

HOUSE BILL 771

Introduced by Daily, et al.

3/10	Introduced
3/10	Referred to Taxation
3/13	Fiscal Note Requested
3/15	Hearing
3/18	Fiscal Note Received
3/28	Fiscal Note Printed
3/29	Motion Failed to Take From Committee
	Died in Committee

INTRODUCED BY

BILL NO. 771

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO FUNDING PUBLIC SCHOOLS; PROVIDING ADDITIONAL FUNDING FOR THE SCHOOL FOUNDATION PROGRAM BY IMPOSING A LIMITATION OF \$5,000 ON THE FEDERAL INCOME TAX DEDUCTION THAT MAY BE CLAIMED BY A SINGLE TAXPAYER AND \$8,000 ON THE FEDERAL INCOME TAX DEDUCTION THAT MAY BE CLAIMED BY MARRIED TAXPAYERS FILING A JOINT RETURN, CONTINUING THE 10 PERCENT SURTAX ON PERSONAL INCOME, IMPOSING A 10 PERCENT SURTAX ON CORPORATE INCOME, AND ALLOCATING THE INCREMENTAL REVENUE DERIVED THEREBY TO STATE EQUALIZATION OF THE FOUNDATION PROGRAM; INCREASING THE TOTAL LEVY FOR COUNTY EQUALIZATION OF THE FOUNDATION PROGRAM FROM 45 MILLS TO 100 MILLS; ELIMINATING THE SCHOOL DISTRICT PERMISSIVE LEVIES; ELIMINATING THE COUNTY SCHOOL RETIREMENT LEVY AND THE SCHOOL DISTRICT RETIREMENT FUND; INCLUDING THE DISTRICT'S COST FOR PERSONNEL RETIREMENT, SOCIAL SECURITY, AND UNEMPLOYMENT INSURANCE IN THE DISTRICT GENERAL FUND; REALLOCATING LOTTERY REVENUE FROM RETIREMENT EQUALIZATION TO STATE EQUALIZATION AID; PROVIDING FOR FOUNDATION PROGRAM SUPPORT OF THE FULL COST TO EACH DISTRICT OF PERSONNEL RETIREMENT, SOCIAL SECURITY, AND UNEMPLOYMENT INSURANCE; AMENDING SECTIONS 15-1-501, 15-10-402, 15-30-108, 15-30-121, 15-31-121,

15-31-702, 17-3-213, 17-5-408, 19-4-605, 20-3-106, 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, 20-9-201, 20-9-212, 20-9-301, 20-9-303, 20-9-312, 20-9-315, 20-9-318 THROUGH 20-9-322, 20-9-331, 20-9-333, 20-9-343, 20-9-353, AND 23-5-1027, MCA; REPEALING SECTIONS 20-9-352, 20-9-501, 20-9-531, AND 20-9-532, MCA, AND SECTION 12, CHAPTER 666, LAWS OF 1987; AND PROVIDING AN EFFECTIVE DATE AND APPLICABILITY DATES."

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

Section 1. Section 15-1-501, MCA, is amended to read:

"15-1-501. Disposition of moneys from certain designated license and other taxes. (1) The state treasurer shall deposit to the credit of the state general fund all moneys money received by him from the collection of:

(a) fees from driver's licenses, motorcycle endorsements, and duplicate driver's licenses as provided in 61-5-121;

(b) electrical energy producer's license taxes under chapter 51;

(c) severance taxes allocated to the general fund under chapter 36;

(d) liquor license taxes under Title 16;

(e) telephone [company] license taxes under chapter 53; and

INTRODUCED BILL

-2-

HB 771

(f) inheritance and estate taxes under Title 72, chapter 16.

(2) All moneys money received from the collection of income taxes under chapter 30 of this title ~~shall~~ must be deposited as follows:

(a) ~~58.2%~~ 47.7% to the credit of the state general fund;

(b) ~~10%~~ 8.2% to the credit of the debt service account for long-range building program bonds as described in 17-5-408; and

(c) ~~31.8%~~ 44.1% to the credit of the state special revenue fund for state equalization aid to the public schools of Montana as described in 20-9-343.

(3) All moneys money received from the collection of corporation license and income taxes under chapter 31 of this title, except as provided in 15-31-702, ~~shall~~ must be deposited as follows:

(a) ~~64%~~ 57.7% to the credit of the state general fund;

(b) ~~11%~~ 9.9% to the credit of the debt service account for long-range building program bonds as described in 17-5-408; and

(c) ~~25%~~ 32.4% to the credit of the state special revenue fund for state equalization aid to the public schools of Montana as described in 20-9-343.

(4) The state treasurer shall also deposit to the

credit of the state general fund all moneys money received by him from the collection of license taxes, fees, and all net revenues and receipts from all other sources under the operation of the Montana Alcoholic Beverage Code.

(5) After the distribution provided for in 15-36-112, the remainder of the oil severance tax collections ~~shall~~ must be deposited in the general fund."

Section 2. Section 15-10-402, MCA, is amended to read:

"15-10-402. Property tax limited to 1986 levels. (1) Except as provided in subsections (2) and (3), the amount of taxes levied on property described in 15-6-133, 15-6-134, 15-6-136, 15-6-139, 15-6-142, and 15-6-144 may not, for any taxing jurisdiction, exceed the amount levied for taxable year 1986.

(2) The limitation contained in subsection (1) does not apply to levies for rural improvement districts, Title 7, chapter 12, part 21; special improvement districts, Title 7, chapter 12, part 41; elementary and high school equalization aid, 20-9-331 and 20-9-333; or bonded indebtedness.

(3) New construction or improvements to or deletions from property described in subsection (1) are subject to taxation at 1986 levels.

(4) As used in this section, the "amount of taxes levied" and the "amount levied" mean the actual dollar

amount of taxes imposed on an individual piece of property, notwithstanding an increase or decrease in value due to inflation, reappraisal, adjustments in the percentage multiplier used to convert appraised value to taxable value, changes in the number of mills levied, or increase or decrease in the value of a mill."

Section 3. Section 15-30-108, MCA, is amended to read:

"15-30-108. (Temporary) Surtax. After the amount of In addition to the tax liability has been computed as required in 15-30-103, there is imposed on each person filing a Montana individual income tax return shall add as a surtax of 10% of the tax liability, and the amount so arrived at is the amount due the state. The surtax is payable to the treasurer in the same manner as the taxpayer's tax liability. (Terminates December 31, 1989--sec. 12, Ch. 666, L. 1987.)"

Section 4. Section 15-30-121, MCA, is amended to read:

"15-30-121. Deductions allowed in computing net income. In computing net income, there are allowed as deductions:

(1) the items referred to in sections 161 and 211 of the Internal Revenue Code of 1954, or as sections 161 and 211 shall be labeled or amended, subject to the following exceptions which are not deductible:

(a) items provided for in 15-30-123;

(b) state income tax paid;

(2) federal income tax not to exceed \$5,000 paid within the taxable year by a single taxpayer, and federal income tax not to exceed \$8,000 paid within the taxable year by married taxpayers filing a joint return;

(3) expenses of household and dependent care services as outlined in subsections (3)(a) through (3)(c) and subject to the limitations and rules as set out in subsections (3)(d) through (3)(f) as follows:

(a) expenses for household and dependent care services necessary for gainful employment incurred for:

(i) a dependent under 15 years of age for whom an exemption can be claimed;

(ii) a dependent as allowable under 15-30-112(5), except that the limitations for age and gross income do not apply, who is unable to care for himself because of physical or mental illness; and

(iii) a spouse who is unable to care for himself because of physical or mental illness;

(b) employment-related expenses incurred for the following services, but only if such expenses are incurred to enable the taxpayer to be gainfully employed:

(i) household services which are attributable to the care of the qualifying individual; and

(ii) care of an individual who qualifies under

1 subsection (3)(a);

2 (c) expenses incurred in maintaining a household if
3 over half of the cost of maintaining the household is
4 furnished by an individual or, if the individual is married
5 during the applicable period, is furnished by the individual
6 and his spouse;

7 (d) the amounts deductible in subsection (3)(a)
8 through (3)(c) are subject to the following limitations:

9 (i) a deduction is allowed under subsection (3)(a) for
10 employment-related expenses incurred during the year only to
11 the extent such expenses do not exceed \$4,800;

