

SENATE BILL 419

Introduced by Farrell

2/14	Introduced
2/14	Referred to Education & Cultural Resources
2/16	Fiscal Note Requested
3/03	Fiscal Note Received
3/04	Fiscal Note Printed Died in Committee

1 *Amended* BILL NO. 419
 2 INTRODUCED BY Tanell
 3 BY REQUEST OF THE GOVERNOR
 4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE
 6 PUBLIC SCHOOL FUNDING LAWS AND RELATED TAX LAWS TO INCREASE
 7 STATE EQUALIZATION OF PUBLIC SCHOOL FUNDING; TO ELIMINATE
 8 THE COUNTY RETIREMENT LEVY; TO INCLUDE SCHOOL PERSONNEL
 9 RETIREMENT, UNEMPLOYMENT INSURANCE, AND SOCIAL SECURITY
 10 OBLIGATIONS IN THE DISTRICT GENERAL FUND BUDGET; TO
 11 REALLOCATE LOTTERY REVENUE FROM RETIREMENT EQUALIZATION TO
 12 STATE EQUALIZATION AID; TO ELIMINATE THE DISTRICT PERMISSIVE
 13 LEVY; TO REVISE THE FOUNDATION PROGRAM SCHEDULES TO REFLECT
 14 INCLUSION OF RETIREMENT COSTS; TO LIMIT THE AMOUNT THAT MAY
 15 BE RAISED BY THE ADDITIONAL VOTED LEVY; TO REVISE THE METHOD
 16 OF CALCULATING AVERAGE NUMBER BELONGING (ANB); TO INCREASE
 17 THE BASIC ELEMENTARY LEVY FOR COUNTY EQUALIZATION TO 47
 18 MILLS AND THE HIGH SCHOOL LEVY TO 29 MILLS; TO EXCLUDE THESE
 19 LEVIES FROM THE PROPERTY TAX LIMITATION OF INITIATIVE
 20 MEASURE NO. 105; TO PROVIDE A REDUCTION IN THE RATE OF THE
 21 COAL SEVERANCE TAX, OIL SEVERANCE TAX, AND NATURAL GAS
 22 SEVERANCE TAX; AMENDING SECTIONS 15-10-402, 15-35-103,
 23 15-36-101, 15-36-121, 17-3-213, 19-4-605, 20-3-106,
 24 20-3-324, 20-5-305, 20-5-312, 20-6-506, 20-6-603, 20-7-414,
 25 20-7-422, 20-7-431, 20-9-141, 20-9-201, 20-9-212, 20-9-301,

1 20-9-303, 20-9-311, 20-9-312, 20-9-315, 20-9-318 THROUGH
 2 20-9-322, 20-9-331, 20-9-333, 20-9-343, 20-9-353, AND
 3 23-5-1027, MCA; REPEALING SECTIONS 20-9-316, 20-9-317,
 4 20-9-352, 20-9-501, 20-9-531, AND 20-9-532, MCA; AND
 5 PROVIDING AN IMMEDIATE EFFECTIVE DATE AND APPLICABILITY
 6 DATES."
 7

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

9 **Section 1.** Section 15-10-402, MCA, is amended to read:

10 **"15-10-402. Property tax limited to 1986 levels.** (1)
 11 Except as provided in subsections (2) and (3), the amount of
 12 taxes levied on property described in 15-6-133, 15-6-134,
 13 15-6-136, 15-6-139, 15-6-142, and 15-6-144 may not, for any
 14 taxing jurisdiction, exceed the amount levied for taxable
 15 year 1986.

16 (2) The limitation contained in subsection (1) does
 17 not apply to levies for rural improvement districts, Title
 18 7, chapter 12, part 21; special improvement districts, Title
 19 7, chapter 12, part 41; the elementary and high school
 20 levies established in 20-9-331 and 20-9-333; or bonded
 21 indebtedness.

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

25 (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 2. Section 15-35-103, MCA, is amended to read:

"15-35-103. Severance tax -- rates imposed -- exemptions. (1) Except as provided in subsection (2), a severance tax is imposed on each ton of coal produced in the state in accordance with the following schedule:

(a) Fiscal Years 1988 and 1989:

Heating quality	Surface	Underground
(Btu per pound	Mining	Mining
of coal):		
Under 7,000	12 cents or	5 cents or
	20% of value	3% of value
7,000-8,000	22 cents or	8 cents or
	30% of value	4% of value
8,000-9,000	34 cents or	10 cents or
	30% of value	4% of value
Over 9,000	40 cents or	12 cents or
	30% of value	4% of value

(b) Fiscal Year 1990:

Heating quality	Surface	Underground
(Btu per pound	Mining	Mining
of coal):		
Under 7,000	12 cents or	5 cents or
	13% <u>12.4%</u> of value	3% <u>2.4%</u> of value
7,000-8,000	22 cents or	8 cents or
	25% <u>24.4%</u> of value	4% <u>3.4%</u> of value
8,000-9,000	34 cents or	10 cents or
	25% <u>24.4%</u> of value	4% <u>3.4%</u> of value
Over 9,000	40 cents or	12 cents or
	25% <u>24.4%</u> of value	4% <u>3.4%</u> of value

(c) Fiscal Year 1991 and Thereafter:

Heating quality	Surface	Underground
(Btu per pound	Mining	Mining
of coal):		
Under 7,000	12 cents or	5 cents or
	13% <u>12.4%</u> of value	3% <u>2.4%</u> of value
7,000-8,000	22 cents or	8 cents or
	20% <u>19.4%</u> of value	4% <u>3.4%</u> of value
8,000-9,000	34 cents or	10 cents or
	20% <u>19.4%</u> of value	4% <u>3.4%</u> of value
Over 9,000	40 cents or	12 cents or
	20% <u>19.4%</u> of value	4% <u>3.4%</u> of value

(2) (a) (i) On or before October 1, 1988, the department shall determine the total number of tons of coal

1 produced in Montana and sold from July 1, 1987, through June
2 30, 1988. If the department finds that these sales exceed
3 32.2 million tons (which is the average total yearly coal
4 sales for calendar years 1983, 1984, 1985, and 1986), the
5 rate of the coal severance tax is as set forth in
6 subsections (2)(b) through ~~(2)(d)~~ (2)(e).

7 (ii) If any facility that burned Montana coal at any
8 time from July 1, 1987, to June 30, 1988, does not operate
9 during a portion of that period due to mechanical failure or
10 catastrophic act of God, the department shall determine the
11 average monthly sales of Montana coal to the facility during
12 its operation and multiply this figure by 12. The department
13 shall include the product of this calculation in making its
14 determination of coal produced in Montana and sold from July
15 1, 1987, through June 30, 1988.

