperative agreement in accordance
5 with the provisions of 20-9-703 and 20-9-704;

6 (20) prescribe the form and contents of and approve or
7 disapprove interstate contracts in accordance with the
8 provisions of 20-9-705;

9 (21) approve or disapprove the conduct of school on a
10 Saturday or on pupil-instruction-related days in accordance
11 with the provisions of 20-1-303 and 20-1-304;

12 (22) recommend standards of accreditation for all
13 schools to the board of public education and evaluate
14 compliance with ~~such~~ the standards and recommend
15 accreditation status of every school to the board of public
16 education in accordance with the provisions of 20-7-101 and
17 20-7-102;

18 (23) collect and maintain a file of curriculum guides
19 and assist schools with instructional programs in accordance
20 with the provisions of 20-7-113 and 20-7-114;

21 (24) establish and maintain a library of visual, aural,
22 and other educational media in accordance with the
23 provisions of 20-7-201;

24 (25) license textbook dealers and initiate prosecution
25 of textbook dealers violating the law in accordance with the

1 provisions of the textbooks part of this title;

2 (26) as the governing agent and executive officer of the
3 state of Montana for K-12 vocational education, adopt the
4 policies prescribed by and in accordance with the provisions
5 of 20-7-301;

6 (27) supervise and coordinate the conduct of special
7 education in the state in accordance with the provisions of
8 20-7-403;

9 (28) administer the traffic education program in
10 accordance with the provisions of 20-7-502;

11 (29) administer the school food services program in
12 accordance with the provisions of 20-10-201, 20-10-202, and
13 20-10-203;

14 (30) review school building plans and specifications in
15 accordance with the provisions of 20-6-622;

16 (31) prescribe the method of identification and signals
17 to be used by school safety patrols in accordance with the
18 provisions of 20-1-408;

19 (32) provide schools with information and technical
20 assistance for compliance with the student assessment rules
21 provided for in 20-2-121 and collect and summarize the
22 results of such the student assessment for the board of
23 public education and the legislature; and

24 ~~(33)-administer-the--distribution of--state--retirement~~
25 ~~equalization-aid-in-accordance-with 20 9 532;-and~~

1 ~~(34)}~~(33) perform any other duty prescribed from time to
2 time by this title, any other act of the legislature, or the
3 policies of the board of public education."

4 **Section 9.** Section 20-3-324, MCA, is amended to read:

5 **"20-3-324. Powers and duties.** As prescribed elsewhere
6 in this title, the trustees of each district shall ~~have--the~~
7 ~~power--and--it--shall-be-their-duty-to-perform-the-following~~
8 ~~duties-or-acts:~~

9 (1) employ or dismiss a teacher, principal, or other
10 assistant upon the recommendation of the district
11 superintendent, the county high school principal, or other
12 principal as the board ~~may--deem~~ considers necessary,
13 accepting or rejecting such any recommendation as the
14 trustees ~~shall~~ in their sole discretion determine, in
15 accordance with the provisions of Title 20, chapter 4;

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

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

25 (4) call, conduct, and certify the elections of the

1 district in accordance with the provisions of the school
2 elections chapter of this title;

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

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

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

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

15 (9) conduct the fiscal business of the district in
16 accordance with the provisions of the school financial
17 administration part of this title;

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

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

25 (12) issue, refund, sell, budget, and redeem the bonds

1 of the district in accordance with the provisions of the
2 bonds parts of this title;

3 (13) when applicable, establish, financially administer,
4 and budget for the tuition fund, ~~retirement-fund~~, building
5 reserve fund, adult education fund, nonoperating fund,
6 school food services fund, miscellaneous federal programs
7 fund, building fund, lease or rental agreement fund, traffic
8 education fund, and interlocal cooperative agreement fund in
9 accordance with the provisions of the other school funds
10 parts of this title;

11 (14) when applicable, administer any interlocal
12 cooperative agreement, gifts, legacies, or devises in
13 accordance with the provisions of the miscellaneous
14 financial parts of this title;

15 (15) hold in trust, acquire, and dispose of the real and
16 personal property of the district in accordance with the
17 provisions of the school sites and facilities part of this
18 title;

19 (16) operate the schools of the district in accordance
20 with the provisions of the school calendar part of this
21 title;

22 (17) establish and maintain the instructional services
23 of the schools of the district in accordance with the
24 provisions of the instructional services, textbooks,
25 vocational education, and special education parts of this

1 title;

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

5 (19) make ~~such~~ reports from time to time as the county
6 superintendent, superintendent of public instruction, and
7 board of public education may require;

8 (20) retain, when deemed considered advisable, a
9 physician or registered nurse to inspect the sanitary
10 conditions of the school or the general health conditions of
11 each pupil and, upon request, make available to any parent
12 or guardian any medical reports or health records maintained
13 by the district pertaining to his child;

14 (21) for each member of the trustees, visit each school
15 of the district not less than once each school fiscal year
16 to examine its management, conditions, and needs, except
17 trustees from a first-class school district may share the
18 responsibility for visiting each school in the district;

19 (22) procure and display outside daily in suitable
20 weather at each school of the district an American flag
21 ~~which shall be~~ that measures not less than 4 feet by 6 feet;
22 and

23 (23) perform any other duty and enforce any other
24 requirements for the government of the schools prescribed by
25 this title, the policies of the board of public education,

1 or the rules of the superintendent of public instruction."