12 (ii) expenses for services in the household are
13 deductible under subsection (3)(a) for employment-related
14 expenses only if they are incurred for services in the
15 taxpayer's household, except that employment-related
16 expenses incurred for services outside the taxpayer's
17 household are deductible, but only if incurred for the care
18 of a qualifying individual described in subsection (3)(a)(i)
19 and only to the extent such expenses incurred during the
20 year do not exceed:

21 (A) \$2,400 in the case of one qualifying individual;

22 (B) \$3,600 in the case of two qualifying individuals;
23 and

24 (C) \$4,800 in the case of three or more qualifying
25 individuals;

1 (e) if the combined adjusted gross income of the
2 taxpayers exceeds \$18,000 for the taxable year during which
3 the expenses are incurred, the amount of the
4 employment-related expenses incurred must be reduced by
5 one-half of the excess of the combined adjusted gross income
6 over \$18,000;

7 (f) for purposes of this subsection (3):

8 (i) married couples shall file a joint return or file
9 separately on the same form;

10 (ii) if the taxpayer is married during any period of
11 the taxable year, employment-related expenses incurred are
12 deductible only if:

13 (A) both spouses are gainfully employed, in which case
14 the expenses are deductible only to the extent that they are
15 a direct result of the employment; or

16 (B) the spouse is a qualifying individual described in
17 subsection (3)(a)(iii);

18 (iii) an individual legally separated from his spouse
19 under a decree of divorce or of separate maintenance may not
20 be considered as married;

21 (iv) the deduction for employment-related expenses must
22 be divided equally between the spouses when filing
23 separately on the same form;

24 (v) payment made to a child of the taxpayer who is
25 under 19 years of age at the close of the taxable year and

1 payments made to an individual with respect to whom a
2 deduction is allowable under 15-30-112(5) are not deductible
3 as employment-related expenses;

4 (4) in the case of an individual, political
5 contributions determined in accordance with the provisions
6 of section 218(a) and (b) of the Internal Revenue Code that
7 were in effect for the taxable year ended December 31, 1978;

8 (5) that portion of expenses for organic fertilizer
9 allowed as a deduction under 15-32-303 which was not
10 otherwise deducted in computing taxable income; and

11 (6) contributions to the child abuse and neglect
12 prevention program provided for in 41-3-701, subject to the
13 conditions set forth in 15-30-156."

14 **Section 5.** Section 15-31-121, MCA, is amended to read:

15 "15-31-121. Rate of tax -- minimum tax -- surtax. (1)
16 Except as provided in subsection (2), the percentage of net
17 income to be paid under 15-31-101 ~~shall be~~ is 6 3/4% of all
18 net income for the taxable period. The rate set forth in
19 this subsection (1) ~~shall be~~ is effective for all taxable
20 years ending on or after February 28, 1971. This rate is
21 retroactive to and effective for all taxable years ending on
22 or after February 28, 1971.

23 (2) For a taxpayer making a water's-edge election, the
24 percentage of net income to be paid under 15-31-101 ~~shall be~~
25 is 7% of all taxable net income for the taxable period.

1 (3) Every corporation subject to taxation under this
2 part shall, in any event, pay a minimum tax of not less than
3 \$50.

4 (4) ~~After--the--amount--of~~ In addition to the tax
5 ~~liability has been~~ computed under subsections (1) through
6 (3), there is imposed on each corporation subject to
7 taxation under this part ~~shall add, as~~ a surtax for tax year
8 ~~1988, 4% of 10% of the tax liability, and the amount so~~
9 ~~derived is the amount due the state. The surtax is payable~~
10 ~~to the treasurer in the same manner as the corporation's tax~~
11 liability."

12 **Section 6.** Section 15-31-702, MCA, is amended to read:

13 "15-31-702. Distribution of corporation license taxes
14 collected from banks or savings and loan associations. (1)
15 All corporation license taxes collected from banks and
16 savings and loan associations ~~shall~~ must be distributed in
17 the following manner:

18 (a) ~~20%~~ 27.3% must be remitted to the state treasurer
19 to be allocated as provided in 15-1-501~~(2)~~(3); and

20 (b) ~~80%~~ 72.7% is statutorily appropriated, as provided
21 in 17-7-502, for allocation to the various taxing
22 jurisdictions within the county in which the bank or savings
23 and loan association is located.

24 (2) The corporation license taxes distributed under
25 subsection (1)(b) ~~shall~~ must be allocated to each taxing

jurisdiction in the proportion that its mill levy for that fiscal year bears to the total mill levy of the taxing authorities of the district in which the bank or savings and loan association is located.

(3) "Taxing jurisdictions" means, for the purposes of this section, all taxing authorities within a county permitted under state law to levy mills against the taxable value of property in the taxing district in which the bank or savings and loan association is located.

(4) If a return filed by a bank or savings and loan association involves branches or offices in more than one taxing jurisdiction, the department of revenue shall provide a method by rule for equitable distribution among those taxing jurisdictions."

Section 7. Section 17-3-213, MCA, is amended to read:

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

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

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

(i) 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~~ the special road ~~district--or~~ districts within the county based upon the percentage that the total

1 area of such the road district bears to the total area of
2 the entire county."

3 **Section 8.** Section 17-5-408, MCA, is amended to read:

4 "17-5-408. Percentage of income, corporation license,
5 and cigarette tax pledged. (1) (a) The state pledges and
6 appropriates and directs to be credited as received to the
7 debt service account ~~10%~~ 8.2% of all money received from the
8 collection of the individual income tax and ~~11%~~ 9.9% of all
9 money, except as provided in 15-31-702, received from the
10 collection of the corporation license and income tax as
11 provided in 15-1-501, and such any additional amount of ~~said~~
12 those taxes, if any, as may at any time be needed to comply
13 with the principal and interest and reserve requirements
14 stated in 17-5-405(4).

15 (b) No more than the percentages described in
16 subsection (1)(a) of such the tax collections may be pledged
17 for the purpose of 17-5-403(2). The pledge and appropriation
18 ~~herein made shall-be-and-remain-at-all-times~~ in this section
19 is a first and prior charge upon all money received from the
20 collection of ~~said the~~ taxes.

21 (2) The state pledges and appropriates and directs to
22 be credited to the debt service account 79.75% of all money
23 received from the collection of the excise tax on cigarettes
24 which is levied, imposed, and assessed by 16-11-111. The
25 state also pledges and appropriates and directs to be

1 credited as received to the debt service account all money
2 received from the collection of the taxes on other tobacco
3 products which are or may hereafter be levied, imposed, and
4 assessed by law for that purpose, including the tax levied,
5 imposed, and assessed by 16-11-202. ~~Nothing herein-shall~~
6 ~~impair in this section impairs~~ or otherwise ~~affect~~ affects
7 the provisions and covenants contained in the resolutions
8 authorizing the presently outstanding long-range building
9 program bonds. Subject to the provisions of the preceding
10 sentence, the pledge and appropriation ~~herein-made-shall--be~~
11 ~~and--remain-at-all-times~~ made in this section is a first and
12 prior charge upon all money received from the collection of
13 all taxes referred to in this subsection (2)."

14 **Section 9.** Section 19-4-605, MCA, is amended to read:

15 "19-4-605. Pension accumulation fund -- employer's
16 contribution. The pension accumulation fund is the fund in
17 which the reserves for payment of pensions and annuities
18 ~~shall~~ must be accumulated and from which pensions,
19 annuities, and benefits in lieu ~~thereof--shall~~ of pensions
20 and annuities must be paid to or on account of beneficiaries
21 credited with prior service. Contributions to and payments
22 from the pension accumulation fund ~~shall~~ must be made as
23 follows:

24 (1) Each employer shall pay into the pension
25 accumulation fund an amount equal to 7.428% of the earned

1 compensation of each member employed during the whole or
2 part of the preceding payroll period.

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

6 (3) If the employer is the superintendent of public
7 instruction, a public institution of the state of Montana, a
8 unit of the Montana university system, or the Montana state
9 school for the deaf and blind, the legislature shall
10 appropriate to the employer an adequate amount to allow the
11 payment of the employer's contribution.

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

16 (5) All interest and other earnings realized on the
17 ~~moneys~~ money of the retirement system ~~shall~~ must be credited
18 to the pension accumulation fund, and the amount required to
19 allow regular interest on the annuity savings fund ~~shall~~
20 must be transferred to that fund from the pension
21 accumulation fund.

22 (6) All pensions, annuities, and benefits in lieu
23 ~~thereof shall~~ of pensions and annuities must be paid from
24 the pension accumulation fund.

