

HOUSE BILL 45

Introduced by Hannah, et al.

6/21	Introduced
6/21	Fiscal Note Requested
6/22	Referred to Education & Cultural Resources
6/22	Hearing
6/23	Hearing
6/24	Committee Report--Bill Passed
6/26	Fiscal Note Received
6/26	2nd Reading Do Pass as Amended Motion Failed
6/27	Fiscal Note Printed

1 HOUSE BILL NO. 45  
2 INTRODUCED BY Hans Hofman  
3 MERCER BY REQUEST OF THE GOVERNOR  
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE  
6 PUBLIC SCHOOL FUNDING; TO CREATE DISTRICT EQUALIZATION  
7 LEVIES TO ENSURE FUNDING FOR THE FOUNDATION PROGRAM; TO  
8 ELIMINATE THE COUNTY RETIREMENT LEVY AND THE DISTRICT  
9 RETIREMENT FUND AND TO INCLUDE RETIREMENT BENEFIT COSTS IN  
10 THE GENERAL FUND BUDGET OF SCHOOL DISTRICTS; TO REQUIRE A  
11 DISTRICT TO LEVY FOR RETIREMENT BENEFIT EXPENDITURES IN  
12 EXCESS OF 10 PERCENT OF THE DISTRICT'S FOUNDATION PROGRAM  
13 SCHEDULE AMOUNT; TO REQUIRE COMPUTATION OF A MODIFIED  
14 TAXABLE VALUE FOR USE IN SETTING LEVIES; TO INCLUDE  
15 COMPREHENSIVE INSURANCE COSTS IN THE GENERAL FUND BUDGET OF  
16 SCHOOL DISTRICTS; TO ELIMINATE THE PRESENT PERMISSIVE LEVY;  
17 TO ADJUST THE FOUNDATION PROGRAM SCHEDULES FOR SCHOOL FISCAL  
18 YEAR 1991 AND SUCCEEDING YEARS; TO LIMIT THE MAXIMUM GENERAL  
19 FUND BUDGET OF A DISTRICT TO EITHER 104 PERCENT OF THE  
20 PREVIOUS YEAR'S COMBINED BUDGETS FOR GENERAL FUND,  
21 RETIREMENT, AND INSURANCE OR 125 PERCENT OF THE DISTRICT'S  
22 FOUNDATION PROGRAM SCHEDULE AMOUNT; TO FURTHER LIMIT THE  
23 GENERAL FUND RESERVE OF CERTAIN DISTRICTS; TO REALLOCATE  
24 LOTTERY REVENUE FROM RETIREMENT EQUALIZATION TO STATE  
25 EQUALIZATION AID; TO INCREASE THE COUNTY ELEMENTARY LEVY TO

1 53 MILLS AND THE COUNTY HIGH SCHOOL LEVY TO 32 MILLS; TO  
2 STATUTORILY APPROPRIATE REVENUE ALLOCATED BY LAW TO COUNTY  
3 AND STATE EQUALIZATION; TO EXCLUDE ALL SCHOOL LEVIES FROM  
4 THE PROPERTY TAX LIMITATIONS OF INITIATIVE MEASURE NO. 105;  
5 TO LIMIT TO 180 THE NUMBER OF PUPIL-INSTRUCTION DAYS FOR  
6 WHICH FOUNDATION PROGRAM SUPPORT MAY BE RECEIVED; TO REQUIRE  
7 DISTRIBUTION OF STATE EQUALIZATION AID IN MONTHLY PAYMENTS;  
8 TO REQUIRE SCHOOL DISTRICTS TO USE GENERALLY ACCEPTED  
9 ACCOUNTING PRINCIPLES; TO PROVIDE FOR A LEGISLATIVE  
10 OVERSIGHT COMMITTEE ON SCHOOL FUNDING IMPLEMENTATION TO  
11 DIRECT STUDIES OF THE EQUALIZATION OF TRANSPORTATION,  
12 INSURANCE, AND CAPITAL EXPENDITURES AND TO PERFORM OTHER  
13 DUTIES; TO PROVIDE APPROPRIATIONS; AMENDING SECTIONS  
14 2-7-504, 15-10-402, 15-10-412, 17-3-213, 17-7-502, 19-4-605,  
15 20-3-106, 20-3-324, 20-3-331, 20-5-305, 20-5-312, 20-6-506,  
16 20-6-603, 20-6-608, 20-7-414, 20-7-422, 20-7-431, 20-9-104,  
17 20-9-122, 20-9-141, 20-9-142, 20-9-201, 20-9-212, 20-9-213,  
18 20-9-301, 20-9-303, 20-9-311, 20-9-312, 20-9-315, 20-9-318  
19 THROUGH 20-9-322, 20-9-331, 20-9-333, 20-9-343, 20-9-344,  
20 20-9-346, 20-9-353, 20-9-501, 23-5-1027, AND 90-6-309, MCA;  
21 REPEALING SECTIONS 20-9-105, 20-9-352, 20-9-531, AND  
22 20-9-532, MCA; AND PROVIDING EFFECTIVE DATES AND AN  
23 APPLICABILITY DATE."

24  
25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:



-2- INTRODUCED BILL  
HB 45

1 **Section 1.** Section 2-7-504, MCA, is amended to read:

2 "2-7-504. **Accounting methods.** The Unless otherwise  
3 required by law, the department shall prescribe the general  
4 methods and details of accounting for the receipt and  
5 disbursement of all ~~moneys~~ money belonging to governmental  
6 entities referred to in this part and shall establish in  
7 those offices general methods and details of accounting.  
8 All governmental entity officers shall conform with the  
9 standards prescribed by the department."

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

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

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

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

25 (4) As used in this section, the "amount of taxes

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

8 **Section 3.** Section 15-10-412, MCA, is amended to read:

9 "15-10-412. **Property tax limited to 1986 levels --**  
10 **clarification -- extension to all property classes.** Section  
11 15-10-402 is interpreted and clarified as follows:

12 (1) The limitation to 1986 levels is extended to apply  
13 to all classes of property described in Title 15, chapter 6,  
14 part 1.

15 (2) The limitation on the amount of taxes levied is  
16 interpreted to mean that, except as otherwise provided in  
17 this section, the actual tax liability for an individual  
18 property is capped at the dollar amount due in each taxing  
19 unit for the 1986 tax year. In tax years thereafter, the  
20 property must be taxed in each taxing unit at the 1986 cap  
21 or the product of the taxable value and mills levied,  
22 whichever is less for each taxing unit, except in a taxing  
23 unit that levied a tax in tax years 1983 through 1985 but  
24 did not levy a tax in 1986, in which case the actual tax  
25 liability for an individual property is capped at the dollar

1 amount due in that taxing unit for the 1985 tax year.

2 (3) The limitation on the amount of taxes levied does  
3 not mean that no further increase may be made in the total  
4 taxable valuation of a taxing unit as a result of:

5 (a) annexation of real property and improvements into  
6 a taxing unit;

7 (b) construction, expansion, or remodeling of  
8 improvements;

9 (c) transfer of property into a taxing unit;

10 (d) subdivision of real property;

11 (e) reclassification of property;

12 (f) increases in the amount of production or the value  
13 of production for property described in 15-6-131 or  
14 15-6-132;

15 (g) transfer of property from tax-exempt to taxable  
16 status;

17 (h) revaluations caused by:

18 (i) cyclical reappraisal; or

19 (ii) expansion, addition, replacement, or remodeling of  
20 improvements; or

21 (i) increases in property valuation pursuant to  
22 15-7-111(4) through (8) in order to equalize property values  
23 annually.