2 **Section 10.** Section 20-3-331, MCA, is amended to read:

3 "20-3-331. Purchase of liability insurance -- workers'
4 compensation costs. (1) The trustees of any district may
5 purchase insurance coverage for the district, trustees, and
6 employees against liability for the death, injury, or
7 disability of any person or damage to property.

8 (2) The trustees of a district shall include in the
9 general fund budget of the district the cost of workers'
10 compensation coverage required by Title 39, chapter 71."

11 **Section 11.** Section 20-5-305, MCA, is amended to read:

12 "20-5-305. Elementary tuition rates. (1) Whenever a
13 pupil of an elementary district has been granted approval to
14 attend a school outside of the district in which he resides,
15 under the provisions of 20-5-301 or 20-5-302, such the
16 district of residence shall pay tuition to the elementary
17 district where the pupil attends school. Except as provided
18 in subsection (2), the basis of the rate of tuition shall be
19 determined by the attended district. The rate of tuition
20 ~~shall must~~ be determined by:

21 (a) totaling the actual expenditures from the district
22 general fund, and the debt service fund, ~~and if the pupil~~
23 ~~is a resident of another county, the retirement fund;~~

24 (b) dividing the amount determined in subsection (1)(a)
25 by the ANB of the district for the current fiscal year, as

determined under the provisions of 20-9-311; and

(c) subtracting from the amount determined in subsection (1)(b), the total of the per-ANB amount allowed by 20-9-316 through 20-9-321 calculated under the provisions of [section 2] that represents the foundation program as prescribed by 20-9-303 plus the per-ANB amount determined by dividing the any state financing of the district permissive levy amount above the total foundation program as provided for in [section 5] by the ANB of the district,--from--the amount-determined-in-subsection-(1)(b).

(2) The tuition for a full-time elementary special education pupil must be determined under rules adopted by the superintendent of public instruction for the calculation of elementary tuition for full-time elementary special education pupils as designated in 20-9-311 for funding purposes."

Section 12. Section 20-5-312, MCA, is amended to read:

"20-5-312. Reporting, budgeting, and payment for high school tuition. (1) Except as provided in subsection (2), at the close of the school term of each school fiscal year, the trustees of each high school district shall determine the rate of tuition for the current school fiscal year by:

(a) totaling the actual expenditures from the district general fund and the debt service fund,--and,--if-the-pupil is-a-resident-of-another-county,--the-retirement-fund;

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

(c) subtracting from the amount determined in subsection (1)(b), the total of the per-ANB amount allowed by 20-9-316 through 20-9-321 calculated under the provisions of [section 2] that represents the foundation program as prescribed by 20-9-303 plus the per-ANB amount determined by dividing the any state financing of the district permissive levy amount above the total foundation program as provided for in [section 5] by the ANB of the district,--from--the amount-determined-in-subsection-(1)(b) above.

(2) The tuition for a full-time high school special education pupil must be determined under rules adopted by the superintendent of public instruction for the calculation of tuition for full-time high school special education pupils as designated in 20-9-311 for funding purposes.

(3) 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.

(4) 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.

(5) 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 to the 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.

(6) 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~~ must 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 at least

one-half of the high school tuition obligations established under this section out of the first ~~moneys~~ money realized from the county basic special tax for high schools. The remaining obligations must be paid by June 15 of the school fiscal year. The payments ~~shall~~ must 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~~ the receipts to the general fund of the applicable high school district, and the tuition receipts ~~shall~~ must be used in accordance with the provisions of 20-9-141.

(7) 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 tuition amount is not subject to the budget adjustment provisions of 20-9-132. The county superintendent shall report the net tuition fund levy requirement for each high school district to the county commissioners on the second Monday of August, and a levy on the district ~~shall~~ must be made by the county commissioners in accordance with 20-9-142. This levy requirement ~~shall~~ must be calculated by subtracting from the total expenditure amount authorized in

the final tuition fund budget the sum of the cash balance in the tuition fund at the end of the immediately preceding school fiscal year plus any other anticipated money that may be realized in the tuition fund. The trustees shall pay by warrants drawn on the tuition fund the tuition amounts owed to each district included in the county superintendent's notification. Payments ~~shall~~ must be made whenever there is a sufficient amount of cash available in the tuition fund but no later than the end of the school fiscal year for which the budget is adopted. However, if the trustees of either the sending or receiving high school district feel the transfer privilege provided by this subsection is being abused, they may appeal to the county superintendent of schools, who shall hold a hearing and either approve or disapprove the transfer."