25 (7) The retirement board may, in its discretion,

1 transfer from the pension accumulation fund an amount
2 necessary to cover expenses of administration."

3 **Section 10.** Section 20-3-106, MCA, is amended to read:

4 "20-3-106. Supervision of schools -- powers and
5 duties. The superintendent of public instruction has the
6 general supervision of the public schools and districts of
7 the state, and he shall perform the following duties or acts
8 in implementing and enforcing the provisions of this title:

9 (1) resolve any controversy resulting from the
10 proration of costs by a joint board of trustees under the
11 provisions of 20-3-362;

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

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

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

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

21 (6) approve or disapprove the opening or reopening of
22 a school in accordance with the provisions of 20-6-502,
23 20-6-503, 20-6-504, or 20-6-505;

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

1 (8) generally supervise the school budgeting
 2 procedures prescribed by law in accordance with the
 3 provisions of 20-9-102 and prescribe the school budget
 4 format in accordance with the provisions of 20-9-103 and
 5 20-9-506;

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

9 (10) approve or disapprove the adoption of a district's
 10 emergency budget resolution under the conditions prescribed
 11 in 20-9-163 and publish rules for an application for
 12 additional state aid for an emergency budget in accordance
 13 with the approval and disbursement provisions of 20-9-166;

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

16 (12) prescribe and furnish the annual report forms to
 17 enable the districts to report to the county superintendent
 18 in accordance with the provisions of 20-9-213(5) and the
 19 annual report forms to enable the county superintendents to
 20 report to the superintendent of public instruction in
 21 accordance with the provisions of 20-3-209;

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

25 (14) distribute state equalization aid in support of

1 the foundation program in accordance with the provisions of
 2 20-9-342, 20-9-346, and 20-9-347;

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

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

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

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

13 (19) authorize the use of federal moneys money for the
 14 support of an interlocal cooperative agreement in accordance
 15 with the provisions of 20-9-703 and 20-9-704;

16 (20) prescribe the form and contents of and approve or
 17 disapprove interstate contracts in accordance with the
 18 provisions of 20-9-705;

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

22 (22) recommend standards of accreditation for all
 23 schools to the board of public education and evaluate
 24 compliance with such the standards and recommend
 25 accreditation status of every school to the board of public

1 education in accordance with the provisions of 20-7-101 and
2 20-7-102;

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

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

9 (25) license textbook dealers and initiate prosecution
10 of textbook dealers violating the law in accordance with the
11 provisions of the textbooks part of this title;

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

16 (27) supervise and coordinate the conduct of special
17 education in the state in accordance with the provisions of
18 20-7-403;

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

21 (29) administer the school food services program in
22 accordance with the provisions of 20-10-201, 20-10-202, and
23 20-10-203;

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

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

4 (32) provide schools with information and technical
5 assistance for compliance with the student assessment rules
6 provided for in 20-2-121 and collect and summarize the
7 results of such the student assessment for the board of
8 public education and the legislature;

9 (33) administer the distribution of state retirement
10 equalization aid in accordance with 20-9-532 [section 36];
11 and

12 (34) perform any other duty prescribed from time to
13 time by this title, any other act of the legislature, or the
14 policies of the board of public education."

15 **Section 11.** Section 20-3-324, MCA, is amended to read:

16 "20-3-324. Powers and duties. As prescribed elsewhere
17 in this title, the trustees of each district shall ~~have--the~~
18 ~~power--and--it--shall--be--their--duty--to--perform--the--following~~
19 ~~duties--or--acts:~~

20 (1) employ or dismiss a teacher, principal, or other
21 assistant upon the recommendation of the district
22 superintendent, the county high school principal, or other
23 principal as the board ~~may--deem~~ considers necessary,
24 accepting or rejecting such any recommendation as the
25 trustees ~~shall~~ in their sole discretion determine, in

1 accordance with the provisions of Title 20, chapter 4;
 2 (2) employ and dismiss administrative personnel,
 3 clerks, secretaries, teacher aides, custodians, maintenance
 4 personnel, school bus drivers, food service personnel,
 5 nurses, and any other personnel ~~deemed~~ considered necessary
 6 to carry out the various services of the district;
 7 (3) administer the attendance and tuition provisions
 8 and otherwise govern the pupils of the district in
 9 accordance with the provisions of the pupils chapter of this
 10 title;
 11 (4) call, conduct, and certify the elections of the
 12 district in accordance with the provisions of the school
 13 elections chapter of this title;
 14 (5) participate in the teachers' retirement system of
 15 the state of Montana in accordance with the provisions of
 16 the teachers' retirement system chapter of Title 19;
 17 (6) participate in district boundary change actions in
 18 accordance with the provisions of the districts chapter of
 19 this title;
 20 (7) organize, open, close, or acquire isolation status
 21 for the schools of the district in accordance with the
 22 provisions of the school organization part of this title;
 23 (8) adopt and administer the annual budget or an
 24 emergency budget of the district in accordance with the
 25 provisions of the school budget system part of this title;

1 (9) conduct the fiscal business of the district in
 2 accordance with the provisions of the school financial
 3 administration part of this title;
 4 (10) establish the ANB, foundation program, ~~permissive~~
 5 ~~levy~~, additional levy, cash reserve, and state impact aid
 6 amount for the general fund of the district in accordance
 7 with the provisions of the general fund part of this title;
 8 (11) establish, maintain, budget, and finance the
 9 transportation program of the district in accordance with
 10 the provisions of the transportation parts of this title;
 11 (12) issue, refund, sell, budget, and redeem the bonds
 12 of the district in accordance with the provisions of the
 13 bonds parts of this title;
 14 (13) when applicable, establish, financially
 15 administer, and budget for the tuition fund, ~~retirement~~
 16 ~~fund~~, building reserve fund, adult education fund,
 17 nonoperating fund, school food services fund, miscellaneous
 18 federal programs fund, building fund, lease or rental
 19 agreement fund, traffic education fund, and interlocal
 20 cooperative agreement fund in accordance with the provisions
 21 of the other school funds parts of this title;
 22 (14) when applicable, administer any interlocal
 23 cooperative agreement, gifts, legacies, or devises in
 24 accordance with the provisions of the miscellaneous
 25 financial parts of this title;

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

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

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

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

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

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

(21) for each member of the trustees, visit each school

of the district not less than once each school fiscal year to examine its management, conditions, and needs, except trustees from a first-class school district may share the responsibility for visiting each school in the district;

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

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

Section 12. Section 20-5-305, MCA, is amended to read:

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

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

4 (c) subtracting ~~the---total---of~~ from the amount
5 determined in subsection (1)(b) the per-ANB amount allowed
6 by 20-9-316 through 20-9-321 that represents the foundation
7 program as prescribed by 20-9-303 plus--the--per-ANB--amount
8 determined--by--dividing-the-state-financing-of-the-district
9 permissive-levy-by-the-ANB-of-the-district,-from-the--amount
10 determined-in-subsection-(1)(b).

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

17 **Section 13.** Section 20-5-312, MCA, is amended to read:

18 "20-5-312. Reporting, budgeting, and payment for high
19 school tuition. (1) Except as provided in subsection (2), at
20 the close of the school term of each school fiscal year, the
21 trustees of each high school district shall determine the
22 rate of tuition for the current school fiscal year by:

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

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

5 (c) subtracting ~~the--total---of~~ from the amount
6 determined in subsection (1)(b) the per-ANB amount allowed
7 by 20-9-316 through 20-9-321 that represents the foundation
8 program as prescribed by 20-9-303 plus-the-per-ANB-amount
9 determined-by-dividing-the-state-financing-of--the--district
10 permissive--levy-by-the-ANB-of-the-district,-from-the-amount
11 determined-in-subsection-(1)(b)-above.

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

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

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

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

25 (c) the amount, if any, of each pupil's tuition

1 payment that the trustees, in their discretion, ~~shall~~ have
2 the authority to waive; and

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

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

9 (5) When the district superintendent receives a
10 tuition report or reports for high school pupils residing in
11 his district and attending an out-of-district high school
12 under approved tuition agreements, he shall determine the
13 total amount of tuition due ~~such~~ the out-of-district high
14 schools on the basis of the following per-pupil schedule:
15 the rate of tuition, number of pupils attending under an
16 approved tuition agreement, and other information provided
17 by each high school district where resident district pupils
18 have attended school.