24 (4) The limitation on the amount of taxes levied does  
25 not mean that no further increase may be made in the taxable

1 valuation or in the actual tax liability on individual  
2 property in each class as a result of:

3 (a) a revaluation caused by:

4 (i) construction, expansion, replacement, or  
5 remodeling of improvements that adds value to the property;

6 or

7 (ii) cyclical reappraisal;

8 (b) transfer of property into a taxing unit;

9 (c) reclassification of property;

10 (d) increases in the amount of production or the value  
11 of production for property described in 15-6-131 or  
12 15-6-132;

13 (e) annexation of the individual property into a new  
14 taxing unit;

15 (f) conversion of the individual property from  
16 tax-exempt to taxable status; or

17 (g) increases in property valuation pursuant to  
18 15-7-111(4) through (8) in order to equalize property values  
19 annually.

20 (5) Property in classes four, twelve, and fourteen is  
21 valued according to the procedures used in 1986, including  
22 the designation of 1982 as the base year, until the  
23 reappraisal cycle beginning January 1, 1986, is completed  
24 and new valuations are placed on the tax rolls and a new  
25 base year designated, if the property is:

1 (a) new construction;  
 2 (b) expanded, deleted, replaced, or remodeled  
 3 improvements;  
 4 (c) annexed property; or  
 5 (d) property converted from tax-exempt to taxable  
 6 status.

7 (6) Property described in subsections (5)(a) through  
 8 (5)(d) that is not class four, class twelve, or class  
 9 fourteen property is valued according to the procedures used  
 10 in 1986 but is also subject to the dollar cap in each taxing  
 11 unit based on 1986 mills levied.

12 (7) The limitation on the amount of taxes, as  
 13 clarified in this section, is intended to leave the property  
 14 appraisal and valuation methodology of the department of  
 15 revenue intact. Determinations of county classifications,  
 16 salaries of local government officers, and all other matters  
 17 in which total taxable valuation is an integral component  
 18 are not affected by 15-10-401 and 15-10-402 except for the  
 19 use of taxable valuation in fixing tax levies. In fixing tax  
 20 levies, the taxing units of local government may anticipate  
 21 the deficiency in revenues resulting from the tax  
 22 limitations in 15-10-401 and 15-10-402, while understanding  
 23 that regardless of the amount of mills levied, a taxpayer's  
 24 liability may not exceed the dollar amount due in each  
 25 taxing unit for the 1986 tax year unless the taxing unit's

1 taxable valuation decreases by 5% or more from the 1986 tax  
 2 year. If a taxing unit's taxable valuation decreases by 5%  
 3 or more from the 1986 tax year, it may levy additional mills  
 4 to compensate for the decreased taxable valuation, but in no  
 5 case may the mills levied exceed a number calculated to  
 6 equal the revenue from property taxes for the 1986 tax year  
 7 in that taxing unit.

8 (8) The limitation on the amount of taxes levied does  
 9 not apply to the following levy or special assessment  
 10 categories, whether or not they are based on commitments  
 11 made before or after approval of 15-10-401 and 15-10-402:

- 12 (a) rural improvement districts;
- 13 (b) special improvement districts;
- 14 (c) levies pledged for the repayment of bonded  
 15 indebtedness, including tax increment bonds;
- 16 (d) city street maintenance districts;
- 17 (e) tax increment financing districts;
- 18 (f) satisfaction of judgments against a taxing unit;
- 19 (g) street lighting assessments; and
- 20 (h) revolving funds to support any categories  
 21 specified in this subsection (8); and
- 22 (i) elementary and high school districts.

23 (9) The limitation on the amount of taxes levied does  
 24 not apply in a taxing unit if the voters in the taxing unit  
 25 approve an increase in tax liability following a resolution

1 of the governing body of the taxing unit containing:

2 (a) a finding that there are insufficient funds to  
3 adequately operate the taxing unit as a result of 15-10-401  
4 and 15-10-402;

5 (b) an explanation of the nature of the financial  
6 emergency;

7 (c) an estimate of the amount of funding shortfall  
8 expected by the taxing unit;

9 (d) a statement that applicable fund balances are or  
10 by the end of the fiscal year will be depleted;

11 (e) a finding that there are no alternative sources of  
12 revenue;

13 (f) a summary of the alternatives that the governing  
14 body of the taxing unit has considered; and

15 (g) a statement of the need for the increased revenue  
16 and how it will be used.

17 (10) The limitation on the amount of taxes levied does  
18 not apply to levies required to address the funding of  
19 relief of suffering of inhabitants caused by famine,  
20 conflagration, or other public calamity.

21 (11) The limitation on the amount of taxes levied by a  
22 taxing jurisdiction subject to a statutory maximum mill levy  
23 does not prevent a taxing jurisdiction from increasing its  
24 number of mills beyond the statutory maximum mill levy to  
25 produce revenue equal to its 1986 revenue.

1 (12) The limitation on the amount of taxes levied does  
2 not apply to a levy increase to repay taxes paid under  
3 protest in accordance with 15-1-402."

4 **Section 4.** Section 17-3-213, MCA, is amended to read:  
5 "17-3-213. Allocation to general road fund and  
6 countywide school levies. (1) The forest reserve funds so  
7 apportioned to each county ~~shall~~ must be apportioned by the  
8 county treasurer in each county ~~between-the-several-funds~~ as  
9 follows:

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

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

14 (i) ~~the-annual-basic-tax-levy~~ county equalization for  
15 elementary schools provided for in 20-9-331;

16 (ii) ~~the--annual--special--tax~~ county equalization for  
17 high schools provided for in 20-9-333; and

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

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

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

24 (2) The apportionment of money to the funds provided  
25 for under subsection (1)(b) ~~shall~~ must be made by the county

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

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

17 **Section 5.** Section 17-7-502, MCA, is amended to read:  
 18 "17-7-502. Statutory appropriations -- definition --  
 19 requisites for validity. (1) A statutory appropriation is an  
 20 appropriation made by permanent law that authorizes spending  
 21 by a state agency without the need for a biennial  
 22 legislative appropriation or budget amendment.

23 (2) Except as provided in subsection (4), to be  
 24 effective, a statutory appropriation must comply with both  
 25 of the following provisions:

1 (a) The law containing the statutory authority must be  
 2 listed in subsection (3).

3 (b) The law or portion of the law making a statutory  
 4 appropriation must specifically state that a statutory  
 5 appropriation is made as provided in this section.

6 (3) The following laws are the only laws containing  
 7 statutory appropriations: 2-9-202; 2-17-105; 2-18-812;  
 8 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304;  
 9 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-70-101;  
 10 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424;  
 11 17-5-804; 19-8-504; 19-9-702; 19-9-1007; 19-10-205;  
 12 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606;  
 13 19-12-301; 19-13-604; 20-6-406; 20-8-111; [section 45];  
 14 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-1016;  
 15 23-5-1027; 27-12-206; 37-51-501; 39-71-2504; 53-6-150;  
 16 53-24-206; 61-2-406; 61-5-121; 67-3-205; 75-1-1101;  
 17 75-5-1108; 75-11-313; 76-12-123; 80-2-103; 82-11-136;  
 18 82-11-161; 90-3-301; 90-4-215; 90-4-613; 90-6-331; 90-9-306;  
 19 and section 13, House Bill No. 861, Laws of 1985.