16 (b) The severance tax imposed pursuant to subsection
17 (2)(a) on each ton of coal produced in the state from July
18 1, 1988, through June 30, ~~1990~~ 1989, is:

19 Heating quality	Surface	Underground
20 (Btu per pound	Mining	Mining
21 of coal):		
22 Under 7,000	12 cents or	5 cents or
23	17% of value	3% of value
24 7,000-8,000	22 cents or	8 cents or
25	25% of value	4% of value

1 8,000-9,000	34 cents or	10 cents or
2	25% of value	4% of value
3 Over 9,000	40 cents or	12 cents or
4	25% of value	4% of value

5 (c) The severance tax imposed pursuant to subsection
6 (2)(a) on each ton of coal produced in the state from July
7 1, 1989, through June 30, 1990, is:

8 Heating quality	Surface	Underground
9 (Btu per pound	Mining	Mining
10 of coal):		
11 Under 7,000	12 cents or	5 cents or
12	16.4% of value	2.4% of value
13 7,000-8,000	22 cents or	8 cents or
14	24.4% of value	3.4% of value
15 8,000-9,000	34 cents or	10 cents or
16	24.4% of value	3.4% of value
17 Over 9,000	40 cents or	12 cents or
18	24.4% of value	3.4% of value

19 ~~(c)~~(d) The severance tax imposed pursuant to
20 subsection (2)(a) on each ton of coal produced in the state
21 from July 1, 1990, through June 30, 1991, is:

22 Heating quality	Surface	Underground
23 (Btu per pound	Mining	Mining
24 of coal):		
25 Under 7,000	12 cents or	5 cents or

1		13% <u>12.4%</u> of value	3% <u>2.4%</u> of value
2	7,000-8,000	22 cents or	8 cents or
3		20% <u>19.4%</u> of value	4% <u>3.4%</u> of value
4	8,000-9,000	34 cents or	10 cents or
5		20% <u>19.4%</u> of value	4% <u>3.4%</u> of value
6	Over 9,000	40 cents or	12 cents or
7		20% <u>19.4%</u> of value	4% <u>3.4%</u> of value

8 ~~(d)~~(e) The severance tax imposed pursuant to
9 subsection (2)(a) on each ton of coal produced in the state
10 after June 30, 1991, is:

11	Heating quality	Surface	Underground
12	{Btu per pound	Mining	Mining
13	of coal):		
14	Under 7,000	12 cents or	5 cents or
15		13% <u>12.4%</u> of value	3% <u>2.4%</u> of value
16	7,000-8,000	22 cents or	8 cents or
17		15% <u>14.4%</u> of value	4% <u>3.4%</u> of value
18	8,000-9,000	34 cents or	10 cents or
19		15% <u>14.4%</u> of value	4% <u>3.4%</u> of value
20	Over 9,000	40 cents or	12 cents or
21		15% <u>14.4%</u> of value	4% <u>3.4%</u> of value

22 (3) "Value" means the contract sales price.

23 (4) The formula which yields the greater amount of tax
24 in a particular case shall be used at each point on these
25 schedules.

1 (5) A person is not liable for any severance tax upon
2 50,000 tons of the coal he produces in a calendar year,
3 except that if he produces more than 50,000 tons of coal in
4 a calendar year, he will be liable for severance tax upon
5 all coal produced in excess of the first 20,000 tons.

6 (6) A new coal production incentive tax credit may be
7 claimed on certain coal as provided in 15-35-202."

8 **Section 3.** Section 15-36-101, MCA, is amended to read:

9 "15-36-101. Definitions and rate of tax. (1) Every
10 person engaging in or carrying on the business of producing
11 petroleum, other mineral or crude oil, or natural gas within
12 this state or engaging in or carrying on the business of
13 owning, controlling, managing, leasing, or operating within
14 this state any well or wells from which any merchantable or
15 marketable petroleum, other mineral or crude oil, or natural
16 gas is extracted or produced sufficient in quantity to
17 justify the marketing of the same must, except as provided
18 in 15-36-121, each year when engaged in or carrying on any
19 such business in this state pay to the department of revenue
20 for the exclusive use and benefit of the state of Montana a
21 severance tax computed at the following rates:

22 (a) except as provided in subsections (1)(b), (1)(c),
23 and (1)(d), 5% of the total gross value of all the petroleum
24 and other mineral or crude oil produced by ~~such~~ the person
25 from each lease or unit on or after April 1, 1981, and on or

1 before March 31, 1983; 6% of the total gross value of all
 2 the petroleum and other mineral or crude oil produced by
 3 such the person from each lease or unit on or after April 1,
 4 1983, and on or before March 31, 1985; and 5% of the total
 5 gross value of all the petroleum and other mineral or crude
 6 oil produced by such the person from each lease or unit
 7 thereafter on or after April 1, 1985, and on or before March
 8 31, 1989; and 4.7% of the total gross value of all the
 9 petroleum and other mineral or crude oil produced by the
 10 person from each lease or unit on or after April 1, 1989;
 11 but in determining the amount of such the tax, there shall
 12 be excluded from consideration all petroleum or other crude
 13 or mineral oil produced and used by such the person during
 14 such the year in connection with his operations in
 15 prospecting for, developing, and producing such petroleum or
 16 crude or mineral oil;

17 (b) ~~2-65%~~ 2.2% of the total gross value of natural gas
 18 produced from each lease or unit; but in determining the
 19 amount of such the tax, there shall be excluded from
 20 consideration all gas produced and used by such the person
 21 during such the year in connection with his operations in
 22 prospecting for, developing, and producing such gas or
 23 petroleum or crude or mineral oil; and there shall also be
 24 excluded from consideration all gas, including carbon
 25 dioxide gas, recycled or reinjected into the ground;

1 (c) ~~2-5%~~ 2.2% of the total gross value of the
 2 incremental petroleum and other mineral or crude oil
 3 produced from each lease or unit in a tertiary recovery
 4 project after July 1, 1985. For purposes of this section, a
 5 tertiary recovery project must meet the following
 6 requirements:

7 (i) the project must be approved as a tertiary
 8 recovery project by the department of revenue. Such The
 9 approval may be extended only after notice and hearing in
 10 accordance with Title 2, chapter 4.

11 (ii) the property to be affected by the project must be
 12 adequately delineated according to the specifications
 13 required by the department; and

14 (iii) the project must involve the application of one
 15 or more tertiary recovery methods that can reasonably be
 16 expected to result in an increase, determined by the
 17 department to be significant in light of all the facts and
 18 circumstances, in the amount of crude oil which may
 19 potentially be recovered. For the purpose of this section,
 20 tertiary recovery methods include but are not limited to:

- 21 (A) miscible fluid displacement;
- 22 (B) steam drive injection;
- 23 (C) micellar/emulsion flooding;
- 24 (D) in situ combustion;
- 25 (E) polymer augmented water flooding;

(F) cyclic steam injection;

(G) alkaline or caustic flooding;

(H) carbon dioxide water flooding;

(I) immiscible carbon dioxide displacement;

(J) any other method approved by the department as a tertiary recovery method;

(d) 3% of the total gross value of all the petroleum and other mineral or crude oil, after the first 5 barrels, produced by a stripper well, as defined in 15-36-121, that produces more than 5 barrels a day during the period beginning April 1, 1987, and ending March 31, 1989.

(2) For purposes of this section, the term "incremental petroleum and other mineral or crude oil" means the amount of oil, as determined by the department of revenue, to be in excess of what would have been produced by primary and secondary methods. The determination arrived at by the department must be made only after notice and hearing and shall specify through the life of a tertiary project, calendar year by calendar year, the combined amount of primary and secondary production that must be used to establish the incremental production from each lease or unit in a tertiary recovery project.

(3) ~~Nothing--in-this~~ This part may not be construed as requiring laborers or employees hired or employed by any person to drill any oil well or to work in or about any oil

well or prospect or explore for or do any work for the purpose of developing any petroleum or other mineral or crude oil to pay such the severance tax; ~~nor--may--any.~~ Any work done or the drilling of any well or wells for the purpose of prospecting or exploring for petroleum or other mineral or crude oils or for the purpose of developing same petroleum or other mineral or crude oils may not be considered to be the engaging in or carrying on of ~~any-such~~ the business. If, in the doing of any such work, in the drilling of any oil well, or in ~~such~~ prospecting, exploring, or development work, any merchantable or marketable petroleum or other mineral or crude oil in excess of the quantity required by such the person for carrying on such the operation is produced sufficient in quantity to justify the marketing of the ~~same--such petroleum or other mineral or crude oil,~~ the work, drilling, prospecting, exploring, or development work is considered to be the engaging in and carrying on of such the business within this state within the meaning of this section.