19 (6) The total amount of the high school tuition, with
20 consideration of any tuition waivers, for pupils attending a
21 high school outside the county of residence ~~shall~~ must be
22 financed by the county basic special tax for high schools as
23 provided in 20-9-334. In December, the county superintendent
24 shall cause the payment by county warrant of at least
25 one-half of the high school tuition obligations established

1 under this section out of the first ~~moneys~~ proceeds realized
2 from the county basic special tax for high schools. The
3 remaining obligations must be paid by June 15 of the school
4 fiscal year. The payments ~~shall~~ must be made to the county
5 treasurer of the county where each high school entitled to
6 tuition is located. The county treasurer shall credit ~~such~~
7 the tuition receipts to the general fund of the applicable
8 high school district, and the tuition receipts ~~shall~~ must be
9 used in accordance with the provisions of 20-9-141.

10 (7) For pupils attending a high school outside their
11 district of residence but within the county of residence,
12 the total amount of the tuition, with consideration of any
13 tuition waivers, must be paid during the ensuing school
14 fiscal year. The trustees of the sending high school
15 district shall include the tuition amount in the tuition
16 fund of the preliminary and final budgets. This budgeted
17 tuition amount is not subject to the budget adjustment
18 provisions of 20-9-132. The county superintendent shall
19 report the net tuition fund levy requirement for each high
20 school district to the county commissioners on the second
21 Monday of August, and a levy on the district ~~shall~~ must be
22 made by the county commissioners in accordance with
23 20-9-142. This levy requirement ~~shall~~ must be calculated by
24 subtracting from the total expenditure amount authorized in
25 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 14. Section 20-6-506, MCA, is amended to read:

"20-6-506. Budgeting and cost sharing when junior high school operated by elementary district and high school district operating a county high school. (1) Whenever the opening of a junior high school is approved for the ensuing school fiscal year under 20-6-505, the county superintendent shall estimate the average number belonging (ANB) after investigating the probable enrollment for the junior high school. The ANB determined by the county superintendent and the ANB actually realized in subsequent school fiscal years ~~shall~~ must be applied under 20-9-320 to prorate the

~~maximum-general-fund-budget-without-a-voted-levy~~ foundation program amount between the elementary and high school districts. Each district shall adopt its general fund budget on the basis of the prorated amount and shall finance its proportionate share of the cost of operating the junior high school.

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

Section 15. 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

1 20-9-353 has been approved for the purpose of constructing,
2 purchasing, or acquiring the site or building;

3 (c) the cost of constructing, purchasing, or acquiring
4 the site or building is financed without exceeding the
5 ~~maximum-general-fund-budget-without-a-vote~~ foundation
6 program amount prescribed in ~~20-9-316--through--20-9-321~~
7 20-9-303 and, in the case of a site purchase, the site has
8 been approved under the provisions of 20-6-621; or

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

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

22 **Section 16.** Section 20-7-414, MCA, is amended to read:

23 "20-7-414. Determination of children in need and type
24 of special education needed -- approval of classes and
25 programs by superintendent. (1) The determination of the

1 children requiring special education and the type of special
2 education needed by these children ~~shall--be~~ is the
3 responsibility of the trustees, and ~~such~~ the determination
4 ~~shall~~ must be made in compliance with the procedures
5 established in the rules of the superintendent of public
6 instruction. Whenever the trustees of a school district or
7 the governing authority of an institution learn of a
8 handicapped child in their jurisdiction who is in need of
9 special education, they shall determine whether the child is
10 in need of a surrogate parent by determining whether the
11 parents or guardian is unknown or unavailable or if the
12 child is a ward of the state. The determination must be made
13 within 10 days of the date on which the trustees of a school
14 district or the governing authority of an institution
15 learned of the presence of the child in the district. If the
16 child is in need of a surrogate parent, the trustees of a
17 school district or the governing authority of an institution
18 ~~must~~ shall nominate a surrogate parent for the child as
19 provided in 20-7-461.

20 (2) Whenever the trustees of any district intend to
21 establish a special education class or program, they shall
22 apply for approval and funding of the class or program by
23 the superintendent of public instruction. The superintendent
24 of public instruction shall approve or disapprove the
25 application for the special education class or program on

the basis of its compliance with the laws of the state of Montana, the special education policies adopted by the board of public education, and the rules of the superintendent of public instruction. No special education class may be operated by the trustees without the approval of the superintendent of public instruction. Each special education 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 17. 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 the arrangements shall be 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 shall, in cooperation with the department of family services, to negotiate the program for the child and the amount and manner of payment of tuition. The amount of

tuition ~~shall~~ must be included as a contracted service in 20-7-431(1)(a)(iii)(A) in the ~~maximum-budget-without-a-vote foundation program amount~~ for special education."

Section 18. 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 amount for special education as defined in 20-9-321, the following schedule of allowable costs ~~shall~~ must 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~~ the review and approval of the budget (for the purposes of determining the foundation program amount ~~of-----the maximum-budget-without-a-vote~~ 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

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

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

7 (iii) other expenses:

8 (A) contracted services, including fees paid for
9 professional advice and consultation regarding special
10 students or the special program, and the delivery of special
11 education services by public or private agencies--the actual
12 total cost;

13 (B) transportation costs for special education
14 personnel who must travel on an itinerant basis from school
15 to school or district to district or to in-state child study
16 team meetings or in-state individualized education program
17 meetings--the actual cost to the district calculated on the
18 same mileage rate used by the district for other travel
19 reimbursement purposes;

20 (b) supportive services, including:

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

1 such person devotes to the special program. Professional
2 supportive personnel may include counselors, social workers,
3 psychologists, psychometrists, physicians, nurses, and
4 physical and occupational therapists.

5 (ii) salaries and benefits of clerical personnel for
6 who assist professional personnel in supportive
7 services--the entire cost if employed full time in the
8 special program; if such personnel are shared between
9 special and regular programs--a portion of the entire cost
10 corresponding to the entire working time which that each
11 such person devotes to the special program;

12 (c) equipment:

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

14 (ii) special equipment for district-owned school buses
15 necessary to accommodate special students--the actual total
16 cost;

17 (iii) special equipment for school buses contracted to
18 transport special students--that portion of the contract
19 price attributable to the cost of special equipment or
20 personnel required to accommodate special students--the
21 actual special cost;

22 (iv) repair and maintenance of equipment--the actual
23 total cost;

24 (d) room and board costs when the special pupil has to
25 attend a program at such a distance from his home that

1 commuting is undesirable as determined by the superintendent
2 of public instruction.

3 (2) The superintendent of public instruction shall
4 ~~prior to September 1, 1977, revise the~~ adopt rules in
5 accordance with the policies of the board of public
6 education for:

7 (a) keeping necessary records for supportive and
8 administrative personnel and any personnel shared between
9 special and regular programs;

10 (b) defining the total special program caseload that
11 ~~shall~~ must be assigned to specific support persons and the
12 kinds of professional specialties to be considered relevant
13 to the program before the district may count an allowable
14 cost under subsection (1)(b) of this section; and

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

18 (3) An annual accounting of all expenditures of school
19 district general fund ~~moneys~~ money for special education
20 ~~shall~~ must be made by the district trustees on forms
21 furnished by the superintendent of public instruction. The
22 superintendent of public instruction shall ~~make~~ adopt rules
23 for ~~such~~ the accounting.

24 (4) If a board of trustees chooses to exceed the
25 budget approved by the superintendent of public instruction,

1 costs in excess of the approved budget may not be reimbursed
2 under the ~~maximum-budget-without-a-vote~~ foundation program
3 for special education.

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

9 ~~(6)~~ (5) (a) Notwithstanding other provisions of the
10 law, the superintendent of public instruction ~~shall~~ may not
11 approve a ~~maximum-budget-without-a-vote~~ an amount for
12 special education ~~which~~ that exceeds legislative
13 appropriations; however, any unexpended balance from the
14 first year of a biennial appropriation may be spent in the
15 second year of the biennium in addition to the second year
16 appropriation.

17 (b) If the total allowable cost of the special
18 education budgets exceeds legislative appropriations
19 available for special education, each district shall receive
20 a pro rata share of the available appropriations based upon
21 prioritized budget items as established by the
22 superintendent of public instruction. The amount of the
23 approved budgets in excess of the available appropriations
24 may not be reimbursed under the
25 ~~maximum-budget-without-a-vote~~ foundation program for special

education and is the responsibility of the school district."