20 (4) There is a statutory appropriation to pay the  
 21 principal, interest, premiums, and costs of issuing, paying,  
 22 and securing all bonds, notes, or other obligations, as due,  
 23 that have been authorized and issued pursuant to the laws of  
 24 Montana. Agencies that have entered into agreements  
 25 authorized by the laws of Montana to pay the state

1 treasurer, for deposit in accordance with 17-2-101 through  
2 17-2-107, as determined by the state treasurer, an amount  
3 sufficient to pay the principal and interest as due on the  
4 bonds or notes have statutory appropriation authority for  
5 such payments. (In subsection (3), pursuant to sec. 10, Ch.  
6 664, L. 1987, the inclusion of 39-71-2504 terminates June  
7 30, 1991.)"

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

9 "19-4-605. Pension accumulation fund -- employer's  
10 contribution. The pension accumulation fund is the fund in  
11 which the reserves for payment of pensions and annuities  
12 ~~shall~~ must be accumulated and from which pensions,  
13 annuities, and benefits in lieu thereof ~~shall~~ of pensions  
14 and annuities must be paid to or on account of beneficiaries  
15 credited with prior service. Contributions to and payments  
16 from the pension accumulation fund ~~shall~~ must be made as  
17 follows:

18 (1) Each employer shall pay into the pension  
19 accumulation fund an amount equal to 7.459% of the earned  
20 compensation of each member employed during the whole or  
21 part of the preceding payroll period.

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

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

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

11 (5) All interest and other earnings realized on the  
12 moneys ~~money~~ of the retirement system ~~shall~~ must be credited  
13 to the pension accumulation fund, and the amount required to  
14 allow regular interest on the annuity savings fund ~~shall~~  
15 must be transferred to that fund from the pension  
16 accumulation fund.

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

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

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

24 "20-3-106. Supervision of schools -- powers and  
25 duties. The superintendent of public instruction has the



1 general supervision of the public schools and districts of  
2 the state, and he shall perform the following duties or acts  
3 in implementing and enforcing the provisions of this title:

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

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

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

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

13 (5) approve or disapprove the orders of a high school  
14 boundary commission in accordance with the provisions of  
15 20-6-311;

16 (6) approve or disapprove the opening or reopening of  
17 a school in accordance with the provisions of 20-6-502,  
18 20-6-503, 20-6-504, or 20-6-505;

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

21 (8) generally supervise the school budgeting  
22 procedures prescribed by law in accordance with the  
23 provisions of 20-9-102 and prescribe the school budget  
24 format in accordance with the provisions of 20-9-103 and  
25 20-9-506;

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

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

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

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

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

20 (14) distribute state equalization aid in support of  
21 the foundation program in accordance with the provisions of  
22 20-9-331, 20-9-333, 20-9-342, 20-9-346, and 20-9-347;

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

25 (16) provide for the uniform and equal provision of

1 transportation by performing the duties prescribed by the  
2 provisions of 20-10-112;

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

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

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

11 (20) prescribe the form and contents of and approve or  
12 disapprove interstate contracts in accordance with the  
13 provisions of 20-9-705;

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

17 (22) recommend standards of accreditation for all  
18 schools to the board of public education and evaluate  
19 compliance with such the standards and recommend  
20 accreditation status of every school to the board of public  
21 education in accordance with the provisions of 20-7-101 and  
22 20-7-102;

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

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

4 (25) license textbook dealers and initiate prosecution  
5 of textbook dealers violating the law in accordance with the  
6 provisions of the textbooks part of this title;

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

11 (27) supervise and coordinate the conduct of special  
12 education in the state in accordance with the provisions of  
13 20-7-403;

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

16 (29) administer the school food services program in  
17 accordance with the provisions of 20-10-201, 20-10-202, and  
18 20-10-203;

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

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

24 (32) provide schools with information and technical  
25 assistance for compliance with the student assessment rules

1 provided for in 20-2-121 and collect and summarize the  
2 results of such the student assessment for the board of  
3 public education and the legislature;

4 (33) administer the ~~distribution--of-state-retirement~~  
5 ~~equalization-aid-in--accordance--with--20-9-532~~ refunds to  
6 taxpayers under the provisions of [section 46]; and

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

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

11 **"20-3-324. Powers and duties.** As prescribed elsewhere  
12 in this title, the trustees of each district shall:

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

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

25 (3) administer the attendance and tuition provisions

1 and otherwise govern the pupils of the district in  
2 accordance with the provisions of the pupils chapter of this  
3 title;

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

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

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

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

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

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

22 (10) establish the ANB, foundation program, permissive  
23 levy, additional levy, district retirement deficiency levy,  
24 cash reserve, and state impact aid amount for the general  
25 fund of the district in accordance with the provisions of

1 the general fund part of this title;

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

5 (12) issue, refund, sell, budget, and redeem the bonds  
6 of the district in accordance with the provisions of the  
7 bonds parts of this title;

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

16 (14) when applicable, administer any interlocal  
17 cooperative agreement, gifts, legacies, or devises in  
18 accordance with the provisions of the miscellaneous  
19 financial parts of this title;

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

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

1 title;

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

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

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

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

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

24 (22) procure and display outside daily in suitable  
25 weather at each school of the district an American flag that

1 measures not less than 4 feet by 6 feet;

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

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

10 **Section 9.** Section 20-3-331, MCA, is amended to read:

11 "20-3-331. Purchase of liability insurance. The  
12 trustees of any district may purchase insurance coverage for  
13 the district, trustees, and employees against liability for  
14 the death, injury, or disability of any person or damage to  
15 property. The trustees shall include the cost of coverage  
16 in the general fund budget of the district."

17 **Section 10.** Section 20-5-305, MCA, is amended to read:

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

1 ~~shall~~ must be determined by:

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

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

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

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

21 **Section 11.** Section 20-5-312, MCA, is amended to read:

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

1 rate of tuition for the current school fiscal year by:

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

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

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

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

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

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

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

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

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

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

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

22 (6) The total amount of the high school tuition, with  
23 consideration of any tuition waivers, for pupils attending a  
24 high school outside the county of residence must be financed  
25 by the county basic special tax for high schools as provided

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

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

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

17 **Section 12.** Section 20-6-506, MCA, is amended to read:

18 "20-6-506. Budgeting and cost sharing when junior high  
 19 school operated by elementary district and high school  
 20 district operating a county high school. (1) Whenever the  
 21 opening of a junior high school is approved for the ensuing  
 22 school fiscal year under 20-6-505, the county superintendent  
 23 shall estimate the average number belonging (ANB) after  
 24 investigating the probable enrollment for the junior high  
 25 school. The ANB determined by the county superintendent and

1 the ANB actually realized in subsequent school fiscal years  
 2 shall must be applied under 20-9-320 to prorate the  
 3 ~~maximum-general-fund-budget-without-a-voted-levy~~ foundation  
 4 program schedule amount provided in 20-9-303(2)(a) between  
 5 the elementary and high school districts. Each district  
 6 shall adopt its general fund budget on the basis of the  
 7 prorated amount and shall finance its proportionate share of  
 8 the cost of operating the junior high school.