(4) Every person required to pay such the tax hereunder under this section shall pay the same tax in full for his own account and for the account of each of the other owner or owners of the gross proceeds in value or in kind of all the marketable petroleum or other mineral or crude oil or natural gas extracted and produced, including owner or

1 owners of working interest, royalty interest, overriding
 2 royalty interest, carried working interest, net proceeds
 3 interest, production payments, and all other interest or
 4 interests owned or carved out of the total gross proceeds in
 5 value or in kind of such the extracted marketable petroleum
 6 or other mineral or crude oil or natural gas, except that
 7 any of the ~~aforesaid~~ interests that are owned by the
 8 federal, state, county, or municipal governments shall--be
 9 are exempt from taxation under this chapter. Unless
 10 otherwise provided in a contract or lease, the pro rata
 11 share of any royalty owner or owners will be deducted from
 12 any settlements under ~~said~~ the lease or leases or division
 13 of proceeds orders or other contracts. (Subsection (1)(d)
 14 terminates on occurrence of contingency--sec. 7, Ch. 656,
 15 L. 1987.)"

16 **Section 4.** Section 15-36-121, MCA, is amended to read:

17 "15-36-121. **Exemption from severance tax.** (1) It is
 18 the public policy of this state to promote a sufficient
 19 supply of natural gas to provide for the residents of this
 20 state, to lessen Montana's dependence on imported natural
 21 gas, and to encourage the exploration for and development
 22 and production of natural gas, petroleum, and other mineral
 23 and crude oil within the state.

24 (2) All new production, as defined in 15-23-601, from
 25 a well during the 24 months immediately following the date

1 of notification to the department of revenue that an oil
 2 well is flowing or being pumped or that a gas well has been
 3 connected to a gathering or distribution system is exempt
 4 from all of the severance tax imposed by 15-36-101, provided
 5 the notification was made after March 31, 1987, and before
 6 July 1, 1991.

7 (3) All the natural gas produced from any well that
 8 has produced 60,000 cubic feet or less of natural gas a day
 9 for the calendar year prior to the current year shall be
 10 taxed as provided in this section. Production must be
 11 determined by dividing the amount of production from a lease
 12 or unitized area for the year prior to the current calendar
 13 year by the number of producing wells in the lease or
 14 unitized area and by dividing the resulting quotient by 365.
 15 The first 30,000 cubic feet of average daily production per
 16 well is exempt from all of the severance tax imposed by
 17 15-36-101. Everything over 30,000 cubic feet of gas produced
 18 is taxed at ~~1.59%~~ 1.32%.

19 (4) The first 5 barrels of average daily production
 20 from a stripper well are exempt from all of the severance
 21 tax imposed by 15-36-101.

22 (5) For the purposes of this section, "stripper well"
 23 means a well that produces less than 10 barrels per day,
 24 determined by dividing the amount of production from a lease
 25 or unitized area for the year prior to the current calendar

1 year by the number of producing wells in the lease or
2 unitized area, and by dividing the resulting quotient by
3 365.

4 (6) Notwithstanding the provisions of subsections (2)
5 through (4), all reporting requirements under the severance
6 tax remain in effect. (Subsections (2) and (4) terminate on
7 occurrence of contingency--sec. 7, Ch. 656, L. 1987.)"

8 **Section 5.** Section 17-3-213, MCA, is amended to read:

9 "17-3-213. Allocation to general road fund and
10 countywide school levies. (1) The forest reserve funds so
11 apportioned to each county ~~shall~~ must be apportioned by the
12 county treasurer in each county ~~between-the-several-funds~~ as
13 follows:

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

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

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

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

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

24 ~~{iv}-the--elementary--teacher--retirement--and--social~~
25 ~~security-fund-provided-for-in-20-9-501;~~

1 ~~{v}-the--high--school--teacher--retirement--and--social~~
2 ~~security-fund-provided-for-in-20-9-501.~~

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

13 (3) In counties wherein in which special road
14 districts have been created according to law, the board of
15 county commissioners shall distribute a proportionate share
16 of the 66 2/3% of the total amount received for the general
17 road fund to ~~such the~~ special road ~~district-or~~ districts
18 within the county based upon the percentage that the total
19 area of ~~such the~~ road district bears to the total area of
20 the entire county."

21 **Section 6.** Section 19-4-605, MCA, is amended to read:

22 "19-4-605. Pension accumulation fund -- employer's
23 contribution. The pension accumulation fund is the fund in
24 which the reserves for payment of pensions and annuities
25 ~~shall~~ must be accumulated and from which pensions,

1 annuities, and benefits in lieu thereof ~~shall~~ of pensions
 2 and annuities must be paid to or on account of beneficiaries
 3 credited with prior service. Contributions to and payments
 4 from the pension accumulation fund ~~shall~~ must be made as
 5 follows:

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

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

13 (3) If the employer is the superintendent of public
 14 instruction, a public institution of the state of Montana, a
 15 unit of the Montana university system, or the Montana state
 16 school for the deaf and blind, the legislature shall
 17 appropriate to the employer an adequate amount to allow the
 18 payment of the employer's contribution.

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

23 (5) All interest and other earnings realized on the
 24 ~~moneys~~ money of the retirement system ~~shall~~ must be credited
 25 to the pension accumulation fund, and the amount required to

1 allow regular interest on the annuity savings fund ~~shall~~
 2 must be transferred to that fund from the pension
 3 accumulation fund.

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

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

10 **Section 7.** Section 20-3-106, MCA, is amended to read:

11 "20-3-106. Supervision of schools -- powers and
 12 duties. The superintendent of public instruction has the
 13 general supervision of the public schools and districts of
 14 the state, and he shall perform the following duties or acts
 15 in implementing and enforcing the provisions of this title:

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

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

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

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

25 (5) approve or disapprove the orders of a high school

1 boundary commission in accordance with the provisions of
2 20-6-311;

3 (6) approve or disapprove the opening or reopening of
4 a school in accordance with the provisions of 20-6-502,
5 20-6-503, 20-6-504, or 20-6-505;

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

8 (8) generally supervise the school budgeting
9 procedures prescribed by law in accordance with the
10 provisions of 20-9-102 and prescribe the school budget
11 format in accordance with the provisions of 20-9-103 and
12 20-9-506;

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

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

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

23 (12) prescribe and furnish the annual report forms to
24 enable the districts to report to the county superintendent
25 in accordance with the provisions of 20-9-213(5) and the

1 annual report forms to enable the county superintendents to
2 report to the superintendent of public instruction in
3 accordance with the provisions of 20-3-209;

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

7 (14) distribute state equalization aid in support of
8 the foundation program in accordance with the provisions of
9 20-9-342, 20-9-346, and 20-9-347;

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

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

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

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

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

23 (20) prescribe the form and contents of and approve or
24 disapprove interstate contracts in accordance with the
25 provisions of 20-9-705;

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

4 (22) recommend standards of accreditation for all
5 schools to the board of public education and evaluate
6 compliance with such the standards and recommend
7 accreditation status of every school to the board of public
8 education in accordance with the provisions of 20-7-101 and
9 20-7-102;

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

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

16 (25) license textbook dealers and initiate prosecution
17 of textbook dealers violating the law in accordance with the
18 provisions of the textbooks part of this title;

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

23 (27) supervise and coordinate the conduct of special
24 education in the state in accordance with the provisions of
25 20-7-403;

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

3 (29) administer the school food services program in
4 accordance with the provisions of 20-10-201, 20-10-202, and
5 20-10-203;

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

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

11 (32) provide schools with information and technical
12 assistance for compliance with the student assessment rules
13 provided for in 20-2-121 and collect and summarize the
14 results of such the student assessment for the board of
15 public education and the legislature; and

16 ~~{33}-administer-the-distribution--of--state--retirement~~
17 ~~equalization-aid-in-accordance-with-20-9-532;-and~~

18 ~~{34}{33}~~ perform any other duty prescribed from time to
19 time by this title, any other act of the legislature, or the
20 policies of the board of public education."

