

HOUSE BILL 17

Introduced by Daily

6/16	Introduced
6/19	Referred to Taxation
6/19	Fiscal Note Requested
6/22	Fiscal Note Received
	Died in Committee

1 HOUSE BILL NO. 17
2 INTRODUCED BY DAILY
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS
5 RELATED TO FUNDING PUBLIC SCHOOLS; PROVIDING ADDITIONAL
6 FUNDING FOR THE SCHOOL FOUNDATION PROGRAM BY IMPOSING A
7 LIMITATION OF \$5,000 ON THE FEDERAL INCOME TAX DEDUCTION THAT
8 MAY BE CLAIMED BY A SINGLE TAXPAYER AND \$8,000 ON THE FEDERAL
9 INCOME TAX DEDUCTION THAT MAY BE CLAIMED BY MARRIED TAXPAYERS
10 FILING A JOINT RETURN, CONTINUING THE 10 PERCENT SURTAX ON
11 PERSONAL INCOME, IMPOSING A 10 PERCENT SURTAX ON CORPORATE
12 INCOME, AND ALLOCATING THE INCREMENTAL REVENUE DERIVED
13 THEREBY TO STATE EQUALIZATION OF THE FOUNDATION PROGRAM;
14 INCREASING THE TOTAL LEVY FOR COUNTY EQUALIZATION OF THE
15 FOUNDATION PROGRAM FROM 45 MILLS TO 100 MILLS; ELIMINATING
16 THE SCHOOL DISTRICT PERMISSIVE LEVIES; ELIMINATING THE COUNTY
17 SCHOOL RETIREMENT LEVY AND THE SCHOOL DISTRICT RETIREMENT
18 FUND; INCLUDING THE DISTRICT'S COST FOR PERSONNEL RETIREMENT,
19 SOCIAL SECURITY, AND UNEMPLOYMENT INSURANCE IN THE DISTRICT
20 GENERAL FUND; REALLOCATING LOTTERY REVENUE FROM RETIREMENT
21 EQUALIZATION TO STATE EQUALIZATION AID; PROVIDING FOR
22 FOUNDATION PROGRAM SUPPORT OF THE FULL COST TO EACH DISTRICT
23 OF PERSONNEL RETIREMENT, SOCIAL SECURITY, AND UNEMPLOYMENT
24 INSURANCE; AMENDING SECTIONS 15-1-501, 15-10-402, 15-30-108,
25 15-30-121, 15-31-121, 15-31-702, 17-3-213, 17-5-408,

1 15-31-702, 17-3-213, 17-5-408, 19-4-605, 20-3-106, 20-3-324,
2 20-5-305, 20-5-312, 20-6-506, 20-6-603, 20-7-414, 20-7-422,
3 20-7-431, 20-9-141, 20-9-201, 20-9-212, 20-9-301, 20-9-303,
4 20-9-312, 20-9-315, 20-9-318 THROUGH 20-9-322, 20-9-331,
5 20-9-333, 20-9-343, 20-9-353, AND 23-5-1027, MCA; REPEALING
6 SECTIONS 20-9-352, 20-9-501, 20-9-531, AND 20-9-532, MCA,
7 AND SECTION 12, CHAPTER 666, LAWS OF 1987; AND PROVIDING AN
8 EFFECTIVE DATE AND APPLICABILITY DATES."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 **Section 1.** Section 15-1-501, MCA, is amended to read:
12 "15-1-501. Disposition of moneys from certain
13 designated license and other taxes. (1) The state treasurer
14 shall deposit to the credit of the state general fund all
15 moneys money received by him from the collection of:
16 (a) fees from driver's licenses, motorcycle
17 endorsements, and duplicate driver's licenses as provided in
18 61-5-121;
19 (b) electrical energy producer's license taxes under
20 chapter 51;
21 (c) severance taxes allocated to the general fund
22 under chapter 36;
23 (d) liquor license taxes under Title 16;
24 (e) telephone [company] license taxes under chapter
25 53; and

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

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

6 (a) ~~50+2%~~ 47.7% to the credit of the state general
7 fund;

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

11 (c) ~~31+8%~~ 44.1% to the credit of the state special
12 revenue fund for state equalization aid to the public
13 schools of Montana as described in 20-9-343.