Section 13. Section 20-6-603, MCA, is amended to read:

"20-6-603. Trustees' authority to acquire or dispose of sites and buildings -- when election required. (1) The trustees of any district ~~shall have the authority to may~~ purchase, build, exchange, or otherwise acquire, or sell, or otherwise dispose of sites and buildings of the district. ~~Such action shall~~ Action may not be taken by the trustees without the approval of the qualified electors of the district at an election called for such the purpose of approval unless:

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

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

(c) the cost of constructing, purchasing, or acquiring the site or building is financed without exceeding the ~~maximum-general-fund-budget-without-a-vote-amount-prescribed in-20-9-316-through-20-9-321~~ total foundation program amount prescribed in [section 2] and, in the case of a site purchase, the site has been approved under the provisions of 20-6-621; or

(d) ~~moneys are~~ money is otherwise available under the provisions of this title and the ballot for the site approval for ~~such the building incorporated~~ incorporates a description of the building to be located on the site.

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

Section 14. Section 20-7-306, MCA, is amended to read:

"20-7-306. Distribution of secondary vocational education and industrial arts funds. (1) The superintendent of public instruction shall categorize secondary vocational programs into one of five weighted categories based upon the relative additional costs of those programs.

(2) The superintendent of public instruction shall determine the weighted category to be assigned industrial arts programs.

(3) The superintendent of public instruction shall adjust the weighted categories as necessary to assure that the procedures outlined in subsections (4) and (5) do not result in entitlements that exceed the amount appropriated.

(4) Funding ~~shall~~ must be based upon the average number belonging (ANB) ~~to~~ for secondary vocational education and industrial arts programs of the high school district in the year immediately preceding the year for which funding is requested. The ANB ~~shall~~ must be computed for each separate secondary vocational education and industrial arts program.

(5) For secondary vocational education programs the ANB generated for each category established in subsection (1) ~~shall~~ must be multiplied by the factor for that category, and the product ~~thereof~~ ~~shall~~ must be multiplied by the applicable ANB dollar value established by ~~20-9-319~~ [section 1]. Industrial arts programs ~~shall~~ must be funded at 50% of

the category assigned. The high school district is entitled to receive for secondary vocational education and industrial arts, the total of all secondary vocational education and industrial arts categories so computed.

(6) The superintendent of public instruction shall annually distribute the funds allocated in this section by November 1. The money ~~so~~ received by the high school district must be deposited into the subfund of the miscellaneous programs fund established by 20-9-507 and ~~shall~~ must be expended only for approved secondary vocational education and industrial arts programs. The expenditure of the money ~~so-received~~ ~~shall~~ must be reported in the annual trustees' report as required by 20-9-213."

Section 15. 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 funding required for the district's final general fund budget less the amount established by the ~~schedules-in--20-9-316--through--20-9-321~~ total foundation program amount calculated in [section 2] by totaling:

(i) the district's nonisolated school foundation

1 program requirement to be met by a district levy as provided
2 in 20-9-303;

3 (ii) the district's ~~permissive-levy-amount--as--provided~~
4 ~~in--20-9-352~~ share of the amount above the total foundation
5 program as provided in [section 5]; and

6 (iii) any additional general fund budget amount adopted
7 by the trustees of the district under the provisions of
8 20-9-353, including any additional levies authorized by the
9 electors of the district.

10 (b) Determine the ~~total-of-the-moneys~~ money available
11 for the reduction of the property tax on the district for
12 the general fund by totaling:

13 (i) anticipated federal ~~moneys~~ money received under the
14 provisions of Title I of Public Law 81-874 or other
15 anticipated federal ~~moneys~~ money received in lieu of such
16 ~~federal that~~ act;

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

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

22 (iv) anticipated or reappropriated state impact aid
23 received under the provisions of 20-9-304;

24 (v) anticipated revenue from ~~vehicle--property--taxes~~
25 fees imposed under 23-2-517, 23-2-803, 61-3-504(2),

1 61-3-521, and 61-3-537, and 67-3-204;

2 (vi) anticipated net proceeds taxes for interim
3 production and new production, as defined in 15-23-601;

4 (vii) anticipated interest to be earned or
5 reappropriated interest earned by the investment of general
6 fund cash in accordance with the provisions of 20-9-213(4);
7 and

8 (viii) anticipated revenue from corporation license
9 taxes collected from financial institutions under the
10 provisions of 15-31-702; and

11 ~~(viii)(ix)~~ any other revenue anticipated by the trustees
12 to be received during the ensuing school fiscal year which
13 may be used to finance the general fund.

14 (c) Subtract the ~~total-of-the-moneys~~ money available to
15 reduce the property tax required to finance the general fund
16 that has been determined in subsection (1)(b) from the total
17 requirement determined in subsection (1)(a).