21 **Section 8.** Section 20-3-324, MCA, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (13) when applicable, establish, financially
 21 administer, and budget for the tuition fund, ~~retirement~~
 22 ~~fund,~~ building reserve fund, adult education fund,
 23 nonoperating fund, school food services fund, miscellaneous
 24 federal programs fund, building fund, lease or rental
 25 agreement fund, traffic education fund, and interlocal

1 cooperative agreement fund in accordance with the provisions
2 of the other school funds parts of this title;

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

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

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

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

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

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

25 (20) retain, when deemed considered advisable, a

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

6 (21) for each member of the trustees, visit each school
7 of the district not less than once each school fiscal year
8 to examine its management, conditions, and needs, except
9 trustees from a first-class school district may share the
10 responsibility for visiting each school in the district;

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

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

19 **Section 9.** Section 20-5-305, MCA, is amended to read:

20 "20-5-305. Elementary tuition rates. (1) Whenever a
21 pupil of an elementary district has been granted approval to
22 attend a school outside of the district in which he resides,
23 under the provisions of 20-5-301 or 20-5-302, such the
24 district of residence shall pay tuition to the elementary
25 district where the pupil attends school. Except as provided

1 in subsection (2), the basis of the rate of tuition shall be
2 determined by the attended district. The rate of tuition
3 ~~shall~~ must be determined by:

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

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

10 (c) subtracting the total of the per-ANB amount
11 allowed by ~~20-9-316~~ 20-9-318 through 20-9-321 that
12 represents the foundation program as prescribed by 20-9-303
13 ~~plus the per-ANB amount determined by dividing the state~~
14 ~~financing of the district permissive levy by the ANB of the~~
15 ~~district;~~ from the amount determined in subsection (1)(b).

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

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

23 "20-5-312. Reporting, budgeting, and payment for high
24 school tuition. (1) Except as provided in subsection (2), at
25 the close of the school term of each school fiscal year, the

1 trustees of each high school district shall determine the
2 rate of tuition for the current school fiscal year by:

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

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

10 (c) subtracting from the amount determined in
11 subsection (1)(b) the total of the per-ANB amount allowed by
12 ~~20-9-316~~ 20-9-318 through 20-9-321 that represents the
13 foundation program as prescribed by 20-9-303 ~~plus the~~
14 ~~per-ANB amount determined by dividing the state financing of~~
15 ~~the district permissive levy by the ANB of the district;~~
16 ~~from the amount determined in subsection (1)(b) above.~~

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

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

25 (a) the names, addresses, and resident districts of

1 the pupils attending the schools of the district under an
2 approved tuition agreement;

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

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

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

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

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

24 (6) The total amount of the high school tuition, with
25 consideration of any tuition waivers, for pupils attending a

1 high school outside the county of residence ~~shall~~ must be
2 financed by the county basic special tax for high schools as
3 provided in 20-9-334. In December, the county superintendent
4 shall cause the payment by county warrant of at least
5 one-half of the high school tuition obligations established
6 under this section out of the first moneys proceeds realized
7 from the county basic special tax for high schools. The
8 remaining obligations must be paid by June 15 of the school
9 fiscal year. The payments ~~shall~~ must be made to the county
10 treasurer of the county where each high school entitled to
11 tuition is located. The county treasurer shall credit ~~such~~
12 the tuition receipts to the general fund of the applicable
13 high school district, and the tuition receipts ~~shall~~ must be
14 used in accordance with the provisions of 20-9-141.

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

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

Section 11. 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 12. 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

1 approval unless:

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

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

8 (c) the cost of constructing, purchasing, or acquiring
9 the site or building is financed without exceeding the
10 ~~maximum-general-fund-budget-without-a-vote~~ foundation
11 program amount prescribed in ~~20-9-316~~ 20-9-318 through
12 20-9-321 and, in the case of a site purchase, the site has
13 been approved under the provisions of 20-6-621; or

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

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

1 action."

2 **Section 13.** Section 20-7-414, MCA, is amended to read:

3 "20-7-414. Determination of children in need and type
4 of special education needed -- approval of classes and
5 programs by superintendent. (1) The determination of the
6 children requiring special education and the type of special
7 education needed by these children ~~shall--be~~ is the
8 responsibility of the trustees, and ~~such~~ the determination
9 ~~shall~~ must be made in compliance with the procedures
10 established in the rules of the superintendent of public
11 instruction. Whenever the trustees of a school district or
12 the governing authority of an institution learn of a
13 handicapped child in their jurisdiction who is in need of
14 special education, they shall determine whether the child is
15 in need of a surrogate parent by determining whether the
16 parents or guardian is unknown or unavailable or if the
17 child is a ward of the state. The determination must be made
18 within 10 days of the date on which the trustees of a school
19 district or the governing authority of an institution
20 learned of the presence of the child in the district. If the
21 child is in need of a surrogate parent, the trustees of a
22 school district or the governing authority of an institution
23 ~~must~~ shall nominate a surrogate parent for the child as
24 provided in 20-7-461.

25 (2) Whenever the trustees of any district intend to

1 establish a special education class or program, they shall
 2 apply for approval and funding of the class or program by
 3 the superintendent of public instruction. The superintendent
 4 of public instruction shall approve or disapprove the
 5 application for the special education class or program on
 6 the basis of its compliance with the laws of the state of
 7 Montana, the special education policies adopted by the board
 8 of public education, and the rules of the superintendent of
 9 public instruction. No special education class may be
 10 operated by the trustees without the approval of the
 11 superintendent of public instruction. Each special education
 12 class or program must be approved annually to be funded as
 13 part of the maximum-budget-without-a-vote foundation program
 14 for special education."

15 **Section 14.** Section 20-7-422, MCA, is amended to read:

16 "20-7-422. Out-of-state tuition for special education
 17 children. (1) If the trustees of any district recommend to
 18 the superintendent of public instruction the attendance of
 19 a child in need of special education in a special education
 20 program offered outside of the state of Montana, such the
 21 arrangements shall are not be subject to the out-of-state
 22 attendance provisions of the laws governing the attendance
 23 of pupils in schools outside the state of Montana.

24 (2) Whenever the attendance of a child at an
 25 out-of-state special education program is approved by the

1 superintendent of public instruction, ~~it--shall--be--the~~
 2 ~~responsibility--of~~ the superintendent of public instruction
 3 shall, in cooperation with the department of family
 4 services, to negotiate the program for the child and the
 5 amount and manner of payment of tuition. The amount of
 6 tuition ~~shall~~ must be included as a contracted service in
 7 20-7-431(1)(a)(iii)(A) in the maximum-budget-without-a-vote
 8 foundation program amount for special education."