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

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

19 (b) ~~11%~~ 9.9% to the credit of the debt service account
20 for long-range building program bonds as described in
21 17-5-408; and

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

25 (4) The state treasurer shall also deposit to the

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

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

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

9 "15-10-402. Property tax limited to 1986 levels. (1)
10 Except as provided in subsections (2) and (3), the amount of
11 taxes levied on property described in 15-6-133, 15-6-134,
12 15-6-136, 15-6-139, 15-6-142, and 15-6-144 may not, for any
13 taxing jurisdiction, exceed the amount levied for taxable
14 year 1986.

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

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

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

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

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

8 "~~15-30-108. {Temporary}-Surtax. After-the-amount-of In~~
 9 addition to the tax liability has been computed as required
 10 in 15-30-103, there is imposed on each person filing a
 11 Montana individual income tax return shall add as a surtax
 12 of 10% of the tax liability, and the amount so arrived at is
 13 the amount due the state. The surtax is payable to the
 14 treasurer in the same manner as the taxpayer's tax
 15 liability. {Terminates December 31, 1989--sec. 12, Ch. 666,
 16 67-1987-}"

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

18 "15-30-121. Deductions allowed in computing net
 19 income. In computing net income, there are allowed as
 20 deductions:

21 (1) the items referred to in sections 161 and 211 of
 22 the Internal Revenue Code of 1954, or as sections 161 and
 23 211 shall be labeled or amended, subject to the following
 24 exceptions which are not deductible:

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

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

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

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

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

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

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

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

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

25 (ii) care of an individual who qualifies under

1 subsection (3)(a):

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

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

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

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

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

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

23 and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (4) ~~After the amount of~~ In addition to the tax
5 ~~liability has been~~ computed under subsections (1) through
6 (3), there is imposed on each corporation subject to
7 taxation under this part ~~shall add~~ as a surtax for tax year
8 ~~1980, 4% of 10%~~ of the tax liability, ~~and the amount so~~
9 ~~derived is the amount due the state.~~ The surtax is payable
10 to the treasurer in the same manner as the corporation's tax
11 liability."

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

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

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

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

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

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

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

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

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

16 "17-3-213. Allocation to general road fund and
17 countywide school levies. (1) The forest reserve funds so
18 apportioned to each county shall must be apportioned by the
19 county treasurer in each county ~~between-the-several-funds~~ as
20 follows:

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

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

25 (i) the annual basic tax levy for elementary schools

1 provided for in 20-9-331;

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

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

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

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

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

20 (3) In counties wherein in which special road
21 districts have been created according to law, the board of
22 county commissioners shall distribute a proportionate share
23 of the 66 2/3% of the total amount received for the general
24 road fund to such the special road ~~district--or~~ districts
25 within the county based upon the percentage that the total

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

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

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

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

21 (2) The state pledges and appropriates and directs to
22 be credited to the debt service account 70.89% of all money
23 received from the collection of the excise tax on cigarettes
24 which is levied, imposed, and assessed by 16-11-111. The
25 state also pledges and appropriates and directs to be

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

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

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

24 (1) Each employer shall pay into the pension
25 accumulation fund an amount equal to 7.459% of the earned

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (14) distribute state equalization aid in support of

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 **"20-3-324. Powers and duties.** As prescribed elsewhere
17 in this title, the trustees of each district shall:

18 (1) employ or dismiss a teacher, principal, or other
19 assistant upon the recommendation of the district
20 superintendent, the county high school principal, or other
21 principal as the board considers necessary, accepting or
22 rejecting any recommendation as the trustees in their sole
23 discretion determine, in accordance with the provisions of
24 Title 20, chapter 4;

25 (2) employ and dismiss administrative personnel,

1 clerks, secretaries, teacher aides, custodians, maintenance
2 personnel, school bus drivers, food service personnel,
3 nurses, and any other personnel considered necessary to
4 carry out the various services of the district;

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

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

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

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

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

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

24 (9) conduct the fiscal business of the district in
25 accordance with the provisions of the school financial

1 administration part of this title;

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

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

9 (12) issue, refund, sell, budget, and redeem the bonds
10 of the district in accordance with the provisions of the
11 bonds parts of this title;