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

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

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

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

1 building;

2 (b) an additional levy under the provisions of  
 3 20-9-353 has been approved for the purpose of constructing,  
 4 purchasing, or acquiring the site or building;

5 (c) the cost of constructing, purchasing, or acquiring  
 6 the site or building is financed without exceeding the  
 7 ~~maximum-general-fund-budget-without-a-vote-amount-prescribed~~  
 8 ~~in 20-9-316 through 20-9-321~~ foundation program schedule  
 9 amount provided in 20-9-303, and, in the case of a site  
 10 purchase, the site has been approved under the provisions of  
 11 20-6-621; or

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

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

25 **Section 14.** Section 20-6-608, MCA, is amended to read:



1       **"20-6-608. Authority and duty of trustees to insure**  
 2 **district property.** The trustees of any district shall have  
 3 ~~the authority and it shall be their duty to~~ insure any or  
 4 all real and personal property of the district. The  
 5 trustees shall include the cost of insurance in the general  
 6 fund budget of the district."

7       **Section 15.** Section 20-7-414, MCA, is amended to read:

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

1 district. If the child is in need of a surrogate parent, the  
 2 trustees of ~~a~~ the school district or the governing authority  
 3 of ~~an~~ the institution must nominate a surrogate parent for  
 4 the child as provided in 20-7-461.

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

20       **Section 16.** Section 20-7-422, MCA, is amended to read:

21       **"20-7-422. Out-of-state tuition for special education**  
 22 **children.** (1) If the trustees of any district recommend to  
 23 the superintendent of public instruction the attendance of  
 24 a child in need of special education in a special education  
 25 program offered outside of the state of Montana, ~~such~~ the

1 arrangements ~~shall~~ are not be subject to the out-of-state  
2 attendance provisions of the laws governing the attendance  
3 of pupils in schools outside the state of Montana.

4 (2) Whenever the attendance of a child at an  
5 out-of-state special education program is approved by the  
6 superintendent of public instruction, ~~it--shall--be--the~~  
7 ~~responsibility-of~~ the superintendent of public instruction  
8 shall, in cooperation with the department of family  
9 services, ~~to~~ negotiate the program for the child and the  
10 amount and manner of payment of tuition. The amount of  
11 tuition ~~shall~~ must be included as a contracted service in  
12 20-7-431(1)(a)(iii)(A) in the ~~maximum-budget-without-a-vote~~  
13 foundation program amount for special education."

14 **Section 17.** Section 20-7-431, MCA, is amended to read:

15 "20-7-431. Allowable cost schedule for special  
16 programs -- superintendent to make rules -- annual  
17 accounting. (1) For the purpose of determining the  
18 ~~maximum-budget-without-a-vote~~ foundation program amount for  
19 special education as defined in 20-9-321, the following  
20 schedule of allowable costs ~~shall~~ must be followed by the  
21 school district in preparation of its special education  
22 budget for state aid request purposes and by the  
23 superintendent of public instruction in his review and  
24 approval of the budget (for the purposes of determining the  
25 amount of the ~~maximum-budget-without-a-vote~~ foundation

1 program for special education for the district, and as used  
2 in this schedule, "full-time special pupil" and "regular  
3 ANB" are to be determined in accordance with 20-9-311 and  
4 20-9-313):

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

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

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

17 (iii) other expenses:

18 (A) contracted services, including fees paid for  
19 professional advice and consultation regarding special  
20 students or the special program, and the delivery of special  
21 education services by public or private agencies--the actual  
22 total cost;

23 (B) transportation costs for special education  
24 personnel who ~~must~~ travel on an itinerant basis from school  
25 to school or district to district or to in-state child study

1 team meetings or in-state individualized education program  
 2 meetings--the actual cost to the district calculated on the  
 3 same mileage rate used by the district for other travel  
 4 reimbursement purposes;

5 (b) supportive services, including:

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

15 (ii) salaries and benefits of clerical personnel ~~for~~  
 16 who assist professional personnel in supportive  
 17 services--the entire cost if employed full time in the  
 18 special program; if ~~such~~ the personnel are shared between  
 19 special and regular programs--a portion of the entire cost  
 20 corresponding to the entire working time which each ~~such~~  
 21 person devotes to the special program;

22 (c) equipment:

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

24 (ii) special equipment for district-owned school buses  
 25 necessary to accommodate special students--the actual total

1 cost;

2 (iii) special equipment for school buses contracted to  
 3 transport special students--that portion of the contract  
 4 price attributable to the cost of special equipment or  
 5 personnel required to accommodate special students--the  
 6 actual special cost;

7 (iv) repair and maintenance of equipment--the actual  
 8 total cost;

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

13 (2) The superintendent of public instruction shall  
 14 ~~prior--to--September--17--1977--revise--the~~ adopt rules in  
 15 accordance with the policies of the board of public  
 16 education for:

17 (a) keeping necessary records for supportive and  
 18 administrative personnel and any personnel shared between  
 19 special and regular programs;

20 (b) defining the total special program caseload that  
 21 ~~shall~~ must be assigned to specific support persons and the  
 22 kinds of professional specialties to be considered relevant  
 23 to the program before the district may count an allowable  
 24 cost under subsection (1)(b) of this section; and

25 (c) defining the kinds or types of equipment whose

1 costs may be counted under subsection (1)(c)(i) of this  
2 section.

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

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

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

19 (6) (a) Notwithstanding other provisions of the law,  
20 the superintendent of public instruction ~~shall~~ may not  
21 approve a ~~maximum-budget-without-a-vote~~ foundation program  
22 amount for special education which that exceeds legislative  
23 appropriations; however, any unexpended balance from the  
24 first year of a biennial appropriation may be spent in the  
25 second year of the biennium in addition to the second year

1 appropriation.

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

12 **Section 18.** Section 20-9-104, MCA, is amended to read:

13 "20-9-104. General fund cash reserve. (1) At the end  
14 of each school fiscal year, the trustees of each district  
15 shall designate what the portion of the general fund  
16 end-of-the-year cash balance ~~shall~~ that is to be earmarked  
17 as cash reserve for the purpose of paying general fund  
18 warrants issued by the district from July 1 to November 30  
19 of the ensuing school fiscal year. The amount of the general  
20 fund cash balance that is earmarked as cash reserve ~~shall~~  
21 may not exceed 35% the following percentages of the final  
22 general fund budget for the ensuing school fiscal year and  
23 shall:

24 (a) 35% for a district that did not receive state  
25 equalization aid during the current school fiscal year;

1 (b) 30% for a district that received state  
 2 equalization aid equal to 25% or less of its foundation  
 3 program schedule amount in the current school fiscal year;  
 4 and

5 (c) 20% for a district that received state  
 6 equalization aid equal to more than 25% of its foundation  
 7 program schedule amount in the current school fiscal year.