9 **Section 15.** Section 20-7-431, MCA, is amended to read:

10 "20-7-431. Allowable cost schedule for special
 11 programs -- superintendent to make rules -- annual
 12 accounting. (1) For the purpose of determining the
 13 maximum-budget-without-a-vote foundation program for special
 14 education as defined in 20-9-321, the following schedule of
 15 allowable costs ~~shall~~ must be followed by the school
 16 district in preparation of its special education budget for
 17 state aid request purposes and by the superintendent of
 18 public instruction in ~~his~~ the review and approval of the
 19 budget (for the purposes of determining the ~~amount-of-the~~
 20 maximum-budget-without-a-vote foundation program for special
 21 education for the district, and as used in this schedule,
 22 "full-time special pupil" and "regular ANB" are to be
 23 determined in accordance with 20-9-311 and 20-9-313):

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

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

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

11 (iii) other expenses:

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

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

24 (b) supportive services, including:

25 (i) salaries and benefits of professional supportive

1 personnel--the entire cost if employed full time in the
 2 special program; if such personnel are shared between
 3 special and regular programs--a portion of the entire cost
 4 corresponding to the entire working time which that each
 5 such person devotes to the special program. Professional
 6 supportive personnel may include counselors, social workers,
 7 psychologists, psychometrists, physicians, nurses, and
 8 physical and occupational therapists.

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

16 (c) equipment:

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

18 (ii) special equipment for district-owned school buses
 19 necessary to accommodate special students--the actual total
 20 cost;

21 (iii) special equipment for school buses contracted to
 22 transport special students--that portion of the contract
 23 price attributable to the cost of special equipment or
 24 personnel required to accommodate special students--the
 25 actual special cost;

1 (iv) repair and maintenance of equipment--the actual
2 total cost;

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

7 (2) The superintendent of public instruction shall,
8 prior--to--September--1,--1977,--revise--the adopt rules in
9 accordance with the policies of the board of public
10 education for:

11 (a) keeping necessary records for supportive and
12 administrative personnel and any personnel shared between
13 special and regular programs;

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

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

22 (3) An annual accounting of all expenditures of school
23 district general fund moneys money for special education
24 shall must be made by the district trustees on forms
25 furnished by the superintendent of public instruction. The

1 superintendent of public instruction shall make adopt rules
2 for such the accounting.

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

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

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

21 (b) If the total allowable cost of the special
22 education budgets exceeds legislative appropriations
23 available for special education, each district shall receive
24 a pro rata share of the available appropriations based upon
25 prioritized budget items as established by the

1 superintendent of public instruction. The amount of the
2 approved budgets in excess of the available appropriations
3 may not be reimbursed under the
4 ~~maximum-budget-without-a-vote~~ foundation program for special
5 education and is the responsibility of the school district."

6 **Section 16.** Section 20-9-141, MCA, is amended to read:

7 "20-9-141. Computation of general fund net levy
8 requirement by county superintendent. (1) The county
9 superintendent shall compute the levy requirement for each
10 district's general fund on the basis of the following
11 procedure:

12 (a) Determine the ~~total--of-the~~ funding required for
13 the district's final general fund budget less the amount
14 established by the schedules in ~~20-9-316~~ 20-9-318 through
15 20-9-321 by totaling:

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

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

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

25 (b) Determine the ~~total-of-the-moneys~~ money available

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

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

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

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

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

14 (v) anticipated revenue from ~~vehicle--property~~ taxes
15 and fees imposed under 23-2-517, 23-2-803, 61-3-504(2), and
16 61-3-537, and 67-3-204;

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

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

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

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

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

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

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

15 "20-9-201. Definitions and application. (1) As used in
16 this title, unless the context clearly indicates otherwise,
17 "fund" means a separate detailed account of receipts and
18 expenditures for a specific purpose as authorized by law.
19 Funds are classified as follows:

20 (a) A "budgeted fund" means any fund for which a
21 budget must be adopted in order to expend any money from
22 ~~such the~~ the fund. The general fund, transportation fund, bus
23 depreciation reserve fund, elementary tuition fund,
24 ~~retirement-fund~~, debt service fund, leased facilities fund,
25 building reserve fund, adult education fund, nonoperating

1 fund, ~~vocational-technical-center-fund~~, and any other funds
2 ~~so~~ designated by the legislature ~~shall--be~~ are budgeted
3 funds.

4 (b) A "nonbudgeted fund" means any fund for which a
5 budget is not required in order to expend any money on
6 deposit in ~~such the~~ the fund. The school food services fund,
7 miscellaneous federal programs fund, building fund, lease or
8 rental agreement fund, traffic education fund, interlocal
9 cooperative fund, and any other funds ~~so~~ designated by the
10 legislature ~~shall--be~~ are nonbudgeted funds.

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

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

21 "20-9-212. Duties of county treasurer. The county
22 treasurer of each county shall:

23 (1) receive and hold all school money subject to
24 apportionment and keep a separate accounting of its
25 apportionment to the ~~several~~ districts which are entitled to

1 a portion of ~~such~~ the money according to the apportionments
 2 ordered by the county superintendent. A separate accounting
 3 ~~shall~~ must be maintained for each county fund supported by a
 4 countywide levy for a specific, authorized purpose,
 5 including:

6 (a) the basic county tax in support of the elementary
 7 foundation programs;

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

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

12 ~~{d}--the-county-tax--in--support--of--the--high--school~~
 13 ~~obligations--to--the--retirement--systems--of--the--state-of~~
 14 ~~Montana;~~

15 ~~{e}--any-additional--county--tax--required--by--law--to~~
 16 ~~provide---for---deficiency---financing---of--the--elementary~~
 17 ~~foundation-programs;~~

18 ~~{f}--any-additional--county--tax--required--by--law--to~~
 19 ~~provide---for---deficiency--financing--of--the--high--school~~
 20 ~~foundation-programs; and~~

21 ~~{g}~~ (d) any other county tax for schools, including the
 22 community colleges, which may be authorized by law and
 23 levied by the county commissioners;

24 (2) whenever requested, notify the county
 25 superintendent and the superintendent of public instruction

1 of the amount of county school money on deposit in each of
 2 the funds enumerated in subsection (1) ~~of this section~~ and
 3 the amount of any other school money subject to
 4 apportionment and apportion ~~such~~ the county and other school
 5 money to the districts in accordance with the apportionment
 6 ordered by the county superintendent;

7 (3) keep a separate accounting of the expenditures for
 8 each budgeted fund included in the final budget of each
 9 district;

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

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

17 (6) receive all revenue collected by and for each
 18 district and deposit these receipts in the fund designated
 19 by law or by the district if no fund is designated by law.
 20 Interest and penalties on delinquent school taxes ~~shall~~ must
 21 be credited to the same fund and district for which the
 22 original taxes were levied.

23 (7) send all ~~revenues~~ revenue received for a joint
 24 district, part of which is situated in his county, to the
 25 county treasurer designated as the custodian of ~~such~~

1 revenues the revenue, no later than December 15 of each year
2 and every 3 months thereafter until the end of the school
3 fiscal year;

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

8 (9) register district warrants drawn on a budgeted
9 fund in accordance with 7-6-2604 when there is insufficient
10 money available ~~in-the-sum-of-money~~ in all funds of the
11 district to make payment of such the warrant. Redemption of
12 registered warrants ~~shall~~ must be made in accordance with
13 7-6-2116, 7-6-2605, and 7-6-2606.