18 (2) The net general fund levy requirement determined in
19 subsection (1)(c) ~~shall~~ must be reported to the county
20 commissioners on the second Monday of August by the county
21 superintendent as the general fund levy requirement for the
22 district, and a levy ~~shall~~ must be made by the county
23 commissioners in accordance with 20-9-142."

24 **Section 16.** Section 20-9-141, MCA, is amended to read:
25 "20-9-143. Allocation of federal funds in lieu of

1 property taxation. Federal funds received by a district
2 under the provisions of Title I of Public Law 81-874 or
3 funds designated in lieu of ~~such federal~~ that act by the
4 congress of the United States may be allocated to the
5 various operating budgets of the district by the trustees,
6 except as provided in [section 4] and [section 28]."

7 **Section 17.** Section 20-9-201, MCA, is amended to read:

8 "20-9-201. Definitions and application. (1) As used in
9 this title, unless the context clearly indicates otherwise,
10 "fund" means a separate detailed account of receipts and
11 expenditures for a specific purpose as authorized by law.
12 Funds are classified as follows:

13 (a) A "budgeted fund" means any fund for which a budget
14 must be adopted in order to expend any money from such the
15 fund. The general fund, transportation fund, bus
16 depreciation reserve fund, elementary tuition fund,
17 ~~retirement-fund~~, debt service fund, leased facilities fund,
18 building reserve fund, adult education fund, nonoperating
19 fund, ~~vocational-technical-center-fund~~, and any other funds
20 so designated by the legislature ~~shall--be~~ are budgeted
21 funds.

22 (b) A "nonbudgeted fund" means any fund for which a
23 budget is not required in order to expend any money on
24 deposit in such the fund. The school food services fund,
25 miscellaneous federal programs fund, building fund, lease or

1 rental agreement fund, traffic education fund, interlocal
2 cooperative fund, and any other funds so designated by the
3 legislature ~~shall-be~~ are nonbudgeted funds.

4 (2) The school financial administration provisions of
5 this title apply to all money of any elementary or high
6 school district except the extracurricular money realized
7 from pupil activities. The superintendent of public
8 instruction has general supervisory authority as prescribed
9 by law over the school financial administration provisions,
10 as they relate to elementary and high school districts, as
11 ~~prescribed-by-law-and~~ He shall establish-such adopt rules as
12 are necessary to secure compliance with the law."

13 **Section 18.** Section 20-9-212, MCA, is amended to read:

14 "20-9-212. Duties of county treasurer. The county
15 treasurer of each county shall:

16 (1) receive and hold all school money subject to
17 apportionment and keep a separate accounting of its
18 apportionment to the several districts which are entitled to
19 a portion of such the money according to the apportionments
20 ordered by the county superintendent. A separate accounting
21 ~~shall~~ must be maintained for each county fund supported by a
22 countywide levy for a specific, authorized purpose,
23 including:

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

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

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

5 ~~(d) the county tax in support of the high school~~
6 ~~obligations to the retirement systems of the state of~~
7 ~~Montana;~~

8 ~~(e) any additional county tax required by law to~~
9 ~~provide for deficiency financing of the elementary~~
10 ~~foundation programs;~~

11 ~~(f) any additional county tax required by law to~~
12 ~~provide for deficiency financing of the high school~~
13 ~~foundation programs; and~~

14 ~~(g)~~(d) any other county tax for schools, including the
15 community colleges, which may be authorized by law and
16 levied by the county commissioners;

17 (2) whenever requested, notify the county
18 superintendent and the superintendent of public instruction
19 of the amount of county school money on deposit in each of
20 the funds enumerated in subsection (1) of this section and
21 the amount of any other school money subject to
22 apportionment and apportion such the county and other school
23 money to the districts in accordance with the apportionment
24 ordered by the county superintendent;

25 (3) keep a separate accounting of the expenditures for

1 each budgeted fund included in the final budget of each
2 district;

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

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

10 (6) receive all revenue collected by and for each
11 district and deposit these receipts in the fund designated
12 by law or by the district if no fund is designated by law.
13 Interest and penalties on delinquent school taxes ~~shall~~ must
14 be credited to the same fund and district for which the
15 original taxes were levied.

16 (7) send all ~~revenues~~ revenue received for a joint
17 district, part of which is situated in his county, to the
18 county treasurer designated as the custodian of ~~such~~
19 ~~revenues~~ the revenue, no later than December 15 of each year
20 and every 3 months thereafter until the end of the school
21 fiscal year;

22 (8) at the direction of the trustees of a district,
23 assist the district in the issuance and sale of tax and
24 revenue anticipation notes as provided in Title 7, chapter
25 6, part 11;

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

(10) invest the money of any district as directed by the trustees of the district within 3 working days of ~~such~~ the direction;

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

(12) remit promptly to the state treasurer receipts for the county tax for a vocational-technical center when levied by the board of county commissioners."