Section 19. 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 foundation program amount established by the ~~schedules-in-20-9-316 through-20-9-321~~ 20-9-303 by totaling:

(i) the district's nonisolated school foundation program requirement to be met by a district levy as provided in 20-9-303;

~~{ii}-the--district's-permissive-levy-amount-as-provided in-20-9-352;~~ and

~~{iii}~~(ii) any additional general fund budget amount adopted by the trustees of the district under the provisions of 20-9-353, including any additional levies authorized by the electors of the district.

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

(i) anticipated federal moneys money received under the provisions of Title I of Public Law 81-874 or other

anticipated federal moneys money received in lieu of ~~such federal~~ that act;

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

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

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

(v) anticipated revenue from ~~vehicle--property~~ taxes and fees imposed under 23-2-517, 23-2-803, 61-3-504(2), and 61-3-537, and 67-3-204;

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

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

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

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

(c) Subtract the ~~total-of-the-moneys~~ money available

to reduce the property tax required to finance the general fund that has been determined in subsection (1)(b) from the total requirement determined in subsection (1)(a).

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

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

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

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

(b) A "nonbudgeted fund" means any fund for which a

budget is not required in order to expend any money on deposit in ~~such the~~ fund. The school food services fund, miscellaneous federal programs fund, building fund, lease or rental agreement fund, traffic education fund, interlocal cooperative fund, and any other funds ~~so~~ designated by the legislature ~~shall-be~~ are nonbudgeted funds.

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

Section 21. Section 20-9-212, MCA, is amended to read:

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

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

1 including:

2 (a) the basic county tax in support of the elementary

3 foundation programs;

4 (b) the basic special tax for high schools in support

5 of the high school foundation programs;

6 (c) the county tax in support of the county's high

7 school transportation obligation; and

8 ~~(d) the county tax in support of the high school~~

9 ~~obligations to the retirement systems of the state of~~

10 ~~Montana;~~

11 ~~(e) any additional county tax required by law to~~

12 ~~provide for deficiency financing of the elementary~~

13 ~~foundation programs;~~

14 ~~(f) any additional county tax required by law to~~

15 ~~provide for deficiency financing of the high school~~

16 ~~foundation programs; and~~

17 ~~(g)~~ (d) any other county tax for schools, including the

18 community colleges, which may be authorized by law and

19 levied by the county commissioners;

20 (2) whenever requested, notify the county

21 superintendent and the superintendent of public instruction

22 of the amount of county school money on deposit in each of

23 the funds enumerated in subsection (1) ~~of this section~~ and

24 the amount of any other school money subject to

25 apportionment and apportion such the county and other school

1 money to the districts in accordance with the apportionment

2 ordered by the county superintendent;

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

4 each budgeted fund included in the final budget of each

5 district;

6 (4) keep a separate accounting of the receipts,

7 expenditures, and cash balances for each budgeted fund

8 included in the final budget of each district and for each

9 nonbudgeted fund established by each district;

10 (5) except as otherwise limited by law, pay all

11 warrants properly drawn on the county or district school

12 money and properly endorsed by their holders;

13 (6) receive all revenue collected by and for each

14 district and deposit these receipts in the fund designated

15 by law or by the district if no fund is designated by law.

16 Interest and penalties on delinquent school taxes ~~shall~~ must

17 be credited to the same fund and district for which the

18 original taxes were levied.

19 (7) send all ~~revenues~~ revenue received for a joint

20 district, part of which is situated in his county, to the

21 county treasurer designated as the custodian of such

22 ~~revenues~~ the revenue, no later than December 15 of each year

23 and every 3 months thereafter until the end of the school

24 fiscal year;

25 (8) at the direction of the trustees of a district,

1 assist the district in the issuance and sale of tax and
2 revenue anticipation notes as provided in Title 7, chapter
3 6, part 11;

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

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

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

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

21 **Section 22.** Section 20-9-301, MCA, is amended to read:

22 "20-9-301. Purpose ~~and---definition~~ of foundation
23 program and definition of general fund budget. (1) A uniform
24 system of free public schools sufficient for the education
25 of and open to all school age children of the state ~~shall~~

1 must be established and maintained throughout the state of
2 Montana. The state shall aid in the support of its several
3 school districts on the basis of their financial need as
4 measured by the foundation program and in the manner
5 established in this title.

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

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

21 **Section 23.** Section 20-9-303, MCA, is amended to read:

22 "20-9-303. Definition of foundation program ~~and---its~~
23 ~~proportion---of-the-maximum-general-fund-without-a-voted-levy~~
24 ~~schedule-amount~~ -- nonisolated school foundation program
25 financing -- special education funds -- retirement. (1) As

used in this title, the term "foundation program" ~~shall mean~~
~~means~~ the minimum operating expenditures ~~as established~~
~~herein~~, that are sufficient to provide for the educational
 program of a school. The foundation program relates only to
 those expenditures authorized by a district's general fund
 budget and ~~shall~~ may not include expenditures from any other
 fund. It ~~shall be~~ is financed by:

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

(b) state equalization aid; and

(c) appropriations for special education.

(2) ~~The dollar amount of the foundation program shall~~
~~be-----80%-----of-----the~~
~~maximum-general-fund-budget-without-a-voted-levy--limitation~~
~~as--set-forth-in-the-schedules-in-20-9-316-through-20-9-321.~~
The foundation program includes:

(a) amounts in support of general education programs
as provided in the schedules in 20-9-316 through 20-9-320;

(b) payments in support of special education programs
as provided in 20-9-321; and

(c) retirement equalization payments as provided in
[section 36].

(3) The foundation program of an elementary school
 having an ANB of nine or fewer pupils for 2 consecutive
 years which is not approved as an isolated school under the
 provisions of 20-9-302 ~~shall be 80% of the schedule amount~~

is equal to the amounts listed in subsection (2), but the
 county and state shall participate in financing one-half of
 the foundation program, and the district shall finance the
 remaining one-half by a tax levied on the property of the
 district. When a school of nine or fewer pupils is approved
 as isolated under the provisions of 20-9-302, the county and
 state shall participate in the financing of the total amount
 of the foundation program.

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

(5) Funds provided to support the retirement

1 accounting budget for the district's cost of retirement,
 2 social security, and unemployment insurance may be expended
 3 only for those purposes and must be accounted for separately
 4 from the balance of the school district general fund.
 5 Transfers between items within the retirement budget for
 6 accounting purposes may be made at the discretion of the
 7 board of trustees in accordance with the financial
 8 administration provisions of this title. The unexpended
 9 balance of the retirement accounting budget carries over to
 10 the next year to reduce the amount of retirement
 11 equalization aid required to finance the district's ensuing
 12 year's foundation program amount for retirement."

13 **Section 24.** Section 20-9-312, MCA, is amended to read:

14 "20-9-312. ~~Maximum--general--fund--budget~~ Foundation
 15 program schedule for grades seven and eight. The ANB
 16 calculated for grades 7 and 8 ~~shall must~~ be funded at the
 17 high school rate provided that the school meets the
 18 standards for accreditation of a middle school. When ~~such~~
 19 the pupils are actually enrolled in an elementary school,
 20 the foundation program schedule ~~amount of the--general--fund~~
 21 budget per ANB is determined from the high school schedule
 22 using the total ANB of the elementary school. To determine
 23 the total ANB of ~~such-an~~ the elementary school, the 7th and
 24 8th grade pupils ~~shall must~~ be included in ~~such the~~ total."

25 **Section 25.** Section 20-9-315, MCA, is amended to read:

1 "20-9-315. **Maximum general fund budget and exceptions.**
 2 The total amount of the general fund budget of any district
 3 ~~shall may~~ not be greater than the ~~general--fund--budget~~
 4 foundation program amount specified in ~~20-9-316-through~~
 5 ~~20-9-321~~ 20-9-303, except when a district has adopted an
 6 emergency general fund budget under the provisions of
 7 20-9-165 or when a district satisfies the requirements of
 8 20-9-353."

9 **Section 26.** Section 20-9-318, MCA, is amended to read:

10 "20-9-318. Elementary school ~~maximum-budget~~ foundation
 11 program schedule for 1987-88 and succeeding years. For
 12 1987-88 and succeeding school years, the elementary school
 13 ~~maximum-budget~~ foundation program schedule is as follows:

14 (1) For each elementary school having an ANB of nine
 15 or fewer pupils, the maximum ~~shall-be~~ is \$20,158 if said
 16 school is approved as an isolated school.