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

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

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

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

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

10 (2) The principal budgetary vehicle for achieving the
11 minimum financing as established by the foundation program
12 ~~shall-be~~ is the general fund budget of the district. The
13 purpose of the general fund ~~shall-be~~ budget is to finance
14 those general maintenance and operational costs of a
15 district not financed by other funds established for special
16 purposes in this title, including employee retirement
17 benefits.

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

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

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

(2) The dollar amount of the foundation program ~~shall be~~ is ~~80% of the maximum general fund budget without a voted levy limitation as is set forth in the schedules in 20-9-316 20-9-318 through 20-9-321. 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 is equal to the schedule amount, 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) 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."

Section 21. Section 20-9-311, MCA, is amended to read:

"20-9-311. Calculation of average number belonging (ANB). (1) ~~Average number belonging shall be computed by determining the total of the aggregate days of attendance by~~

1 regularly-enrolled, full-time pupils during the current
 2 school fiscal year plus the aggregate days of absence by
 3 regularly-enrolled, full-time pupils during the current
 4 school fiscal year and by dividing such total by 180.
 5 However, when a school district has approval to operate less
 6 than 180 school days under 20-9-804, such total shall be
 7 calculated in accordance with the provisions of 20-9-805.
 8 Attendance for a part of a morning session or a part of an
 9 afternoon session by a pupil shall be counted as attendance
 10 for one-half day. In calculating the ANB for pupils enrolled
 11 in a program established under 20-7-117 prior to January 17
 12 1974, or pursuant to 20-7-117(1), attendance at or absence
 13 from a regular session of the program for at least 2 hours
 14 of either a morning or an afternoon session will be counted
 15 as one-half of a day attended or absent as the case may be.
 16 If a variance has been granted as provided in 20-1-302, ANB
 17 will be computed in a manner prescribed by the
 18 superintendent of public instruction, but in no case shall
 19 the ANB exceed one-half for each kindergarten pupil. When
 20 any pupil has been absent, with or without excuse, for more
 21 than 10 consecutive school days, including
 22 pupil instruction related days, his absence after the 10th
 23 day of absence shall not be included in the aggregate days
 24 of absence and his enrollment in the school shall not be
 25 considered in the calculation of the average number

1 belonging until he resumes attendance at school. The average
 2 number belonging (ANB) for the current school fiscal year
 3 must be calculated by:

4 (a) taking a count of regularly enrolled, full-time
 5 pupils on the first school day of each month beginning in
 6 October through March of the current school fiscal year;

7 (b) dividing the sum of the six pupil enrollment
 8 counts by six.

9 (2) If a student spends less than half his time in the
 10 regular program and the balance of his time in school in the
 11 special education program, he shall be is considered a
 12 full-time special pupil but shall may not be considered
 13 regularly enrolled for ANB purposes. If a student spends
 14 half or more of his time in school in the regular program
 15 and the balance of his time in the special education
 16 program, he shall be is considered regularly enrolled for
 17 ANB purposes.

18 (3) The average number belonging of the regularly
 19 enrolled, full-time pupils for the public schools of a
 20 district must be based on the aggregate of all the regularly
 21 enrolled, full-time pupils attending the schools of the
 22 district, except that when:

23 (a) a school of the district is located more than 3
 24 miles beyond the incorporated limits of a city or town or
 25 from another school of the district, all of the regularly

1 enrolled, full-time pupils of the school must be calculated
2 individually for ANB purposes;

3 (b) a junior high school has been approved and
4 accredited as a junior high school, all of the regularly
5 enrolled, full-time pupils of the junior high school ~~shall~~
6 must be considered as high school district pupils for ANB
7 purposes;

8 (c) a middle school has been approved and accredited,
9 in which case pupils below the 7th grade ~~shall~~ must be
10 considered elementary school pupils for ANB purposes and the
11 7th and 8th grade pupils ~~shall~~ must be considered high
12 school pupils for ANB purposes; or

13 (d) a school has not been accredited by the board of
14 public education, the regularly enrolled, full-time pupils
15 attending the nonaccredited school ~~shall~~ may not be eligible
16 for average number belonging calculation purposes, nor will
17 an average number belonging for the nonaccredited school be
18 used in determining the foundation program for ~~such~~ the
19 district.

20 (4) ~~When 11th or 12th grade students are regularly~~
21 ~~enrolled on a part-time basis, high schools may calculate~~
22 ~~the ANB to include an "equivalent ANB" for those students.~~
23 An "equivalent ANB" must be calculated for pupils enrolled
24 in a kindergarten program established under 20-7-117 or in
25 any other approved part-time school program. The method for

1 calculating an equivalent ANB ~~shall~~ must be determined in a
2 manner prescribed by the superintendent of public
3 instruction."

4 **Section 22.** Section 20-9-312, MCA, is amended to read:

5 "20-9-312. ~~Maximum general fund budget~~ Foundation
6 program for grades seven and eight. The ANB calculated for
7 grades 7 and 8 ~~shall~~ must be funded at the high school rate,
8 provided that the school meets the standards for
9 accreditation of a middle school. When such pupils are
10 actually enrolled in an elementary school, the foundation
11 program amount ~~of the general fund budget~~ per ANB is
12 determined from the high school schedule, using the total
13 ANB of the elementary school. To determine the total ANB of
14 such an elementary school, the 7th and 8th grade pupils
15 ~~shall~~ must be included in ~~such~~ the total."

16 **Section 23.** Section 20-9-315, MCA, is amended to read:

17 "20-9-315. ~~Maximum general fund budget and exceptions.~~
18 The total amount of the general fund budget of any district
19 ~~shall~~ may not be greater than the ~~general fund budget~~
20 foundation program amount specified in 20-9-316 20-9-318
21 through 20-9-321, except when a district has adopted an
22 emergency general fund budget under the provisions of
23 20-9-165 or when a district satisfies the requirements of
24 20-9-353."

25 **Section 24.** Section 20-9-318, MCA, is amended to read:

"20-9-318. Elementary school maximum-budget foundation program schedule for 1987-88 school fiscal year 1990 and succeeding years. For 1987-88 the school fiscal year ending June 30, 1990, and succeeding school years, the elementary school maximum-budget foundation program schedule is as follows:

(1) For each elementary school having an ANB of nine or fewer pupils, the maximum ~~shall be \$20,150~~ is \$23,786 if ~~said the~~ school is approved as an isolated school.

(2) For schools with an ANB of 10 pupils but less than 18 pupils, the maximum ~~shall be \$20,150~~ is \$23,786 plus ~~\$842.50~~ \$994.20 per pupil on the basis of the average number belonging over nine.

(3) For schools with an ANB of at least 14 pupils but less than 18 pupils that qualify for instructional aide funding under 20-9-322, the maximum ~~shall be \$33,042~~ is \$38,990 plus ~~\$842.50~~ \$994.20 per pupil on the basis of the average number belonging over 14.

(4) For schools with an ANB of 18 pupils and employing one teacher, the maximum ~~shall be \$27,741~~ is \$32,735 plus ~~\$842.50~~ \$994.20 per pupil on the basis of the average number belonging over 18, not to exceed an ANB of 25.

(5) For schools with an ANB of 18 pupils and employing two full-time teachers, the maximum ~~shall be \$44,290~~ is \$52,263 plus ~~\$527.60~~ \$622.60 per pupil on the basis of the

average number belonging over 18, not to exceed an ANB of 50.

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

(a) For a school having an ANB of more than 40 and employing a minimum of three teachers, the maximum of ~~\$17,957~~ \$2,310 is decreased at the rate of ~~\$1.90~~ \$2.24 for each additional pupil until the total number (ANB) ~~shall have reached a total of~~ reaches 100 pupils.