Section 19. Section 20-9-301, MCA, is amended to read:

"20-9-301. Purpose ~~and definition~~ of foundation program ~~and definition of general fund budget~~. (1) A uniform system of free public schools sufficient for the education of and open to all school age children of the state ~~shall~~ must be established and maintained throughout the state of Montana. The state shall aid in the support of its several school districts on the basis of their financial need as measured

by the foundation program and in the manner established in this title.

(2) The principal budgetary vehicle for achieving the minimum financing as established by the foundation program ~~shall--be~~ is the general fund budget of the district. The purpose of the general fund ~~shall--be~~ budget is to finance those general maintenance and operational costs of a district not financed by other funds established for special purposes in this title.

(3) The amount of the general fund budget for each school fiscal year ~~shall~~ may not exceed the financing limitations established by this title but ~~shall~~ may not be no less than the amount established by law as the foundation program. The general fund budget ~~shall~~ must be financed by the foundation program revenues and may be supplemented by the ~~permissive-levy-and~~ additional voted ~~levies~~ levy in the manner provided by law."

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

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

1 school. The foundation program relates only to those
2 expenditures authorized by a district's general fund budget
3 and ~~shall~~ may not include expenditures from any other fund.

4 It ~~shall-be~~ is financed by:

5 (a) county equalization ~~moneys~~ money; and

6 (b) state equalization aid.

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

24 (3) Funds provided to support the special education
25 accounting budget may be expended only for special education

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

15 **Section 21.** Section 20-9-320, MCA, is amended to read:

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

22 {a}{1} determine the per-ANB schedule amount for the
23 school, as ~~defined--by-20-9-317-and-20-9-319~~ calculated in
24 [section 2], from the high school schedule;

25 {b}{2} 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}{3} multiply the per-ANB schedule amount determined
4 in subsection (1){a} by the ANB calculated in subsection
5 {i}{b} (2) to determine the authorized general fund budget
6 amount ~~which-shall-be~~ available for the elementary district
7 general fund budget; and

8 {d}{4} subtract the amount determined in subsection
9 {i}{c} (3) from the total authorized general fund budget
10 amount for the school to determine the authorized general
11 fund budget amount ~~which--shall-be~~ available for the high
12 school 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 for such~~
17 ~~district.~~"

18 **Section 22.** Section 20-9-321, MCA, is amended to read:

19 "20-9-321. ~~Maximum---general---fund--budget~~ Foundation
20 program amount and contingency funds for special education.

21 (1) For the purpose of establishing the
22 ~~maximum-budget-without-a-vote~~ foundation program amount for
23 a current year special education program for a school
24 district, the superintendent of public instruction ~~will~~
25 shall determine the total estimated cost of the special

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

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

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

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

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

23 (3) If a special education program is implemented or
24 expanded during a given school term too late to be included
25 in the determination of the district

1 ~~maximum-budget-without-a-vote~~ general fund budget for the
 2 school year as prescribed in this part, allowable costs
 3 approved under the budgeting provisions of subsections (1)
 4 and (2) for the operation of the program during the given
 5 year must be funded from any legislative appropriation for
 6 contingency financing for special education. Contingency
 7 funds granted under this subsection must be deposited in a
 8 separate account of the miscellaneous programs fund of the
 9 district as provided in 20-9-507. However, if contingency
 10 funds are not available, then subject to the approval of the
 11 program by the superintendent under the emergency budget
 12 provisions of 20-9-161(5), allowable costs for the given
 13 year may be added to the ~~maximum-budget-without-a-vote~~
 14 foundation program amount for special education for the
 15 subsequent school year. Such ~~The~~ allowable costs must be
 16 recorded as previous year special education expenses in the
 17 school district budget for the subsequent school year.

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

24 (5) The ~~maximum-budget-without-a-vote~~ foundation
 25 program amount for special education ~~will~~ must be added to

1 the ~~maximum-budget-without-a-vote-of-the-regular-program-ANB~~
 2 ~~defined--in--20-9-311--and--20-9-313--to--obtain--the~~ total
 3 ~~maximum-budget-without-a-vote~~ foundation program amount for
 4 the district."

5 **Section 23.** Section 20-9-331, MCA, is amended to read:

6 "20-9-331. Basic county tax and other revenues for
 7 county equalization of the elementary district foundation
 8 program. (1) It ~~shall--be~~ is the duty of the county
 9 commissioners of each county to levy an annual basic tax of
 10 ~~20~~ 34 mills on the dollars of the taxable value of all
 11 taxable property within the county, except for vehicles
 12 subject to taxation under 61-3-504(2), for the purposes of
 13 local and state foundation program support. The revenue to
 14 be collected from this levy ~~shall~~ must be apportioned to the
 15 support of the foundation programs of the elementary school
 16 districts in the county and to the state special revenue
 17 fund, state equalization aid account, in the following
 18 manner:

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

25 (b) If the basic levy prescribed by this section

1 produces more revenue than is required to finance the
 2 difference determined ~~above~~, the county treasurer shall
 3 remit the surplus funds to the state treasurer for deposit
 4 to the state special revenue fund, state equalization aid
 5 account, immediately upon occurrence of a surplus balance
 6 and each subsequent month thereafter, with any final
 7 remittance due no later than June 20 of the fiscal year for
 8 which the levy has been set.