8 (2) The amount held as cash reserve may not be used  
 9 for property tax reduction in the manner permitted by  
 10 20-9-141(1)(b) for other receipts. Any portion of the  
 11 general fund end-of-the-year cash balance that is not  
 12 earmarked for cash reserve purposes shall--be is cash  
 13 reappropriated which-shall and must be used for property tax  
 14 reduction as provided in 20-9-141(1)(b)(iii).

15 (3) The limitation of subsection (1) does not apply  
 16 when the amount in excess of the limitation is equal to or  
 17 less than:

18 (a) any amount received during the current school  
 19 fiscal year under Public Law 81-874; or

20 (b) the unused balance of any amount received in  
 21 settlement of tax payments protested prior to [the effective  
 22 date of this section]."

23 **Section 19.** Section 20-9-122, MCA, is amended to read:

24 **"20-9-122. Statement of district, city, and town**  
 25 **valuations. (1) By the second Monday of July, the department**

1 of revenue or its agent in each county shall, at the time of  
 2 delivering the completed assessment book to the county clerk  
 3 under the provisions of 15-8-705, also deliver to the county  
 4 superintendent and to each city or town clerk a statement  
 5 showing separately for each district and each city or town  
 6 in his county the total assessed value and the total taxable  
 7 value of all property in such the districts, cities, or  
 8 towns, as these valuations appear in such the completed  
 9 assessment book.

10 (2) The county clerk shall, after the second Monday in  
 11 August and before or at the time of delivering the  
 12 assessment book to the department of revenue or its agent  
 13 under the provisions of 15-10-306, prepare a statement  
 14 showing separately for each district and each city or town  
 15 in his county the total assessed value and the total taxable  
 16 value of all property in such the districts, cities, or  
 17 towns, as these valuations appear in the assessment book  
 18 after amendments, corrections, and additions made by the  
 19 state and county tax appeal boards and entered on the  
 20 assessment book. The county clerk shall immediately deliver  
 21 a copy of his statement of assessed and taxable values for  
 22 districts to the county superintendent and a copy of those  
 23 portions of such the statement for each city and town to the  
 24 appropriate city or town clerk.

25 (3) In the case of a joint school district, the

1 department of revenue or its agent and the county clerk  
2 shall, at the time of delivering their respective statements  
3 to the county superintendent, send a statement of the  
4 assessed value and taxable value of the portion of the joint  
5 school district situated in their county to the county  
6 superintendents and to the county commissioners of each  
7 county in which a part of the joint school district is  
8 situated.

9 (4) In addition to the provisions in subsections (1)  
10 through (3), the department of revenue or its agent shall  
11 compute a modified taxable value for use in setting levies  
12 under the provisions of 20-9-353 and 20-9-501. For the  
13 purposes of this section, "modified taxable value" is  
14 computed by subtracting 80% of the taxable value of property  
15 described in 15-6-135, 15-6-137, 15-6-138, 15-6-140,  
16 15-6-141, 15-6-145, and 15-6-147 from the total taxable  
17 value of each public school district in the county. The  
18 values must be reported as required under the provisions of  
19 subsections (1) through (3)."

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

21 "20-9-141. Computation of general fund net levy  
22 requirement by county superintendent. (1) The county  
23 superintendent shall compute the levy requirement for each  
24 district's general fund on the basis of the following  
25 procedure:

1 (a) Determine the ~~total--of-the~~ funding required for  
2 the district's final general fund budget less the amount  
3 established by the foundation program schedules ~~in-20-9-316~~  
4 ~~through--20-9-321~~ and the reductions in any state  
5 equalization aid under the provisions of 20-9-347 by  
6 totaling:

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

10 ~~(ii)-the--district's-permissive-levy-amount-as-provided~~  
11 ~~in-20-9-352;~~ and

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

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

19 (i) anticipated federal moneys money received under  
20 the provisions of Title I of Public Law 81-874 or other  
21 anticipated federal moneys money received in lieu of such  
22 that federal act;

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

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

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

5 (v) anticipated or reappropriated revenue from ~~vehiele~~  
 6 property taxes and fees imposed under 23-2-517, 23-2-803,  
 7 61-3-504(2), 61-3-521, and 61-3-537, and 67-3-204;

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

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

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

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

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

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

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

5 **Section 21.** Section 20-9-142, MCA, is amended to read:  
 6 "20-9-142. Fixing and levying taxes by board-of county  
 7 commissioners. (1) On the second Monday in August, the  
 8 county superintendent shall place before the board-of county  
 9 commissioners the final adopted budget of the district and  
 10 any emergency budget adopted by the district during the  
 11 previous school fiscal year. ~~It shall be the duty of the~~  
 12 ~~board-of~~ The county commissioners to shall fix and levy on  
 13 all the taxable value of all the real and personal property  
 14 within the district all district and county taxation  
 15 required to finance, within the limitations provided by law,  
 16 the final budget and any emergency budget of the district.

17 (2) For the purposes of setting the levies under the  
 18 provisions of 20-9-353 and 20-9-501, the county  
 19 commissioners shall use the modified taxable value  
 20 determined under the provisions of 20-9-122(4)."

21 **Section 22.** Section 20-9-201, MCA, is amended to read:  
 22 "20-9-201. Definitions and application. (1) As used in  
 23 this title, unless the context clearly indicates otherwise,  
 24 "fund" means a separate detailed account of receipts and  
 25 expenditures for a specific purpose as authorized by law.

1 Funds are classified as follows:

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

11 (b) A "nonbudgeted fund" means any fund for which a  
12 budget is not required in order to expend any money on  
13 deposit in such the fund. The school food services fund,  
14 miscellaneous federal programs fund, building fund, lease or  
15 rental agreement fund, traffic education fund, interlocal  
16 cooperative fund, and any other funds ~~so~~ designated by the  
17 legislature ~~shall--be~~ are nonbudgeted funds.

18 (2) The school financial administration provisions of  
19 this title apply to all money of any elementary or high  
20 school district except the extracurricular money realized  
21 from pupil activities. Elementary and high school districts  
22 shall record the receipt and disbursement of all money in  
23 accordance with generally accepted accounting principles.  
24 The superintendent of public instruction has general  
25 supervisory authority as prescribed by law over the school

1 financial administration provisions, as they relate to  
2 elementary and high school districts, ~~as prescribed by law~~  
3 ~~and. He shall establish--such adopt~~ rules ~~as--are~~ necessary to  
4 secure compliance with the law."

5 **Section 23.** Section 20-9-212, MCA, is amended to read:  
6 "20-9-212. Duties of county treasurer. The county  
7 treasurer of each county shall:

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

16 (a) the basic county tax in support of the elementary  
17 foundation programs;

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

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

22 ~~(d)--the--county--tax--in--support--of--the--high--school~~  
23 ~~obligations--to--the--retirement--systems--of--the--state--of~~  
24 ~~Montana;~~

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



1 provide--for--deficiency---financing---of---the---elementary  
2 foundation-programs;

3 (f)--any--additional--county--tax--required--by--law-to  
4 provide--for--deficiency--financing--of--the--high--school  
5 foundation-programs;-and

6 (g)(d) any other county tax for schools, including the  
7 community colleges, which may be authorized by law and  
8 levied by the county commissioners;

9 (2) whenever requested, notify the county  
10 superintendent and the superintendent of public instruction  
11 of the amount of county school money on deposit in each of  
12 the funds enumerated in subsection (1) of this section and  
13 the amount of any other school money subject to  
14 apportionment and apportion such the county and other school  
15 money to the districts in accordance with the apportionment  
16 ordered by the county superintendent;

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

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

24 (5) except as otherwise limited by law, pay all  
25 warrants properly drawn on the county or district school

1 money and properly endorsed by their holders;

2 (6) receive all revenue collected by and for each  
3 district and deposit these receipts in the fund designated  
4 by law or by the district if no fund is designated by law.  
5 Interest and penalties on delinquent school taxes shall must  
6 be credited to the same fund and district for which the  
7 original taxes were levied.