17 (2) For schools with an ANB of 10 pupils but less than
 18 18 pupils, the maximum ~~shall-be~~ is \$20,158 plus \$842.50 per
 19 pupil on the basis of the average number belonging over
 20 nine.

21 (3) For schools with an ANB of at least 14 pupils but
 22 less than 18 pupils that qualify for instructional aide
 23 funding under 20-9-322, the maximum ~~shall-be~~ is \$33,042 plus
 24 \$842.50 per pupil on the basis of the average number
 25 belonging over 14.

1 (4) For schools with an ANB of 18 pupils and employing
2 one teacher, the maximum ~~shall-be~~ is \$27,741 plus \$842.50
3 per pupil on the basis of the average number belonging over
4 18, not to exceed an ANB of 25.

5 (5) For schools with an ANB of 18 pupils and employing
6 two full-time teachers, the maximum ~~shall-be~~ is \$44,290 plus
7 \$527.60 per pupil on the basis of the average number
8 belonging over 18, not to exceed an ANB of 50.

9 (6) For schools having an ANB in excess of 40, the
10 maximum on the basis of the total pupils (ANB) in the
11 district for elementary pupils ~~will-be~~ is as follows:

12 (a) For a school having an ANB of more than 40 and
13 employing a minimum of three teachers, the maximum of \$1,957
14 ~~shall-be~~ is decreased at the rate of \$1.90 for each
15 additional pupil until the total number (ANB) ~~shall-have~~
16 ~~reached-a-total-of~~ reaches 100 pupils.

17 (b) For a school having an ANB of more than 100
18 pupils, the maximum of \$1,843 ~~shall-be~~ is decreased at the
19 rate of \$1.74 for each additional pupil until the ANB ~~shall~~
20 ~~have-reached~~ reaches 300 pupils.

21 (c) For a school having an ANB of more than 300
22 pupils, the maximum ~~shall~~ may not exceed \$1,496 for each
23 pupil.

24 (7) The maximum per pupil for all pupils (ANB) and for
25 all elementary schools ~~shall~~ must be computed on the basis

1 of the amount allowed ~~herein~~ in this section on account of
2 the last eligible pupil (ANB). All elementary schools
3 operated within the incorporated limits of a city or town
4 ~~shall~~ must be treated as one school for the purpose of this
5 schedule."

6 **Section 27.** Section 20-9-319, MCA, is amended to read:

7 "20-9-319. High school maximum---budget foundation
8 program schedule for 1987-88 and succeeding years. For
9 1987-88 and succeeding school years, the high school ~~maximum~~
10 budget foundation program schedule is as follows:

11 (1) For each high school having an ANB of 24 or fewer
12 pupils, the maximum ~~shall-be~~ is \$114,845.

13 (2) For a secondary school having an ANB of more than
14 24 pupils, the maximum \$4,785 ~~shall-be~~ is decreased at the
15 rate of \$26.10 for each additional pupil until the ANB ~~shall~~
16 ~~have-reached-a-total-of~~ reaches 40 such pupils.

17 (3) For a school having an ANB of more than 40 pupils,
18 the maximum of \$4,368 ~~shall-be~~ is decreased at the rate of
19 \$26.10 for each additional pupil until the ANB ~~shall--have~~
20 ~~reached~~ reaches 100 pupils.

21 (4) For a school having an ANB of more than 100
22 pupils, ~~a~~ the maximum of \$2,802 ~~shall-be~~ is decreased at the
23 rate of \$4.37 for each additional pupil until the ANB ~~shall~~
24 ~~have-reached~~ reaches 200 pupils.

25 (5) For a school having an ANB of more than 200

1 pupils, the maximum of \$2,365 ~~shall-be~~ is decreased by \$2.40
 2 for each additional pupil until the ANB ~~shall--have--reached~~
 3 reaches 300 pupils.

4 (6) For a school having an ANB of more than 300
 5 pupils, the maximum of \$2,125 ~~shall-be~~ is decreased at the
 6 rate of 44 cents until the ANB ~~shall-have-reached~~ reaches
 7 600 pupils.

8 (7) For a school having an ANB over 600 pupils, the
 9 maximum ~~shall~~ may not exceed \$1,993 per pupil.

10 (8) The maximum per pupil for all pupils (ANB) and for
 11 all high schools ~~shall~~ must be computed on the basis of the
 12 amount allowed herein in this section on account of the last
 13 eligible pupil (ANB). All high schools and junior high
 14 schools which have been approved and accredited as junior
 15 high schools, operated within the incorporated limits of a
 16 city or town, ~~shall~~ must be treated as one school for the
 17 purpose of this schedule."

18 **Section 28.** Section 20-9-320, MCA, is amended to read:

19 "20-9-320. ~~Maximum--general--fund--budget~~ Foundation
 20 program schedule amount for junior high school. (1) The
 21 ~~general-fund-budget foundation program schedule~~ amount for
 22 an approved and accredited junior high school ~~shall~~ must be
 23 prorated between the elementary district ~~general-fund-budget~~
 24 foundation program schedule amount and the high school
 25 district ~~general--fund--budget~~ foundation program schedule

1 amount in the following manner:

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

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

8 (c) multiply the per-ANB schedule amount determined in
 9 subsection (1)(a) by the ANB calculated in subsection (1)(b)
 10 to determine the amount that is authorized general--fund
 11 budget--amount--which--shall-be-available for the elementary
 12 district ~~general-fund-budget~~ foundation program; and

13 (d) subtract the amount determined in subsection
 14 (1)(c) from the total authorized ~~general--fund--budget~~
 15 foundation program schedule amount for the school to
 16 determine the ~~authorized--general-fund-budget~~ amount which
 17 shall-be-available that is authorized for the high school
 18 district ~~general-fund-budget~~ foundation program.

19 (2) The ~~general-fund-budget~~ amount determined for each
 20 school of a district under the schedules provided in
 21 20-9-316 through 20-9-319 ~~shall~~ must be totaled to determine
 22 the ~~maximum-general-fund-budget-without-a-voted-levy~~
 23 foundation program schedule amount for such the district."

24 **Section 29.** Section 20-9-321, MCA, is amended to read:

25 "20-9-321. ~~Maximum--general--fund--budget~~ Foundation

1 program and contingency funds for special education. (1) For
 2 the purpose of establishing the
 3 maximum-budget-without-a-vote foundation program amount for
 4 a current year special education program for a school
 5 district, the superintendent of public instruction ~~will~~
 6 shall determine the total estimated cost of the special
 7 education program for the school district on the basis of a
 8 special education program budget submitted by the district.
 9 The budget ~~will~~ must be prepared on forms provided by the
 10 superintendent of public instruction and ~~will~~ must set out
 11 for each program:

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

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

17 (c) any other data required by the superintendent of
 18 public instruction for budget justification purposes and to
 19 administer the provisions of 20-9-315 through 20-9-321 and
 20 [section 36].

21 (2) The total amount of allowable costs approved by
 22 the superintendent of public instruction ~~shall be~~ is the
 23 special education maximum-budget-without-a-vote foundation
 24 program amount for current year special education program
 25 purposes. The total amount of allowable costs that are

1 approved for the special education budget ~~shall~~ may not,
 2 under any condition, be less than the
 3 maximum-budget-without-a-vote foundation program schedule
 4 amount for one regular ANB for each ~~special~~ full-time
 5 special pupil in the school district.

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

(5) The ~~maximum-budget-without-a-vote~~ foundation program amount for special education ~~will~~ must be added to the ~~maximum-budget-without-a-vote~~ foundation program schedule amount of the regular program ANB defined in 20-9-311 and 20-9-313 and the foundation program amount for retirement established in [section 36] to obtain the total ~~maximum-budget-without-a-vote~~ foundation program for the district."

Section 30. Section 20-9-322, MCA, is amended to read:

"20-9-322. Elementary instructional aide funding qualification. (1) Any elementary school that anticipates an ANB of at least 14 but less than 18 pupils for the ensuing school fiscal year may determine the ~~maximum--general--fund~~ budget foundation program schedule amount under the provisions of 20-9-316(3) or 20-9-318(3) if eligibility is approved in accordance with the following provisions:

(a) No later than May 10 of each year, the school district shall submit its application for approval for instructional aide funding to the superintendent of public

instruction. The application ~~shall~~ must include:

(i) the previous year's ANB;

(ii) an estimate of the current school fiscal year's ANB, as calculated under the provisions of 20-9-314(1), and the number of grade levels being taught on May 1 of the current year;

(iii) an estimate of the ANB and the number of grade levels anticipated for the ensuing school fiscal year;

(iv) the factual information on which ~~such~~ the estimates are based; and

(v) any other information or data that may be required by the superintendent of public instruction.