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

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

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

1 specified by law;

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

6 (e) any federal or state money distributed to the
 7 county as payment in lieu of the property taxation
 8 established by the county levy required by this section;

9 (f) net proceeds taxes for interim production and new
 10 production, as defined in 15-23-601; and

11 (g) anticipated revenue from vehicle property taxes
 12 imposed under 61-3-504(2) and 61-3-537."

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

14 **"20-9-333. Basic special levy and other revenues for**
 15 **county equalization of high school district foundation**
 16 **program. (1) It ~~shall--be~~ is the duty of the county**
 17 **commissioners of each county to levy an annual basic special**
 18 **tax for high schools of ~~17~~ 21 mills on the dollar of the**
 19 **taxable value of all taxable property within the county,**
 20 **except for vehicles subject to taxation under 61-3-504(2),**
 21 **for the purposes of local and state foundation program**
 22 **support. The revenue to be collected from this levy ~~shall~~**
 23 **must be apportioned to the support of the foundation**
 24 **programs of high school districts in the county and to the**
 25 **state special revenue fund, state equalization aid account,**

1 in the following manner:

2 (a) In order to determine the amount of revenue raised
3 by this levy which is retained by the county, the estimated
4 revenues identified in subsections (2)(a) and (2)(b) below
5 ~~shall--be~~ is subtracted from the sum of the county's high
6 school tuition obligation and the total of the foundation
7 programs of all high school districts of the county.

8 (b) If the basic levy prescribed by this section
9 produces more revenue than is required to finance the
10 difference determined above, the county treasurer shall
11 remit the surplus funds to the state treasurer for deposit
12 to the state special revenue fund, state equalization aid
13 account, immediately upon occurrence of a surplus balance
14 and each subsequent month thereafter, with any final
15 remittance due no later than June 20 of the fiscal year for
16 which the levy has been set.

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

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

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

3 (b) any federal or state moneys money distributed to
4 the county as a payment in lieu of the property taxation
5 established by the county levy required by this section;

6 (c) net proceeds taxes for interim production and new
7 production, as defined in 15-23-601; and

8 (d) anticipated revenue from vehicle property taxes
9 imposed under 61-3-504(2) and 61-3-537."

10 **Section 25.** Section 20-9-343, MCA, is amended to read:

11 "20-9-343. Definition of and revenue for state
12 equalization aid. (1) As used in this title, the term "state
13 equalization aid" means ~~those-moneys~~ the money deposited in
14 the state special revenue fund as required in this section
15 plus any legislative appropriation of money from other
16 sources for distribution to the public schools for the
17 purpose of equalization of the foundation program.

18 (2) The legislative appropriation for state
19 equalization aid ~~shall~~ must be made in a single sum for the
20 biennium. The superintendent of public instruction ~~has~~
21 ~~authority-to may~~ may spend ~~such the~~ the appropriation, together with
22 the earmarked revenues provided in subsection (3), as
23 required for foundation program purposes throughout the
24 biennium.

25 (3) The following ~~shall~~ must be paid into the state

1 special revenue fund for state equalization aid to public
2 schools of the state:

3 (a) ~~31.8% of all~~ money received from the collection of
4 income taxes under chapter 30 of Title 15 as provided in
5 15-1-501;

6 (b) ~~25% of all~~ money, except as provided in 15-31-702,
7 received from the collection of corporation license and
8 income taxes under chapter 31 of Title 15, as provided by
9 15-1-501;

10 (c) ~~100% of the~~ money allocated to state equalization
11 from the collection of the severance tax on coal;

12 (d) ~~100% of the~~ money received from the treasurer of
13 the United States as the state's shares of oil, gas, and
14 other mineral royalties under the federal Mineral Lands
15 Leasing Act, as amended;

16 (e) interest and income money described in 20-9-341 and
17 20-9-342;

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

19 (g) income from the lottery, as provided for in
20 23-5-1027; and

21 ~~(g)~~(h) in addition to these revenues, the surplus
22 revenues collected by the counties for foundation program
23 support according to 20-9-331 and 20-9-333.

24 (4) Any surplus revenue in the state equalization aid
25 account in the second year of a biennium may be used to

1 reduce the appropriation required for the next succeeding
2 biennium."