12 (13) when applicable, establish, financially
13 administer, and budget for the tuition fund, **retirement**
14 **fund**, building reserve fund, adult education fund,
15 nonoperating fund, school food services fund, miscellaneous
16 federal programs fund, building fund, lease or rental
17 agreement fund, traffic education fund, and interlocal
18 cooperative agreement fund in accordance with the provisions
19 of the other school funds parts of this title;

20 (14) when applicable, administer any interlocal
21 cooperative agreement, gifts, legacies, or devises in
22 accordance with the provisions of the miscellaneous
23 financial parts of this title;

24 (15) hold in trust, acquire, and dispose of the real
25 and personal property of the district in accordance with the

1 provisions of the school sites and facilities part of this
2 title;

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

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

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

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

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

23 (21) for each member of the trustees, visit each school
24 of the district not less than once each school fiscal year
25 to examine its management, conditions, and needs, except

1 trustees from a first-class school district may share the
2 responsibility for visiting each school in the district;

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

6 (23) adopt and administer a district policy on
7 assessment for placement of any child who enrolls in a
8 school of the district from a nonpublic school that is not
9 accredited, as required in 20-5-110; and

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

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

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

24 (a) totaling the actual expenditures from the district
25 general fund, and the debt service fund, ~~and-if-the-pupil~~

1 ~~is-a-resident-of-another-county,-the-retirement-fund;~~

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

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

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

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

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

24 (a) totaling the actual expenditures from the district
25 general fund; and the debt service fund; ~~and,-if-the-pupil~~

1 ~~is-a-resident-of-another-county,-the-retirement-fund;~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 **Section 14.** Section 20-6-506, MCA, is amended to read:

15 "20-6-506. Budgeting and cost sharing when junior high
 16 school operated by elementary district and high school
 17 district operating a county high school. (1) Whenever the
 18 opening of a junior high school is approved for the ensuing
 19 school fiscal year under 20-6-505, the county superintendent
 20 shall estimate the average number belonging (ANB) after
 21 investigating the probable enrollment for the junior high
 22 school. The ANB determined by the county superintendent and
 23 the ANB actually realized in subsequent school fiscal years
 24 shall must be applied under 20-9-320 to prorate the
 25 ~~maximum-general-fund-budget-without-a-voted-levy~~ foundation

1 program amount between the elementary and high school
 2 districts. Each district shall adopt its general fund budget
 3 on the basis of the prorated amount and shall finance its
 4 proportionate share of the cost of operating the junior high
 5 school.

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

11 **Section 15.** Section 20-6-603, MCA, is amended to read:

12 "20-6-603. Trustees' authority to acquire or dispose
 13 of sites and buildings -- when election required. (1) The
 14 trustees of any district ~~shall-have-the-authority-to~~ may
 15 purchase, build, exchange, or otherwise acquire, or sell, or
 16 otherwise dispose of sites and buildings of the district.
 17 ~~Such--action--shall~~ Action may not be taken by the trustees
 18 without the approval of the qualified electors of the
 19 district at an election called for ~~such~~ the purpose of
 20 approval unless:

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

24 (b) an additional levy under the provisions of
 25 20-9-353 has been approved for the purpose of constructing,

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

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

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

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

22 "20-7-414. Determination of children in need and type
 23 of special education needed -- approval of classes and
 24 programs by superintendent. (1) The determination of the
 25 children requiring special education and the type of special

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

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

1 Montana, the special education policies adopted by the board
 2 of public education, and the rules of the superintendent of
 3 public instruction. No special education class may be
 4 operated by the trustees without the approval of the
 5 superintendent of public instruction. Each special education
 6 class or program must be approved annually to be funded as
 7 part of the maximum-budget-without-a-vote foundation program
 8 for special education."

9 **Section 17.** Section 20-7-422, MCA, is amended to read:

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

18 (2) Whenever the attendance of a child at an
 19 out-of-state special education program is approved by the
 20 superintendent of public instruction, ~~it--shall--be--the~~
 21 responsibility-of the superintendent of public instruction
 22 shall, in cooperation with the department of family
 23 services, to negotiate the program for the child and the
 24 amount and manner of payment of tuition. The amount of
 25 tuition ~~shall~~ must be included as a contracted service in

1 20-7-431(1)(a)(iii)(A) in the maximum-budget-without-a-vote
 2 foundation program amount for special education."