8 (7) send all revenues revenue received for a joint  
9 district, part of which is situated in his county, to the  
10 county treasurer designated as the custodian of such  
11 revenues the revenue, no later than December 15 of each year  
12 and every 3 months thereafter until the end of the school  
13 fiscal year;

14 (8) at the direction of the trustees of a district,  
15 assist the district in the issuance and sale of tax and  
16 revenue anticipation notes as provided in Title 7, chapter  
17 6, part 11;

18 (9) register district warrants drawn on a budgeted  
19 fund in accordance with 7-6-2604 when there is insufficient  
20 money available in--the--sum--of--money in all funds of the  
21 district to make payment of such the warrant. Redemption of  
22 registered warrants shall must be made in accordance with  
23 7-6-2116, 7-6-2605, and 7-6-2606.

24 (10) invest the money of any district as directed by  
25 the trustees of the district within 3 working days of such

1 the direction;

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

7 (12) remit promptly to the state treasurer receipts for  
8 the county tax for a vocational-technical center when levied  
9 by the board of county commissioners under the provisions of  
10 20-16-202; and

11 (13) invest the money received from the basic county  
12 tax in support of the elementary foundation programs and the  
13 basic special tax in support of the high school foundation  
14 programs within 3 working days of receipt. The money must be  
15 invested until the working day before it is required to be  
16 distributed to school districts within the county or  
17 remitted to the state. Permissible investments are  
18 specified in 20-9-213(4). All investment income must be  
19 deposited, and credited proportionately, in the funds  
20 established to account for the taxes received for the  
21 purposes specified in subsections (1)(a) and (1)(b)."

22 **Section 24.** Section 20-9-213, MCA, is amended to read:

23 **"20-9-213. Duties of trustees.** The trustees of each  
24 district shall have the sole power and authority to transact  
25 all fiscal business and execute all contracts in the name of

1 such the district. No person other than the trustees acting  
2 as a governing board ~~shall have the authority to~~ may expend  
3 moneys money of the district. In conducting the fiscal  
4 business of the district, the trustees shall:

5 (1) cause the keeping of an accurate, detailed  
6 accounting of all receipts and expenditures of school moneys  
7 money for each fund maintained by the district in accordance  
8 with generally accepted accounting principles and the rules  
9 prescribed by the superintendent of public instruction. The  
10 record of such the accounting ~~shall~~ must be open to public  
11 inspection at any meeting of the trustees.

12 (2) authorize all expenditures of district moneys  
13 money and cause warrants to be issued for the payment of  
14 lawful obligations;

15 (3) ~~have the authority to~~ issue warrants on any  
16 budgeted fund in anticipation of budgeted revenues, except  
17 that such the expenditures ~~shall~~ may not exceed the amount  
18 budgeted for such the fund;

19 (4) invest any moneys money of the district, whenever  
20 in the judgment of the trustees such the investment would be  
21 advantageous to the district, by directing the county  
22 treasurer to invest any money of the district in direct  
23 obligations of the United States government; in savings or  
24 time deposits in a state or national bank, building or loan  
25 association, savings and loan association, or credit union

1 insured by the FDIC, FSLIC, or NCUA located in the state; or  
 2 in a repurchase agreement as authorized in 7-6-213. All  
 3 interest collected on such the deposits or investments ~~shall~~  
 4 must be credited to the fund from which the money was  
 5 withdrawn, except that interest earned on account of the  
 6 investment of money realized from the sale of bonds ~~shall~~  
 7 must be credited to the debt service fund or the building  
 8 fund, at the discretion of the board of trustees. The  
 9 placement of the investment by the county treasurer ~~shall~~ is  
 10 not be subject to ratable distribution laws and ~~shall~~ must  
 11 be done in accordance with the directive from the board of  
 12 trustees. A district may invest ~~moneys~~ money under the  
 13 state unified investment program established in Title 17,  
 14 chapter 6.

15 (5) cause the district to record every transaction in  
 16 the appropriate account before the accounts are closed at  
 17 the end of the fiscal year in order to properly report the  
 18 receipt, use, and disposition of all money and property for  
 19 which the district is accountable;

20 ~~(5)(6)~~ report annually to the county superintendent,  
 21 not later than August 1, the financial activities of each  
 22 fund maintained by the district during the last completed  
 23 school fiscal year, on the forms prescribed and furnished by  
 24 the superintendent of public instruction. Annual fiscal  
 25 reports for joint school districts ~~shall~~ must be submitted

1 to the county superintendent of each county in which part of  
 2 the joint district is situated.

3 ~~(6)(7)~~ whenever requested, report any other fiscal  
 4 activities to the county superintendent, superintendent of  
 5 public instruction, or board of public education;

6 ~~(7)(8)~~ cause the accounting records of the district to  
 7 be audited ~~annually~~ biennially as required by law 2-7-503;  
 8 and

9 ~~(8)(9)~~ perform, in the manner permitted by law, such  
 10 other fiscal duties that are in the best interests of the  
 11 district."

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

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

22 (2) The principal budgetary vehicle for achieving the  
 23 minimum financing as established by the foundation program  
 24 ~~shall-be~~ is the general fund budget of the district. The  
 25 purpose of the general fund ~~shall-be~~ budget is to finance

1 those general maintenance and operational costs of a  
2 district not financed by other funds established for special  
3 purposes in this title, including insurance and retirement  
4 benefit costs.

5 (3) The amount of the general fund budget for each  
6 school fiscal year ~~shall~~ may not exceed the financing  
7 limitations established by this title ~~but shall be no~~ and  
8 may not be less than the amount established by law as the  
9 foundation program. The general fund budget ~~shall~~ must be  
10 financed by the foundation program revenues and may be  
11 supplemented by the ~~permissive~~ levy district retirement  
12 deficiency levy in 20-9-501 and additional voted levies in  
13 the manner provided by law."

14 **Section 26.** Section 20-9-303, MCA, is amended to read:

15 "20-9-303. Definition of foundation program ~~and its~~  
16 ~~proportion of the maximum general fund without a voted levy~~  
17 ~~schedule amount -- nonisolated school foundation program~~  
18 ~~financing -- special education funds.~~ (1) As used in this  
19 title, the term "foundation program" ~~shall mean~~ means the  
20 minimum operating expenditures, as established herein, that  
21 are sufficient to provide for the educational program of a  
22 school. The foundation program relates only to those  
23 expenditures authorized by a district's general fund budget  
24 and ~~shall~~ may not include expenditures from any other fund.  
25 It ~~shall be~~ is financed by:

1 (a) county equalization ~~moneys~~ money, as provided in  
2 20-9-331 and 20-9-333; and

3 (b) state equalization aid, as provided in 20-9-343;

4 (c) appropriations for special education; and

5 (d) any district levy, as provided in subsection (3),

6 for support of a school not approved as an isolated school  
7 under the provisions of 20-9-302.