3 **Section 26.** Section 20-9-353, MCA, is amended to read:

4 "20-9-353. Additional levy for general fund -- election
5 for authorization to impose. (1) The Except as provided in
6 [section 28], the trustees of any district may propose to
7 adopt a general fund budget in excess of the general fund
8 budget amount for such the district as established by the
9 schedules--in--20-9-316--through--20-9-321 total foundation
10 program amount in [section 2], but not in excess of the
11 general fund budget limitation set forth in [section 4], for
12 any of the following purposes:

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

15 (b) furnishing additional school facilities for the
16 district;

17 (c) acquisition of land for the district;

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

20 (2) When the trustees of any district determine that an
21 additional amount of financing is required for the general
22 fund budget that is in excess of the ~~statutory-schedule~~
23 total foundation program amount, the trustees shall submit
24 the proposition of an additional levy to raise such the
25 excess amount of general fund financing to the electors who

1 are qualified under 20-20-301 to vote upon ~~such the~~
 2 proposition, except that ~~no an~~ election ~~shall--be~~ is not
 3 required to permit the school trustees to use any funds
 4 available to finance the additional amount other than those
 5 funds to be raised by the additional levy. ~~Such~~ The special
 6 election ~~shall must~~ be called and conducted in the manner
 7 prescribed by this title for school elections. The ballot
 8 for ~~such the~~ election ~~shall must~~ state only the amount of
 9 money to be raised by additional property taxation, the
 10 approximate number of mills required to raise ~~such the~~
 11 money, and the purpose for which ~~such the~~ money will be
 12 expended~~7~~. ~~and-it-shall~~ The ballot must be in the following
 13 format:

14 PROPOSITION

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

21 FOR the levy.

22 AGAINST the levy.

23 (3) If the election on any additional levy for the
 24 general fund is approved by a majority vote of ~~those the~~
 25 electors voting at ~~such the~~ election, the proposition ~~shall~~

1 ~~carry carries~~ and the trustees may use any portion or all of
 2 the authorized amount in adopting the preliminary general
 3 fund budget. The trustees shall certify the additional levy
 4 amount authorized by ~~such-a~~ the special election on the
 5 budget form that is submitted to the county superintendent,
 6 and the county commissioners shall levy ~~such the~~ authorized
 7 number of mills on the taxable value of all taxable property
 8 within the district, as prescribed in 20-9-141, ~~as-are~~
 9 required to raise the amount of ~~such the~~ additional levy.

10 (4) Authorization to levy an additional tax under the
 11 provisions of this section ~~shall-be~~ is effective for only 1
 12 school fiscal year and ~~shall must~~ be authorized by a special
 13 election conducted before August 1 of the school fiscal year
 14 for which it is effective."

15 **Section 27.** Section 23-5-1027, MCA, is amended to read:

16 "23-5-1027. Disposition of revenue. (1) (a) As near as
 17 possible to 45% of the money paid for tickets or chances
 18 must be paid out as prize money, except as provided in
 19 subsection (1)(b).

20 (b) In the case of a regional lottery game, a maximum
 21 of 50% of the money paid for tickets or chances may be paid
 22 out as prize money.

23 (2) Up to 15% of the gross revenue from the state
 24 lottery may be used by the director to pay the operating
 25 expenses of the state lottery. Commissions paid to lottery

ticket or chance sales agents are not a state lottery operating expense.

(3) Funds to pay the operating expenses of the lottery are statutorily appropriated as provided in 17-7-502.

(4) That part of all gross revenue not used for the payment of prizes, commissions, and operating expenses is net revenue and must be paid quarterly from the enterprise fund established by 23-5-1026 to the superintendent of ~~public instruction for distribution as equalization aid to the retirement fund obligations of state special revenue fund as provided for in 20-9-343 for equalization of the foundation program for elementary and high school districts in the manner provided in 20-9-532.~~

NEW SECTION. Section 28. Phase-in for limitation on district general fund budget. Until school fiscal year 1994, the trustees of a district may adopt a general fund budget in excess of the limitation of 125%, established in [section 4], of the total foundation program amount determined under the provisions of [section 2]. The general fund budgets for school fiscal years 1990 through 1993 are subject to the following provisions:

(1) For school fiscal year 1990, a district's general fund budget must be reduced by the difference between the general fund budget for the previous school fiscal year and 137% of the total foundation program amount allowed for the

school fiscal year divided by four.

(2) For school fiscal year 1991, a district's general fund budget must be reduced by the difference between the general fund budget for the previous school fiscal year and 137% of the total foundation program amount allowed for the school fiscal year divided by three.

(3) For school fiscal year 1992, a district's general fund budget must be reduced by the difference between the general fund budget for the previous school fiscal year and 129% of the total foundation program amount allowed for the school fiscal year divided by two.

(4) For school fiscal year 1993, a district's general fund budget must be reduced by the difference between the general fund budget for the previous school fiscal year and 129% of the total foundation program amount allowed for the school fiscal year.

NEW SECTION. Section 29. Repealer. Sections 20-9-315 through 20-9-319, 20-9-322, 20-9-352, 20-9-501, 20-9-531, and 20-9-532, MCA, are repealed.