3 **Section 18.** Section 20-7-431, MCA, is amended to read:

4 "20-7-431. Allowable cost schedule for special
 5 programs -- superintendent to make rules -- annual
 6 accounting. (1) For the purpose of determining the
 7 maximum-budget-without-a-vote foundation program amount for
 8 special education as defined in 20-9-321, the following
 9 schedule of allowable costs ~~shall~~ must be followed by the
 10 school district in preparation of its special education
 11 budget for state aid request purposes and by the
 12 superintendent of public instruction in ~~his~~ the review and
 13 approval of the budget (for the purposes of determining the
 14 foundation program amount ~~of-----the~~
 15 maximum-budget-without-a-vote for special education for the
 16 district, and as used in this schedule, "full-time special
 17 pupil" and "regular ANB" are to be determined in accordance
 18 with 20-9-311 and 20-9-313):

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

21 (i) salaries and benefits of special program teachers,
 22 regular program teachers, teacher aides, special education
 23 supervisors, audiologists, and speech and hearing
 24 clinicians--the entire cost if employed full time in the
 25 special program; if such the personnel are shared between

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

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

6 (iii) other expenses:

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

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

19 (b) supportive services, including:

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

1 supportive personnel may include counselors, social workers,
2 psychologists, psychometrists, physicians, nurses, and
3 physical and occupational therapists.

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

11 (c) equipment:

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

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

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

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

23 (d) room and board costs when the special pupil has to
24 attend a program at such a distance from his home that
25 commuting is undesirable as determined by the superintendent

1 of public instruction.

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

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

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

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

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

23 (4) If a board of trustees chooses to exceed the
24 budget approved by the superintendent of public instruction,
25 costs in excess of the approved budget may not be reimbursed

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

3 ~~{5} Allowable costs prescribed in this section do not~~
4 ~~include the costs of the teachers' retirement system, the~~
5 ~~public employees' retirement system, the federal social~~
6 ~~security system, or the costs for unemployment compensation~~
7 ~~insurance.~~

8 ~~{6}~~ {5} (a) Notwithstanding other provisions of the
9 law, the superintendent of public instruction ~~shall~~ may not
10 approve a ~~maximum-budget-without-a-vote~~ an amount for
11 special education which that exceeds legislative
12 appropriations; however, any unexpended balance from the
13 first year of a biennial appropriation may be spent in the
14 second year of the biennium in addition to the second year
15 appropriation.

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

1 **Section 19.** Section 20-9-141, MCA, is amended to read:

2 **"20-9-141. Computation of general fund net levy**
3 **requirement by county superintendent.** (1) The county
4 superintendent shall compute the levy requirement for each
5 district's general fund on the basis of the following
6 procedure:

7 (a) Determine the ~~total--of-the~~ funding required for
8 the district's final general fund budget less the foundation
9 program amount established by ~~the--schedules--in--20-9-316~~
10 through-20-9-321 20-9-303 by totaling:

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

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

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

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

23 (i) anticipated federal ~~moneys~~ money received under
24 the provisions of Title I of Public Law 81-874 or other
25 anticipated federal ~~moneys~~ money received in lieu of such

1 that federal act;

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

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

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

9 (v) anticipated or reappropriated revenue from ~~vehicle~~
10 property taxes and fees imposed under 23-2-517, 23-2-803,
11 61-3-504(2), and 61-3-537, and 67-3-204;

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

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

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

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

24 (c) Subtract the ~~total-of-the-moneys~~ money available
25 to reduce the property tax required to finance the general

1 fund that has been determined in subsection (1)(b) from the
2 total requirement determined in subsection (1)(a).

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

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

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

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

24 (b) A "nonbudgeted fund" means any fund for which a
25 budget is not required in order to expend any money on

1 deposit in ~~such~~ the fund. The school food services fund,
2 miscellaneous federal programs fund, building fund, lease or
3 rental agreement fund, traffic education fund, interlocal
4 cooperative fund, and any other funds ~~so~~ designated by the
5 legislature ~~shall-be~~ are nonbudgeted funds.