8 (2) ~~The dollar amount of the foundation program shall~~

9 ~~be -----80%-----of-----the~~

10 ~~maximum general fund budget without a voted levy limitation~~

11 ~~as set forth in the schedules in 20-9-316 through 20-9-321.~~

12 The foundation program ~~of an~~ includes:

13 (a) amounts in support of general education programs

14 as provided in the schedules in 20-9-316 through 20-9-320;

15 and

16 (b) payments in support of special education programs

17 under 20-9-321.

18 (3) An elementary school having an ANB of nine or

19 fewer pupils for 2 consecutive years which is not approved

20 as an isolated school under the provisions of 20-9-302 ~~shall~~

21 ~~be~~ 80% of may budget and spend the schedule amount, but the

22 county and state shall participate in financing one-half of

23 the foundation program, and the district shall finance the

24 remaining one-half by a tax levied on the property of the

25 district. When a school of nine or fewer pupils is approved

1 as isolated under the provisions of 20-9-302, the county and  
2 state shall participate in the financing of the total amount  
3 of the foundation program.

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

20 **Section 27.** Section 20-9-311, MCA, is amended to read:

21 "20-9-311. Calculation of average number belonging  
22 (ANB). (1) Average number belonging must be computed by  
23 determining the total of the aggregate days of attendance by  
24 regularly enrolled, full-time pupils during the second  
25 semester of the preceding school fiscal year and the first

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

1 days, his absence after the 10th day of absence may not be  
2 included in the aggregate days of absence and his enrollment  
3 in the school may not be considered in the calculation of  
4 the average number belonging until he resumes attendance at  
5 school.

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

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

19 (a) a school of the district is located more than 3  
20 miles beyond the incorporated limits of a city or town or  
21 from another school of the district, all of the regularly  
22 enrolled, full-time pupils of the school must be calculated  
23 individually for ANB purposes;

24 (b) a junior high school has been approved and  
25 accredited as a junior high school, all of the regularly

1 enrolled, full-time pupils of the junior high school must be  
2 considered as high school district pupils for ANB purposes;

3 (c) a middle school has been approved and accredited,  
4 all pupils below the 7th grade must be considered elementary  
5 school pupils for ANB purposes and the 7th and 8th grade  
6 pupils must be considered high school pupils for ANB  
7 purposes; or

8 (d) a school has not been accredited by the board of  
9 public education, the regularly enrolled, full-time pupils  
10 attending the nonaccredited school are not eligible for  
11 average number belonging calculation purposes, nor will an  
12 average number belonging for the nonaccredited school be  
13 used in determining the foundation program for the district.

14 (4) When 11th or 12th grade students are regularly  
15 enrolled on a part-time basis, high schools may calculate  
16 the ANB to include an "equivalent ANB" for those students.  
17 The method for calculating an equivalent ANB must be  
18 determined in a manner prescribed by the superintendent of  
19 public instruction."

20 **Section 28.** Section 20-9-312, MCA, is amended to read:  
21 "20-9-312. Maximum--general--fund--budget Foundation  
22 program schedule for grades seven and eight. The ANB  
23 calculated for grades 7 and 8 shall must be funded at the  
24 high school rate, provided--that if the school meets the  
25 standards for accreditation of a middle school. When such

1 the pupils are actually enrolled in an elementary school,  
 2 the foundation program schedule amount of the general fund  
 3 budget per ANB is determined from the high school schedule  
 4 using the total ANB of the elementary school. To determine  
 5 the total ANB of such an elementary school, the 7th and  
 6 8th grade pupils shall must be included in such the total."

7 **Section 29.** Section 20-9-315, MCA, is amended to read:

8 **"20-9-315. Maximum general fund budget and exceptions.**

9 (1) The total amount of the general fund budget of any  
 10 district shall may not be greater than the general fund  
 11 budget amount specified in 20-9-316 through 20-9-321  
 12 district's foundation program as provided in 20-9-303,  
 13 except when a district has adopted an emergency general fund  
 14 budget under the provisions of 20-9-165 or when a district  
 15 satisfies the requirements of 20-9-353.

16 (2) Notwithstanding the provisions of subsection (1),  
 17 for school fiscal year 1991 and succeeding years, a  
 18 district's maximum general fund budget may not exceed:

19 (a) 125% of the foundation program schedule amount in  
 20 20-9-316 through 20-9-320; or

21 (b) 104% of any budget amounts for the previous school  
 22 fiscal year for the district general fund, including  
 23 retirement fund and comprehensive insurance fund budget  
 24 amounts."

25 **Section 30.** Section 20-9-318, MCA, is amended to read:

1 **"20-9-318. Elementary school maximum-budget foundation**  
 2 **program schedule for 1987-88 school fiscal year 1991 and**  
 3 **succeeding years. For 1987-88 the school fiscal year ending**  
 4 **June 30, 1991, and succeeding school years, the elementary**  
 5 **school maximum-budget foundation program schedule is as**  
 6 **follows:**

7 (1) For each elementary school having an ANB of nine  
 8 or fewer pupils, the maximum ~~shall be \$20,150~~ is \$29,431 if  
 9 said the school is approved as an isolated school.

10 (2) For schools with an ANB of 10 pupils but less than  
 11 18 pupils, the maximum ~~shall be \$20,150~~ is \$29,431 plus  
 12 \$842.50 \$1,230.05 per pupil on the basis of the average  
 13 number belonging over nine 9.

14 (3) For schools with an ANB of at least 14 pupils but  
 15 less than 18 pupils that qualify for instructional aide  
 16 funding under 20-9-322, the maximum ~~shall be \$33,842~~ is  
 17 \$48,241 plus \$842.50 \$1,230.05 per pupil on the basis of the  
 18 average number belonging over 14.

19 (4) For schools with an ANB of 18 pupils and employing  
 20 one teacher, the maximum ~~shall be \$27,741~~ is \$40,502 plus  
 21 \$842.50 \$1,230.05 per pupil on the basis of the average  
 22 number belonging over 18, not to exceed an ANB of 25.

23 (5) For schools with an ANB of 18 pupils and employing  
 24 two full-time teachers, the maximum ~~shall be \$44,290~~ is  
 25 \$64,663 plus \$527.60 \$770.30 per pupil on the basis of the

1 average number belonging over 18, not to exceed an ANB of  
2 50.

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

6 (a) For a school having an ANB of more than 40 and  
7 employing a minimum of three teachers, the maximum of ~~\$17,957~~  
8 ~~shall-be \$2,857 is~~ decreased at the rate of ~~\$1.98~~ \$2.80 for  
9 each additional pupil until the total number (ANB) ~~shall~~  
10 ~~have-reached reaches~~ a total of 100 pupils.

11 (b) For a school having an ANB of more than 100  
12 pupils, the maximum of ~~\$17,843-shall-be \$2,609 is~~ decreased  
13 at the rate of ~~\$1.74~~ \$2.54 for each additional pupil until  
14 the ANB ~~shall-have-reached reaches~~ 300 pupils.

15 (c) For a school having an ANB of more than 300  
16 pupils, the maximum ~~shall may~~ not exceed ~~\$17,496~~ \$2,182 for  
17 each pupil.