NEW SECTION. Section 30. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

NEW SECTION. Section 31. Codification instruction. [Sections 1 through 5 and 28] are intended to be codified as

LC 1725/01

1 an integral part of Title 20, chapter 9, part 3, and the
2 provisions of Title 20, chapter 9, part 3, apply to
3 [sections 1 through 5 and 28].

4 NEW SECTION. **Section 32.** Effective date. [This act] is
5 effective July 1, 1989.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB637, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to increase state equalization of public school funding for the purpose of providing further educational opportunity for Montana students; to eliminate the county retirement levy and the district permissive levy; to limit, with a phase-in period, a district general fund budget; to provide for state equalization of a portion of a district voted levy; to include school district personnel retirement and workers' compensation obligations in the district general fund budget; to create elementary school and high school foundation program funding schedules that include a funding factor for teacher experience; to increase the basic county levies for county equalization; amending Sections 17-3-213, 19-4-605, 20-3-106, 20-3-324, 20-3-331, 20-5-305, 20-5-312, 20-6-603, 20-7-306, 20-9-141, 20-9-143, 20-9-201, 20-9-212, 20-9-301, 20-9-303, 20-9-320, 20-9-321, 20-9-331, 20-9-333, 20-9-343, 20-9-353, and 23-5-1027, MCA; repealing Sections 20-9-315 through 20-9-319, 20-9-322, 20-9-352, 20-9-501, 20-9-531, and 20-9-532, MCA; and providing an effective date.

ASSUMPTIONS:

1. Total revenue available for the school foundation program is estimated to be \$283,925,000 in FY90 and \$287,860,000 in FY91 (OBPP). These figures include \$25,306,000 in general fund and \$18,368,000 of education trust fund monies for the 1991 biennium.
2. Total revenue raised by the school permissive levy is estimated to be \$15,756,000 in FY90 and \$15,507,000 in FY91 (OBPP).
3. Total revenue from the Lottery is estimated to be \$13,500,000 in FY90 and FY91 (MDOC). Forty percent of the Lottery revenue is earmarked for equalization of the school retirement program under current law; and for general fund equalization under the proposal.
4. Total Forest Funds are estimated to be \$8,350,000 in FY90 and FY91. The distribution of the Forest Funds is 17.55% to the school mandatory levy, 9.83% to the school retirement program, and 5.92% to the High School Transportation fund under current law. Under the proposal the distribution would be approximately 24.89% to the school mandatory levy, 8.08% to the transportation fund, and 0.0% to the school retirement fund.
5. The expenditures for retirement will be \$52M in FY90 and \$52M in FY92.

DATE 2/21/89

RAY SHACKLEFORD, BUDGET DIRECTOR
OFFICE OF BUDGET AND PROGRAM PLANNING


JOHN E. PHILLIPS, PRIMARY SPONSORDATE 2/27/89Fiscal Note for HB637, as introduced**HB 637**

Fiscal Note Request, HB637 as introduced

Form BD-15

Page 2

FISCAL IMPACT:

	Current Law	FY90 Proposed Law	Difference	Current Law	FY91 Proposed Law	Difference
Revenues:	\$273.544M	\$276.411M	\$ 2.867M	\$ 277.8M	\$ 280.6M	\$ 2.8M
Expenditures:						
Foundation Program	\$268.144M	\$398.61M	\$ 130.466M	\$ 272.4M	\$ 419.77M	\$ 147.37M
Equalized Levy	-0-	30.93M	30.93M	-0-	32.82M	32.82M
Retirement	5.4M	-0-	(5.4M)	5.4M	-0-	(5.4M)
OPI Operating Exp.	-0-	.149M	.149M	-0-	.044M	.044M
TOTAL EXPENDITURES	\$273.544M	\$429.689M	\$ 156.145M	\$ 277.8M	\$ 452.634M	\$ 174.834M
Revenues less Expenses:	\$ -0-	(\$153.278M)	(\$ 153.278M)	\$ -0-	(\$ 172.034M)	(\$ 172.034M)

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

1. Assuming no inflation, the increased schedules will combine with budget caps to reduce district (local) revenues.

FY89	\$192,566,518
FY90	\$115,451,159
FY91	\$ 92,790,683

2. The county levies for retirement will be eliminated.

LONG-RANGE EFFECTS:

As the schedules are increased and the budget caps are phased in, there will be more equitable funding of Montana schools.

TECHNICAL NOTES:

1. The capping mechanism for 1990 uses the FY89 general fund as the base; it should also include FY89 Retirement Fund since for FY90 those two funds are combined. (See Section 26, subsection (1)).
2. The formulas specified in Section 5, subsection (2) through (4) are difficult to understand. Specifically, if the amount under consideration in subsection (2) line 15 is the 10% above the foundation program as indicated in subsection (1), then there will be many instances where the anticipated revenues of (2)(a) exceeds that amount. The subtraction in (2)(a) has a negative result and the mills in (2)(b) are then negative. This contingency, which occurs frequently if we read Section 5 without interpretation, is not dealt with. Workable language must be substituted for Section 5.

HB 637