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

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

16 "20-9-212. Duties of county treasurer. The county
17 treasurer of each county shall:

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

1 (a) the basic county tax in support of the elementary
2 foundation programs;

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

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

7 ~~{d}--the-county-tax--in--support--of--the--high--school~~
8 ~~obligations--to--the--retirement--systems--of--the--state--of~~
9 ~~Montana;~~

10 ~~{e}--any-additional--county--tax--required--by--law--to~~
11 ~~provide---for---deficiency---financing---of--the--elementary~~
12 ~~foundation-programs;~~

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

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

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

1 ordered by the county superintendent;

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

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

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

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

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

24 (8) at the direction of the trustees of a district,
25 assist the district in the issuance and sale of tax and

1 revenue anticipation notes as provided in Title 7, chapter
2 6, part 11;

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

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

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

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

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

21 "**20-9-301. Purpose and--definition of foundation**
22 **program and definition of general fund budget.** (1) A uniform
23 system of free public schools sufficient for the education
24 of and open to all school age children of the state ~~shall~~
25 must be established and maintained throughout the state of

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

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

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

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

21 "**20-9-303. Definition of foundation program and--its**
22 **proportion--of-the-maximum-general-fund-without-a-voted-levy**
23 **schedule-amount -- nonisolated school foundation program**
24 **financing -- special education funds -- retirement.** (1) As
25 used in this title, the term "foundation program" ~~shall-mean~~

1 means the minimum operating expenditures, ~~as established~~
2 ~~herein~~, that are sufficient to provide for the educational
3 program of a school. The foundation program relates only to
4 those expenditures authorized by a district's general fund
5 budget and ~~shall~~ may not include expenditures from any other
6 fund. It ~~shall be~~ is financed by:

- 7 (a) county equalization moneys money; and
- 8 (b) state equalization aid; and
- 9 (c) appropriations for special education.

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

- 15 (a) amounts in support of general education programs
- 16 as provided in the schedules in 20-9-316 through 20-9-320;
- 17 (b) payments in support of special education programs
- 18 as provided in 20-9-321; and
- 19 (c) retirement equalization payments as provided in
- 20 [section 36].

21 (3) The foundation program of an elementary school
22 having an ANB of nine or fewer pupils for 2 consecutive
23 years which is not approved as an isolated school under the
24 provisions of 20-9-302 ~~shall be 80% of the schedule amount~~
25 is equal to the amounts listed in subsection (2), but the

1 county and state shall participate in financing one-half of
2 the foundation program, and the district shall finance the
3 remaining one-half by a tax levied on the property of the
4 district. When a school of nine or fewer pupils is approved
5 as isolated under the provisions of 20-9-302, the county and
6 state shall participate in the financing of the total amount
7 of the foundation program.

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

24 (5) Funds provided to support the retirement
25 accounting budget for the district's cost of retirement,

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

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

13 **"20-9-312. Maximum--general--fund--budget Foundation**
 14 **program schedule for grades seven and eight.** The ANB
 15 calculated for grades 7 and 8 shall must be funded at the
 16 high school rate provided that the school meets the
 17 standards for accreditation of a middle school. When such
 18 the pupils are actually enrolled in an elementary school,
 19 the foundation program schedule amount of-the--general--fund
 20 budget per ANB is determined from the high school schedule
 21 using the total ANB of the elementary school. To determine
 22 the total ANB of such-an the elementary school, the 7th and
 23 8th grade pupils shall must be included in such the total."

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

25 **"20-9-315. Maximum general fund budget and exceptions.**

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

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

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

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

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

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

25 (4) For schools with an ANB of 18 pupils and employing

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

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

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

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

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

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

23 (7) The maximum per pupil for all pupils (ANB) and for
 24 all elementary schools ~~shall~~ must be computed on the basis
 25 of the amount allowed ~~herein~~ in this section on account of

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

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

6 "20-9-319. High school maximum--budget foundation
 7 program schedule for 1987-88 and succeeding years. For
 8 1987-88 and succeeding school years, the high school maximum
 9 budget foundation program schedule is as follows:

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

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

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

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

24 (5) For a school having an ANB of more than 200
 25 pupils, the maximum of \$2,365 ~~shall-be~~ is decreased by \$2.40

1 for each additional pupil until the ANB ~~shall have reached~~
2 reaches 300 pupils.

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

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

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

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

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

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

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

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

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

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

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

24 "20-9-321. Maximum---general--fund--budget Foundation
25 program and contingency funds for special education. (1) For

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

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

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

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

20 (2) The total amount of allowable costs approved by
 21 the superintendent of public instruction ~~shall--be~~ is the
 22 special education ~~maximum-budget-without-a-vote~~ foundation
 23 program amount for current year special education program
 24 purposes. The total amount of allowable costs that are
 25 approved for the special education budget ~~shall~~ may not,

1 under any condition, be less than the
 2 ~~maximum-budget-without-a-vote~~ foundation program schedule
 3 amount for one regular ANB for each ~~special~~ full-time
 4 special pupil in the school district.