(b) For a school having an ANB of more than 100 pupils, the maximum of ~~\$17,843~~ \$2,175 is decreased at the rate of ~~\$1.74~~ \$2.05 for each additional pupil until the ANB ~~shall have reached~~ reaches 300 pupils.

(c) For a school having an ANB of more than 300 pupils, the maximum ~~shall~~ may not exceed ~~\$17,496~~ \$1,766 for each pupil.

(7) The maximum per pupil for all pupils (ANB) and for all elementary schools ~~shall~~ must be computed on the basis of the amount allowed ~~herein~~ in this section on account of the last eligible pupil (ANB). All elementary schools operated within the incorporated limits of a city or town ~~shall~~ must be treated as one school for the purpose of this schedule."

Section 25. Section 20-9-319, MCA, is amended to read:

"20-9-319. High school maximum--budget foundation program schedule for 1987-88 school fiscal year 1990 and succeeding years. For 1987-88 the school fiscal year ending June 30, 1990, and succeeding school years, the high school maximum-budget foundation program schedule is as follows:

(1) For each high school having an ANB of 24 or fewer pupils, the maximum ~~shall be \$114,845~~ is \$135,517.

(2) For a secondary school having an ANB of more than 24 pupils, the maximum ~~\$4,785--shall--be of \$5,647~~ is decreased at the rate of ~~\$26.10~~ \$30.80 for each additional pupil until the ANB ~~shall have reached a total of~~ reaches 40 such pupils.

(3) For a school having an ANB of more than 40 pupils, the maximum of ~~\$4,368--shall be \$5,155~~ is decreased at the rate of ~~\$26.10~~ \$30.80 for each additional pupil until the ANB ~~shall have reached~~ reaches 100 pupils.

(4) For a school having an ANB of more than 100 pupils, ~~a the~~ maximum of ~~\$2,802--shall be \$3,307~~ is decreased at the rate of ~~\$4.37~~ \$5.16 for each additional pupil until the ANB ~~shall have reached~~ reaches 200 pupils.

(5) For a school having an ANB of more than 200 pupils, the maximum of ~~\$2,365--shall be \$2,791~~ is decreased by ~~--\$2.40~~ at the rate of \$2.83 for each additional pupil until the ANB ~~shall have reached~~ reaches 300 pupils.

(6) For a school having an ANB of more than 300

pupils, the maximum of ~~\$2,125--shall be \$2,508~~ is decreased at the rate of ~~44~~ 52 cents for each additional pupil until the ANB ~~shall have reached~~ reaches 600 pupils.

(7) For a school having an ANB over of more than 600 pupils, the maximum ~~shall~~ may not exceed ~~\$1,993~~ \$2,352 per pupil.

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

Section 26. Section 20-9-320, MCA, is amended to read:

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

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

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

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

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

(2) The general-fund-budget amount determined for each school of a district under the schedules provided in 20-9-316-through 20-9-318 and 20-9-319 shall must be totaled to determine the maximum-general-fund-budget-without-a-voted-levy foundation program for such the district."

Section 27. Section 20-9-321, MCA, is amended to read:

"20-9-321. Maximum---general--fund--budget Foundation program and contingency funds for special education. (1) For the purpose of establishing the maximum-budget-without-a-vote foundation program amount for

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

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

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

(c) any other data required by the superintendent of public instruction for budget justification purposes and to administer the provisions of 20-9-315 and 20-9-318 through 20-9-321.

(2) The total amount of allowable costs approved by the superintendent of public instruction ~~shall--be~~ is the special education maximum-budget-without-a-vote foundation program amount for current year special education program purposes. The total amount of allowable costs that are approved for the special education budget ~~shall~~ may not, under any condition, be less than the maximum-budget-without-a-vote foundation program amount for

1 one regular ANB for each ~~special~~ full-time special pupil in
2 the school district.

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

23 (4) The sum of the previous year special education
24 expenses as defined in subsection (3) ~~above~~ and the
25 ~~maximum-budget-without-a-vote~~ foundation program amount for

1 current year special education as defined in subsections (1)
2 and (2) ~~shall--be~~ is the special education budget for
3 accounting purposes.

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

10 **Section 28.** Section 20-9-322, MCA, is amended to read:

11 "20-9-322. Elementary instructional aide funding
12 qualification. (1) Any elementary school that anticipates an
13 ANB of at least 14 but less than 18 pupils for the ensuing
14 school fiscal year may determine the ~~maximum--general--fund~~
15 budget foundation program amount under the provisions of
16 ~~20-9-316(3)~~ or 20-9-318(3) if eligibility is approved in
17 accordance with the following provisions:

18 (a) No later than May 10 of each year, the school
19 district shall submit its application for approval for
20 instructional aide funding to the superintendent of public
21 instruction. The application ~~shall~~ must include:

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

1 current year;

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

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

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

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

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

20 (3) For the purposes of this section, the term
21 "instructional aide" means:

22 (a) a person who is under the direct supervision of a
23 teacher; or

24 (b) a certified teacher."

25 **Section 29.** Section 20-9-331, MCA, is amended to read:

1 **"20-9-331. Basic county tax and other revenues for**
2 **county equalization of the elementary district foundation**
3 **program. (1) ~~It shall be the duty of the~~ The county**
4 **commissioners of each county to shall levy an annual basic**
5 **tax of 28 47 mills on the dollars of the taxable value of**
6 **all taxable property within the county, except ~~for vehicles~~**
7 **~~subject to taxation under 61-3-504(2)~~ property included in**
8 **subsection (2)(g), for the purposes of local and state**
9 **foundation program support. The revenue ~~to be~~ collected from**
10 **this levy ~~shall~~ must be apportioned to the support of the**
11 **foundation programs of the elementary school districts in**
12 **the county and to the state special revenue fund, state**
13 **equalization aid account, in the following manner:**

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

21 (b) If the basic levy prescribed by this section
22 produces more revenue than is required to finance the
23 difference determined above in subsection (1)(a), the county
24 treasurer shall remit the surplus funds to the state
25 treasurer for deposit to the state special revenue fund,

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

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

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

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

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

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

1 account accounts for the various sources of revenue
2 established or referred to in this section;

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

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

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

13 **Section 30.** Section 20-9-333, MCA, is amended to read:

14 "20-9-333. Basic special levy and other revenues for
15 county equalization of high school district foundation
16 program. (1) ~~it--shall--be--the--duty--of--the~~ The county
17 commissioners of each county ~~to shall~~ shall levy an annual basic
18 special tax for high schools of ~~17~~ 29 mills on the dollar of
19 the taxable value of all taxable property within the county,
20 ~~except for--vehicles--subject-to-taxation-under-61-3-504(2)~~
21 property included in subsection (2)(d), for the purposes of
22 local and state foundation program support. The revenue ~~to~~
23 be collected from this levy ~~shall~~ must be apportioned to the
24 support of the foundation programs of high school districts
25 in the county and to the state special revenue fund, state

1 equalization aid account, in the following manner:

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

9 (b) If the basic levy prescribed by this section
10 produces more revenue than is required to finance the
11 difference determined above in subsection (1)(a), the county
12 treasurer shall remit the surplus funds to the state
13 treasurer for deposit to the state special revenue fund,
14 state equalization aid account, immediately upon occurrence
15 of a surplus balance and each subsequent month thereafter,
16 with any final remittance due no later than June 20 of the
17 fiscal year for which the levy has been set.

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

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

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

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

12 (d) anticipated revenue from vehicle-property taxes
13 and fees imposed under 23-2-517, 23-2-803, 61-3-504(2),
14 61-3-521, and 61-3-537, and 67-3-204."