(b) The superintendent of public instruction shall immediately review all the factors of the application and shall approve the application if the anticipated ANB is at least 14 but less than 18 pupils and a minimum of five grade levels are being taught as of May 1 of the current year or documentation is provided which indicates that the anticipated ANB will require a minimum of five grade levels to be taught in the ensuing school year.

(2) Whenever a school district applies for and is approved for instructional aide funding under the provisions of subsection (1), the district ~~must~~ shall hire an instructional aide.

(3) For the purposes of this section, the term

1 "instructional aide" means:

2 (a) a person who is under the direct supervision of a
3 teacher; or

4 (b) a certified teacher."

5 **Section 31.** 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--the--duty--of--the~~ The county
9 commissioners of each county to shall levy an annual basic
10 tax of ~~28~~ 62 mills on the dollars of the taxable value of
11 all taxable property within the county, except ~~for--vehicles~~
12 property subject to taxation a tax or fee under 23-2-517,
13 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204, for
14 the purposes of local and state foundation program support.
15 The revenue ~~to--be~~ collected from this levy ~~shall~~ must be
16 apportioned to the support of the foundation programs of the
17 elementary school districts in the county and to the state
18 special revenue fund, state equalization aid account, in the
19 following manner:

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

1 county.

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

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

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

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

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

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

(e) any federal or state money distributed to the county as payment in lieu of the property taxation ~~established-by-the-county-levy--required--by--this--section,~~ including federal forest reserve funds allocated in 17-3-213;

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

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

Section 32. 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~~ The county commissioners of each county to shall levy an annual basic special tax for high schools of ~~17~~ 38 mills on the dollar of the taxable value of all taxable property within the county,

except for vehicles property subject to taxation taxes or fees under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204, for the purposes of local and state foundation program support. The revenue ~~to--be~~ collected from this levy ~~shall~~ must be apportioned to the support of the foundation programs of high school districts in the county and to the state special 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~~ revenue identified in ~~subsections-(2)(a)-and-(2)(b)~~ below--shall--be subsection (2) is 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 prescribed by this section produces more revenue than is required to finance the difference determined above in subsection (1)(a), the county treasurer shall remit the surplus to the state treasurer for deposit to the state special revenue fund, state equalization aid account, immediately upon occurrence of a surplus balance and each subsequent month thereafter, with any final remittance due no later than June 20 of the fiscal year for which the levy has been set.

(2) The proceeds revenue realized from the county's

portion of the levy prescribed in this section and the revenues revenue from the following sources ~~shall~~ must 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~~ must be kept of these proceeds the revenue 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 accounts for the various sources of revenue established in this section;

(b) any federal or state moneys money distributed to the county as a payment in lieu of the property taxation established by the county levy required by this section, including federal forest reserve funds allocated under the provisions of 17-3-213;

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

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

Section 33. 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 ~~these moneys~~ the money deposited in

the state special revenue fund as required in this section plus any legislative appropriation of money 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~~ must be made in a single sum for the biennium. The superintendent of public instruction ~~has authority to~~ may spend such the appropriation, together with the earmarked revenues provided in subsection (3), as required for foundation program purposes throughout the biennium.

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

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

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

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

(d) ~~100% of the~~ money received from the treasurer 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 money described in 20-9-341
4 and 20-9-342;

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

6 (g) income from the lottery, as provided for in
7 23-5-1027; and

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

11 (4) Any surplus revenue in the state equalization 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."

15 **Section 34.** Section 20-9-353, MCA, is amended to read:

16 "20-9-353. Additional levy for general fund --
17 election for authorization to impose. (1) The trustees of
18 any district may propose to adopt a general fund budget in
19 excess of the general-fund-budget foundation program amount
20 for such the district as ~~established-by-the-schedules-in~~
21 ~~20-9-316-through-20-9-321~~ defined in 20-9-303 for any of the
22 following purposes:

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

25 (b) furnishing additional school facilities for the

1 district;

2 (c) acquisition of land for the district;

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

5 (2) When the trustees of any district determine that
6 an additional amount of financing is required for the
7 general fund budget that is in excess of the statutory
8 schedule foundation program amount, the trustees shall
9 submit the proposition of an additional levy to raise such
10 the excess amount of general fund financing to the electors
11 who are qualified under 20-20-301 to vote upon such
12 proposition except that no election ~~shall-be~~ is required to
13 permit the school trustees to use any funds available to
14 finance the additional amount other than those funds to be
15 raised by the additional levy. ~~Such~~ The special election
16 ~~shall must~~ be called and conducted in the manner prescribed
17 by this title for school elections. The ballot for such the
18 election shall state only the amount of money to be raised
19 by additional property taxation, the approximate number of
20 mills required to raise such the money, and the purpose for
21 which such the money will be expended, and it ~~shall~~ must be
22 in the following format:

23 PROPOSITION

24 Shall a levy be made in addition to the levies
25 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 levy.

☐ AGAINST the 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 the election, the proposition ~~shall~~ carry carries 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 that number of mills on the taxable value of all taxable property within the district, as prescribed in 20-9-141, ~~as-are~~ that is required to raise the amount of such the additional levy.

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

Section 35. Section 23-5-1027, MCA, is amended to read:

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

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

(2) Up to 15% of the gross revenue from the state lottery may be used by the director to pay the operating 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 state equalization aid to the ~~retirement--fund-obligations-of~~ elementary and high school districts ~~in-the-manner-provided--in--20-9-532.~~"

NEW SECTION. Section 36. Distribution of retirement equalization aid. The superintendent of public instruction shall administer the distribution of retirement equalization aid by:

(1) establishing each district's cost, as determined by law and as reported in each district's budget that has been adopted for the current school fiscal year and verified by the superintendent of public instruction, for contributions to retirement programs, social security, and unemployment insurance provided for the district's employees;

(2) recommending to the board of public education the annual entitlement of all districts to retirement equalization aid to enable the board to order the distribution of aid;

(3) distributing by state warrant the retirement equalization aid in the full amount of each district's cost, to the county treasurer of the county where the district is located, in accordance with the distribution ordered by the board of public education; and

(4) keeping a record of the complete data concerning money available for retirement equalization aid and the entitlements of the districts for retirement equalization aid.

NEW SECTION. Section 37. District retirement fund balance -- transfer. A district that has a balance remaining on [the effective date of this act] in the district retirement fund formerly established under 20-9-501 shall transfer the balance to the district general fund. The

amount anticipated to be transferred under this section must be included in the total money calculated under 20-9-141(1)(b) that is available for reduction of the property tax levy imposed in 1990 for the district's general fund.

NEW SECTION. Section 38. Repealer. Sections 20-9-352, 20-9-501, 20-9-531, and 20-9-532, MCA, are repealed.

NEW SECTION. Section 39. Surtax termination provision repealed. Section 12, Chapter 666, Laws of 1987, MCA, is repealed.

NEW SECTION. Section 40. 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 41. Codification instruction. [Section 36] is intended to be codified as an integral part of Title 20, chapter 9, part 3, and the provisions of Title 20 apply to [section 36].

NEW SECTION. Section 42. Effective date. [This act] is effective July 1, 1989.

NEW SECTION. Section 43. Applicability. (1) [Sections 3 through 5 and 39] apply retroactively, within the meaning of 1-2-109, to all taxable years beginning after December 31, 1988.

(2) [This act] applies to all tax revenue recorded on

LC 0827/01

- 1 or after July 1, 1989, without regard to the time the tax
- 2 accrued.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB771, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act generally revising laws related to funding public schools; providing additional funding for the school foundation program by imposing a limitation of \$5,000 on the federal income tax deduction that may be claimed by a single taxpayer and \$8,000 on the federal income tax deduction that may be claimed by married taxpayers filing a joint return, continuing the 10 percent surtax on personal income, imposing a 10 percent surtax on corporate income, and allocating the incremental revenue derived thereby to state equalization of the foundation program; increasing the total levy for county equalization of the foundation program from 45 mills to 100 mills; eliminating the school district permissive levies; eliminating the county school retirement levy and the school district retirement fund; including the district's cost for personnel retirement, social security, and unemployment insurance in the district general fund; reallocating lottery revenue from retirement equalization to state equalization aid; providing for foundation program support of the full cost to each district of personnel retirement, social security, and unemployment insurance; and providing an effective date and applicability dates.