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

25 (4) The sum of the previous year special education

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

6 (5) The ~~maximum-budget-without-a-vote~~ foundation
 7 program amount for special education ~~will~~ must be added to
 8 the ~~maximum-budget-without-a-vote~~ foundation program
 9 schedule amount of the regular program ANB defined in
 10 20-9-311 and 20-9-313 and the foundation program amount for
 11 retirement established in [section 36] to obtain the total
 12 ~~maximum-budget-without-a-vote~~ foundation program for the
 13 district."

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

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

22 (a) No later than May 10 of each year, the school
 23 district shall submit its application for approval for
 24 instructional aide funding to the superintendent of public
 25 instruction. The application must include:

1 (i) the ANB for the preceding ANB calculation period;
 2 (ii) the current ANB and the number of grade levels
 3 being taught on May 1 of the current year;

4 (iii) an estimate of the ANB and the number of grade
 5 levels anticipated for the ensuing ANB calculation period;
 6 (iv) the factual information on which the estimate is
 7 based; and

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

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

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

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

24 (a) a person who is under the direct supervision of a
 25 teacher; or

1 (b) a certified teacher."

2 **Section 31.** Section 20-9-331, MCA, is amended to read:

3 "20-9-331. Basic county tax and other revenues for
4 county equalization of the elementary district foundation
5 program. (1) ~~It shall be the duty of the~~ The county
6 commissioners of each county ~~to~~ shall levy an annual basic
7 tax of ~~20~~ 62 mills on the dollars of the taxable value of
8 all taxable property within the county, except for ~~vehicles~~
9 ~~property~~ subject to ~~taxation~~ a tax or fee under 23-2-517,
10 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204, for
11 the purposes of local and state foundation program support.
12 The revenue ~~to be~~ collected from this levy shall must be
13 apportioned to the support of the foundation programs of the
14 elementary school districts in the county and to the state
15 special revenue fund, state equalization aid account, in the
16 following manner:

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

24 (b) If the basic levy prescribed by this section
25 produces more revenue than is required to finance the

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

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

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

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

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

1 specified by law;

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

6 (e) any federal or state money distributed to the
7 county as payment in lieu of the property taxation
8 ~~established by the county levy required by this section,~~
9 including federal forest reserve funds allocated in
10 17-3-213;

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

13 (g) anticipated revenue from vehicle property taxes
14 and fees imposed under 23-2-517, 23-2-803, 61-3-504(2), and
15 61-3-521, 61-3-537, and 67-3-204."

16 **Section 32.** Section 20-9-333, MCA, is amended to read:

17 "20-9-333. Basic special levy and other revenues for
18 county equalization of high school district foundation
19 program. (1) ~~It shall be the duty of the~~ The county
20 commissioners of each county ~~to shall~~ levy an annual basic
21 special tax for high schools of ~~17~~ 38 mills on the dollar of
22 the taxable value of all taxable property within the county,
23 except for ~~vehicles~~ property subject to taxation taxes or
24 fees under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521,
25 61-3-537, and 67-3-204, for the purposes of local and state

1 foundation program support. The revenue ~~to be~~ collected
2 from this levy ~~shall~~ must be apportioned to the support of
3 the foundation programs of high school districts in the
4 county and to the state special revenue fund, state
5 equalization aid account, in the following manner:

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

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

22 (2) The proceeds revenue realized from the county's
23 portion of the levy prescribed in this section and the
24 revenues revenue from the following sources ~~shall~~ must be
25 used for the equalization of the high school district

1 foundation programs of the county as prescribed in 20-9-334,
2 and a separate accounting ~~shall~~ must be kept of these
3 proceeds the revenue by the county treasurer in accordance
4 with 20-9-212(1):

5 (a) any money remaining at the end of the immediately
6 preceding school fiscal year in the county treasurer's
7 accounts for the various sources of revenue established in
8 this section;

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

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

16 (d) anticipated revenue from ~~vehicle~~ property taxes
17 and fees imposed under 23-2-517, 23-2-803, 61-3-504(2),
18 61-3-521, and 61-3-537, and 67-3-204."