15 **Section 31.** Section 20-9-343, MCA, is amended to read:

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

23 (2) The legislative appropriation for state
24 equalization aid shall must be made in a single sum for the
25 biennium. The superintendent of public instruction has

1 ~~authority-to~~ may spend such the appropriation, together with
 2 the earmarked revenues provided in subsection (3), as
 3 required for foundation program purposes throughout the
 4 biennium.

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

8 (a) ~~31.8% of all~~ money received from the collection of
 9 income taxes under chapter 30 of Title 15, as provided by
 10 15-1-501;

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

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

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

21 (e) interest and income money described in 20-9-341
 22 and 20-9-342;

23 (f) income from the education trust fund account; and
 24 (g) income from the lottery, as provided for in
 25 23-5-1027; and

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

4 (4) Any surplus revenue in the state equalization aid
 5 account in the second year of a biennium may be used to
 6 reduce the appropriation required for the next succeeding
 7 biennium."

8 **Section 32.** Section 20-9-353, MCA, is amended to read:

9 "20-9-353. Additional levy for general fund --
 10 election for authorization to impose. (1) The Except as
 11 limited by subsection (5), the trustees of any district may
 12 propose to adopt a general fund budget in excess of the
 13 ~~general fund budget amount~~ foundation program for such the
 14 district as established by the schedules in ~~20-9-316~~
 15 20-9-318 through 20-9-321 for any of the following purposes:

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

18 (b) furnishing additional school facilities for the
 19 district;

20 (c) acquisition of land for the district;

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

23 (2) When the trustees of any district determine that
 24 an additional amount of financing is required for the
 25 general fund budget that is in excess of the statutory

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

16 PROPOSITION

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

23 FOR the levy.

24 AGAINST the levy.

25 (3) If the election on any additional levy for the

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

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

18 (5) The trustees of a district may not adopt an
 19 additional levy that raises more than 105% of the revenue
 20 raised by the additional levy imposed for the preceding
 21 school fiscal year or that exceeds the limitation of
 22 15-10-402."

23 **Section 33.** Section 23-5-1027, MCA, is amended to
 24 read:

25 "23-5-1027. Disposition of revenue. (1) (a) As near as

1 possible to 45% of the money paid for tickets or chances
2 must be paid out as prize money, except as provided in
3 subsection (1)(b).

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

7 (2) Up to 15% of the gross revenue from the state
8 lottery may be used by the director to pay the operating
9 expenses of the state lottery. Commissions paid to lottery
10 ticket or chance sales agents are not a state lottery
11 operating expense.

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

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

21 NEW SECTION. Section 34. Repealer. Sections 20-9-316,
22 20-9-317, 20-9-352, 20-9-501, 20-9-531, and 20-9-532, MCA,
23 are repealed.

24 NEW SECTION. Section 35. District retirement fund
25 balance -- transfer. A district that has a balance remaining

1 on [the effective date of this act] in the district
2 retirement fund formerly established under 20-9-501 shall
3 transfer the balance to the district general fund. The
4 amount anticipated to be transferred under this section must
5 be included in the total money calculated under
6 20-9-141(1)(b) that is available for reduction of the
7 property tax levy imposed in 1990 for the district's general
8 fund.

9 NEW SECTION. Section 36. Extension of authority. Any
10 existing authority to make rules on the subject of the
11 provisions of [this act] is extended to the provisions of
12 [this act].

13 NEW SECTION. Section 37. Applicability. (1) [Sections
14 3 and 4] apply retroactively, within the meaning of 1-2-109,
15 to all production after April 1, 1989.

16 (2) [Sections 29 and 30] apply to taxable years
17 beginning after December 31, 1989.

18 NEW SECTION. Section 38. Effective date. [This act]
19 is effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15


In compliance with a written request, there is hereby submitted a Fiscal Note for SB419, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

A bill for an act entitled: "An act to generally revise public school funding laws and related tax laws to increase state equalization of public school funding; to eliminate the county retirement levy; to include school personnel retirement, unemployment insurance, and social security obligations in the district general fund budget; to reallocate lottery revenue from retirement equalization to state equalization aid; to eliminate the district permissive levy; to revise the foundation program schedules to reflect inclusion of retirement costs; to limit the amount that may be raised by the additional voted levy; to revise the method of calculating average number belonging (ANB); to increase the basic elementary levy for county equalization to 47 mills and the high school levy to 29 mills; to exclude these levies from the property tax limitation of initiative measure no. 105; to provide a reduction in the rate of the coal severance tax, oil severance tax, and natural gas severance tax; amending Sections 15-10-402, 15-35-103, 15-36-101, 15-36-121, 17-3-213, 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, 20-9-311, 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 20-9-316, 20-9-317, 20-9-352, 20-9-501, 20-9-531, and 20-9-532, MCA; and providing an immediate 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.(MDOC)
- 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 vehicle fees and miscellaneous county revenue distributed to the foundation program due to the permissive school levy is estimated to be \$1,371,000 in FY90 and \$1,567,000 in FY91.(REAC)
- 9) The portion of vehicle fees and miscellaneous county revenue distributed to the foundation program due to the mandatory school levy is estimated to be \$7,561,000 in FY90 and \$8,716,000 in FY91.(REAC)

 DATE 3/2/89
RAY SHACKLEFORD, BUDGET DIRECTOR
Office of Budget and Program Planning

 DATE 3/3/89
WILLIAM E. FARRELL, PRIMARY SPONSOR

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- 10) Total receipts from interest and income are estimated to be \$33,485,000 in FY90 and \$34,353,000 in FY91.(REAC)
- 11) Oil Severance taxes are estimated to be \$14,439,000 in FY90 and \$13,836,000 in FY91. This revenue is based on a 5% tax rate for regular production.(REAC)
- 12) Natural Gas Severance taxes are estimated to be \$1,004,000 in FY90 and \$1,040,000 in FY91. This revenue is based on a 2.65% tax rate for regular production, a 1.59% rate for stripper production over 30,000 mcf, and a 0% rate on stripper production less than 30,000 mcf.(REAC)

FISCAL IMPACT:

	FY90			FY91		
<u>Revenues:</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Tax Revenues	\$ 66.317M	\$ 63.954M	(\$ 2.363M)	\$ 58.823M	\$ 56.426M	(\$ 2.397M)
Foundation						
Revenues	264.899M	255.031M	(9.868M)	244.018M	310.336M	66.318M
TOTAL REVENUES	\$ 331.216M	\$ 318.985M	(\$ 12.231M)	\$ 302.841M	\$ 366.762M	\$63.921M
<u>Expenditures:</u>						
Appropriation of						
Taxes	\$ 66.317M	\$ 63.954M	(\$ 2.363M)	\$ 58.823M	\$ 56.426M	(\$ 2.397M)
Foundation Program	278.355M	329.0M	50.645M	276.678M	329.0M	52.322M
TOTAL EXPENDITURES	\$ 344.672M	\$ 392.954M	\$ 48.282M	\$ 335.501M	\$ 385.426M	\$49.925M
<u>Revenue Less</u>						
<u>Expenditures:</u>	(\$ 13.456M)	(\$ 73.969M)	\$ 60.513M	(\$ 32.660M)	(\$ 18.664M)	(\$13.996M)

EFFECT ON COUNTY:

County mandatory levies would increase for state equalization, but be eliminated for county retirement levies.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

As the program is implemented, the state will bear a greater burden of funding for the state's public schools.

SB419