ASSUMPTIONS:

1. Individual income tax collections are estimated to be \$239,124,000 in FY90 and \$254,428,000 in FY91, with 31.8% each year available for state equalization aid.(REAC)
2. Corporation tax receipts are estimated to be \$49,207,000 in FY90 and \$49,503,000 in FY91, with 22.9% each year available for state equalization aid.(REAC)
3. Coal severance tax receipts are estimated to be \$52,884,000 in FY90 and \$45,683,000 in FY91, with 3.8% each year available for state equalization aid.(REAC)
4. Interest earnings from the Education Coal Trust are estimated to be \$1,372,000 in FY90 and \$1,701,000 in FY91, with 67.5% available for state equalization aid.(REAC)
5. Royalties from the Federal Mineral Leasing Act are estimated to be \$22,686,000 in FY90 and \$23,494,000 in FY91. All receipts are available for state equalization aid.(REAC)
6. Revenue raised from the Lottery is estimated to be \$13,500,000 in FY90 and FY91, with 40% available for state equalization of retirement costs.(Department of Commerce)
7. The taxable value of all property is estimated to be \$1,899,969,000 in FY90 and \$1,869,831,000 in FY91. Revenue raised through the mandatory 45 mills for state equalization aid is estimated to be \$85,499,000 in FY90 and \$84,142,000 in FY91.(REAC)
8. The portion of miscellaneous county revenue allocated to state equalization due to the permissive levy is estimated to be \$1,371,000 in FY90 and \$1,567,000 in FY91.(REAC)
9. The portion of miscellaneous county revenue allocated to state equalization due to the mandatory levy estimated to be \$7,561,000 in FY90 and \$8,716,000 in FY91.(REAC)
10. Total receipts allocated to the foundation program from interest and income are estimated to be \$33,485,000 in FY90 and \$34,353,000 in FY91.(REAC)

Dave Lewis

DATE

DAVE LEWIS, BUDGET DIRECTOR
OFFICE OF BUDGET AND PROGRAM PLANNING

Fred Daily
FRED DAILY, PRIMARY SPONSOR

DATE 3-23-88Fiscal Note for HB771, as introduced**HB 771**

Fiscal Note Request, HB771 as introduced

Form BD-15

Page 2

11. The estimate of the general fund appropriation for special education is \$27,361,646 in both FY90 and FY91.(OBPP)
12. Teacher retirement costs are estimated to be \$55,000,000 in FY90 and \$56,000,000 in FY91.
13. The increase in revenue for the foundation program due to the 10% surtax on individual income tax and the limitation of \$5,000 and \$8,000 on the federal income tax deduction is estimated at \$51,648,000 in FY90 and \$56,510,000 in FY91.(Department of Revenue)
14. The increase in revenue for the foundation program due to the 10% surtax on corporation income tax is estimated to be \$4,921,000 in FY90 and \$4,950,000 in FY91.
15. The increase in revenue for the foundation program due to the 100 mill mandatory levy is estimated at \$104,497,900 in FY90 and \$102,841,100 in FY91.
16. The expenditures from the foundation program will decrease by 0.5% annually due to decreasing enrollments.

FISCAL IMPACT:

Foundation Program

Revenue Impact:

	FY90			FY91		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Taxable Valuation	\$1,899,969,000	\$1,899,969,000	\$ 0	\$1,869,831,000	\$1,869,831,000	\$ 0
<u>STATE REVENUE</u>						
Mandatory Levy	\$85,499,000	\$189,996,900	104,497,900	\$84,142,000	\$186,983,100	\$102,841,100
Income Tax	76,042,000	127,690,000	51,648,000	80,908,000	137,418,000	56,510,000
Corporation Tax	11,271,000	16,192,000	4,921,000	11,332,000	16,282,000	4,950,000
Coal Severance Tax	2,010,000	2,010,000	0	1,736,000	1,736,000	0
Interest & Income	33,485,000	33,485,000	0	34,353,000	34,353,000	0
US Oil & Gas Royalty	22,686,000	22,686,000	0	23,494,000	23,494,000	0
Education Trust Fund	926,000	926,000	0	1,148,000	1,148,000	0
Miscellaneous Rev.	0	0	0	0	0	0
County Levy Surplus	0	0	0	0	0	0
Special Ed. Approp	0	27,361,646	27,361,646	0	27,361,646	27,361,646
Lottery	0	5,400,000	5,400,000	0	5,400,000	5,400,000

HB 771

Fiscal Note Request, HB771 as introduced

Form BD-15

Page 3

COUNTY REVENUE	FY90			FY91		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Elementary Trans.	(\$3,717,000)	(\$3,717,000)	\$ 0	(\$3,717,000)	(\$3,717,000)	\$ 0
Cash Reappropriated	2,487,000	2,487,000	0	3,126,000	3,126,000	0
Forest Funds	1,465,000	2,077,581	612,581	1,465,000	2,077,581	612,581
Taylor Grazing	102,000	102,000	0	102,000	102,000	0
Misc. Rev.	7,561,000	7,810,114	249,114	8,716,000	9,008,418	292,418
High school Tuition	(838,000)	(838,000)	0	(838,000)	(838,000)	0
<u>DISTRICT REVENUE</u>						
Permissive Levy	\$15,756,000	\$ 0	(\$15,756,000)	\$15,507,000	\$ 0	(\$15,507,000)
Misc. Rev.	1,371,000	0	(1,371,000)	1,567,000	0	(1,567,000)
TOTAL	\$256,106,000	\$433,669,241	\$177,563,241	\$263,041,000	\$443,934,745	\$180,893,745
SCHEDULE INCREASE IN PERCENT	2%	0%		2%	0.00%	
BEGINNING FUND BAL	\$ 8,793,000	\$ 8,793,000	\$ 0	(\$ 19,023,000)	\$ 80,654,595	\$ 99,677,595
Total Revenue	\$256,106,000	\$433,669,241	\$177,563,241	\$263,041,000	\$443,934,745	\$180,893,745
Total Available	264,899,000	442,462,241	177,563,241	244,018,000	524,589,340	280,571,340
Foundation Pgm.	283,922,000	279,446,000	(4,476,000)	287,856,000	279,446,000	(8,410,000)
Retire. Equalization	0	55,000,000	55,000,000	0	56,000,000	56,000,000
Special Ed. Expend.	0	\$27,361,646	\$27,361,646	0	\$27,361,646	\$27,361,646
Total GF Expend.	\$283,922,000	\$361,807,646	\$77,885,646	\$287,856,000	\$362,807,646	\$74,951,646
Ending Fund Balance	(\$19,023,000)	\$80,654,595	\$99,677,595	(\$43,838,000)	\$161,781,684	\$205,619,694
<u>EFFECT ON SCHOOL FUNDING LEVIES:</u>						
<u>Transportation Fund</u>						
Transportation Levy	\$29,505,823	\$29,298,671	(\$207,152)	\$29,505,823	\$29,298,671	(\$207,152)
Forest Funds(Transp	494,177	701,329	207,152	494,177	701,329	207,152
<u>Retirement Fund</u>						
Local Levy	\$48,779,433	\$ 0	(\$48,779,433)	\$49,779,433	\$ 0	(\$49,779,433)
Forest Funds(Retire	820,567	0	(820,567)	820,567	0	(20,567)
Lottery(Retirement)	5,400,000	0	(5,400,000)	5,400,000	0	(5,400,000)
<u>Other Levies</u>						
Tuition	\$ 1,000,000	\$ 1,000,000	\$ 0	\$ 1,000,000	\$ 1,000,000	\$ 0
Adult Education	2,000,000	2,000,000	0	2,000,000	2,000,000	0
Insurance	17,400,000	17,400,000	0	19,900,000	19,900,000	0
<u>Basic Levy</u>						
Mandatory Levy	\$85,499,000	\$189,996,900	\$104,497,900	\$84,142,000	\$186,983,100	\$102,841,100
Permissive Levy	15,756,000	0	(15,756,000)	15,507,000	0	(15,507,000)
	\$206,655,000	\$240,396,900	\$ 33,741,900	\$208,549,000	\$239,883,100	\$ 31,334,100

HB 771