19 **Section 33.** Section 20-9-343, MCA, is amended to read:
20 "20-9-343. Definition of and revenue for state
21 equalization aid. (1) As used in this title, the term "state
22 equalization aid" means ~~those moneys~~ the money deposited in
23 the state special revenue fund as required in this section
24 plus any legislative appropriation of money from other
25 sources for distribution to the public schools for the

1 purpose of equalization of the foundation program.

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

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

12 (a) ~~31.8% of all~~ money received from the collection of
13 income taxes under chapter 30 of Title 15, as provided by
14 15-1-501;

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

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

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

25 (e) interest and income money described in 20-9-341

1 and 20-9-342;

2 (f) income from the education trust fund account; and
 3 (g) income from the lottery, as provided for in
 4 23-5-1027; and

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

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

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

13 "20-9-353. Additional levy for general fund --
 14 election for authorization to impose. (1) The trustees of
 15 any district may propose to adopt a general fund budget in
 16 excess of the ~~general-fund-budget~~ foundation program amount
 17 for ~~such the~~ district as ~~established--by--the--schedules--in~~
 18 ~~20-9-316-through-20-9-321~~ defined in 20-9-303 for any of the
 19 following purposes:

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

22 (b) furnishing additional school facilities for the
 23 district;

24 (c) acquisition of land for the district;

25 (d) proper maintenance and operation of the school

1 programs of the district.

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

20 PROPOSITION

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

1 which the additional tax levy is made)?

2 FOR the levy.

3 AGAINST the levy.

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

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

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

23 "23-5-1027. Disposition of revenue. (1) A minimum of
24 45% of the money paid for tickets or chances must be paid
25 out as prize money. The prize money is statutorily

1 appropriated, as provided in 17-7-502, to the lottery.

2 (2) Commissions paid to lottery ticket or chance sales
3 agents are not a state lottery operating expense.

4 (3) That part of all gross revenue not used for the
5 payment of prizes, commissions, and operating expenses,
6 together with the interest earned on the gross revenue while
7 the gross revenue is in the enterprise fund, is net revenue
8 and must be paid quarterly from the enterprise fund
9 established by 23-5-1026 to the superintendent of public
10 instruction for distribution as state equalization aid to
11 the ~~retirement--fund--obligations--of~~ elementary and high
12 school districts ~~in--the-manner-provided-in-20-9-532~~. The
13 net revenue is statutorily appropriated, as provided in
14 17-7-502, to the superintendent of public instruction.

15 (4) The spending authority of the lottery may be
16 increased in accordance with this section upon review and
17 approval of a revised operation plan by the budget office."

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

22 (1) establishing each district's cost, as determined
23 by law and as reported in each district's budget that has
24 been adopted for the current school fiscal year and verified
25 by the superintendent of public instruction, for

1 contributions to retirement programs, social security, and
 2 unemployment insurance provided for the district's
 3 employees;

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

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

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

17 NEW SECTION. Section 37. District retirement fund
 18 balance -- transfer. A district that has a balance remaining
 19 on [the effective date of this act] in the district
 20 retirement fund formerly established under 20-9-501 shall
 21 transfer the balance to the district general fund. The
 22 amount anticipated to be transferred under this section must
 23 be included in the total money calculated under
 24 20-9-141(1)(b) that is available for reduction of the
 25 property tax levy imposed in 1990 for the district's general

1 fund.

2 NEW SECTION. Section 38. Repealer. Sections 20-9-352,
 3 20-9-501, 20-9-531, and 20-9-532, MCA, are repealed.

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

7 NEW SECTION. Section 40. Codification instruction.
 8 [Section 36] is intended to be codified as an integral part
 9 of Title 20, chapter 9, part 3, and the provisions of Title
 10 20 apply to [section 36].

11 NEW SECTION. Section 41. Effective date. [This act]
 12 is effective July 1, 1989.

13 NEW SECTION. Section 42. Applicability. (1) [Sections
 14 3 through 5 and 39] apply retroactively, within the meaning
 15 of 1-2-109, to all taxable years beginning after December
 16 31, 1988.

17 (2) [This act] applies to all tax revenue recorded on
 18 or after July 1, 1989, without regard to the time the tax
 19 accrued.

-End-