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

25 **Section 31.** Section 20-9-319, MCA, is amended to read:

1 "20-9-319. High school maximum---budget foundation  
2 program schedule for 1987-88 school fiscal year 1991 and  
3 succeeding years. For 1987-88 the school fiscal year ending  
4 June 30, 1991, and succeeding school years, the high school  
5 maximum-budget foundation program schedule is as follows:

6 (1) For each high school having an ANB of 24 or fewer  
7 pupils, the maximum ~~shall-be-\$114,845 is~~ \$167,674.

8 (2) For a secondary high school having an ANB of more  
9 than 24 pupils, the maximum ~~\$4,785-shall--be of \$6,986 is~~  
10 decreased at the rate of ~~\$26.10~~ \$38.11 for each additional  
11 pupil until the ANB ~~shall-have-reached reaches~~ a total of 40  
12 such pupils.

13 (3) For a school having an ANB of more than 40 pupils,  
14 the maximum of ~~\$4,368-shall-be \$6,376 is~~ decreased at the  
15 rate of ~~\$26.10~~ \$38.11 for each additional pupil until the  
16 ANB ~~shall-have-reached reaches~~ 100 pupils.

17 (4) For a school having an ANB of more than 100  
18 pupils, a the maximum of ~~\$2,802-shall-be \$4,090 is~~ decreased  
19 at the rate of ~~\$4.37~~ \$6.38 for each additional pupil until  
20 the ANB ~~shall-have-reached reaches~~ 200 pupils.

21 (5) For a school having an ANB of more than 200  
22 pupils, the maximum of ~~\$2,365-shall-be \$3,452 is~~ decreased  
23 by ~~\$2.40~~ \$3.50 for each additional pupil until the ANB ~~shall~~  
24 ~~have-reached reaches~~ 300 pupils.

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



1 pupils, the maximum of ~~\$2,125~~ shall be \$3,102 is decreased  
2 at the rate of ~~44~~ 64 cents for each additional pupil until  
3 the ANB ~~shall have reached~~ reaches 600 pupils.

4 (7) For a school having an ANB over of more than 600  
5 pupils, the maximum ~~shall~~ may not exceed ~~\$1,993~~ \$2,910 per  
6 pupil.

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

15 **Section 32.** Section 20-9-320, MCA, is amended to read:

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

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

1 school schedule;

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

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

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

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

21 **Section 33.** Section 20-9-321, MCA, is amended to read:

22 "20-9-321. Maximum---general---fund---budget Foundation  
23 program and contingency funds for special education. (1) For  
24 the purpose of establishing the  
25 maximum--budget--without--a--vote foundation program amount for

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

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

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

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

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

1 the school district.

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

22 (4) The sum of the previous year special education  
 23 expenses as defined in subsection (3) ~~above~~ and the  
 24 ~~maximum-budget-without-a-vote~~ foundation program amount for  
 25 current year special education as defined in subsections (1)

1 and (2) ~~shall--be~~ is the special education budget for  
2 accounting purposes.

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

9 **Section 34.** Section 20-9-322, MCA, is amended to read:

10 **"20-9-322. Elementary instructional aide funding**  
11 **qualification.** (1) An elementary school that anticipates an  
12 ANB of at least 14 but less than 18 pupils for the ensuing  
13 school fiscal year may determine the ~~maximum--general--fund~~  
14 budget foundation program amount under the provisions of  
15 20-9-316(3) or 20-9-318(3) if eligibility is approved in  
16 accordance with the following provisions:

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

21 (i) the ANB for the preceding ANB calculation period;

22 (ii) the current ANB and the number of grade levels  
23 being taught on May 1 of the current year;

24 (iii) an estimate of the ANB and the number of grade  
25 levels anticipated for the ensuing ANB calculation period;

1 (iv) the factual information on which the estimate is  
2 based; and

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

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

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

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

19 (a) a person who is under the direct supervision of a  
20 teacher; or

21 (b) a certified teacher."

22 **Section 35.** Section 20-9-331, MCA, is amended to read:

23 **"20-9-331. Basic county tax and other revenues for**  
24 **county equalization of the elementary district foundation**  
25 **program.** (1) ~~it--shall--be--the--duty--of--the~~ The county

1 commissioners of each county to shall levy an annual basic  
 2 tax of ~~20~~ 53 mills on the ~~dollars~~ dollar of the taxable  
 3 value of all taxable property within the county, except for  
 4 ~~vehicles-subject-to-taxation-under-61-3-504(2)~~ property  
 5 subject to taxes and fees under 23-2-517, 23-2-803,  
 6 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204, for the  
 7 purposes of local and state foundation program support. The  
 8 revenue ~~to-be~~ collected from this levy ~~shall~~ must be  
 9 apportioned to the support of the foundation programs of the  
 10 elementary school districts in the county and to the state  
 11 special revenue fund, state equalization aid account, in the  
 12 following manner:

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

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

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

4 (c) If revenue from the basic levy prescribed by this  
 5 section when combined with the other revenue from subsection  
 6 (2) is insufficient to fully fund the percentage determined  
 7 in 20-9-347(1)(b) and the county is eligible for an  
 8 apportionment of state equalization aid under the provisions  
 9 of 20-9-347(1)(c), the county superintendent shall notify  
 10 the superintendent of public instruction of the deficiency.  
 11 The superintendent of public instruction shall increase the  
 12 state equalization aid payments to the districts in the  
 13 affected county to offset the deficiency. A payment may not  
 14 be made under this subsection (c) that allows a district to  
 15 receive foundation program funding in excess of the  
 16 foundation program amount of the district.

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

25 (a) the portion of the federal Taylor Grazing Act

1 funds distributed to a county and designated for the common  
2 school fund under the provisions of 17-3-222;

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

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

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

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

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

22 (g) anticipated revenue from ~~vehicle~~ property taxes  
23 and fees imposed under 23-2-517, 23-2-803, 61-3-504(2),  
24 61-3-521, and 61-3-537, and 67-3-204."

25 **Section 36.** Section 20-9-333, MCA, is amended to read:

1 "20-9-333. Basic special levy and other revenues for  
2 county equalization of high school district foundation  
3 program. (1) ~~It shall be the duty of the~~ The county  
4 commissioners of each county ~~to~~ shall levy an annual basic  
5 special tax for high schools of ~~17~~ 32 mills on the dollar of  
6 the taxable value of all taxable property within the county,  
7 except for ~~vehicles subject to taxation under 61-3-504(2)~~  
8 property subject to taxes and fees under 23-2-517, 23-2-803,  
9 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204, for the  
10 purposes of local and state foundation program support. The  
11 revenue ~~to be~~ collected from this levy shall must be  
12 apportioned to the support of the foundation programs of  
13 high school districts in the county and to the state special  
14 revenue fund, state equalization aid account, in the  
15 following manner:

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

23 (b) If the basic levy prescribed by this section  
24 produces more revenue than is required to finance the  
25 difference determined above in subsection (1)(a), the county

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

7 (c) If revenue from the basic levy prescribed by this  
 8 section when combined with the other revenue from subsection  
 9 (2) is insufficient to fully fund the percentage determined  
 10 in 20-9-347(1)(b) and the county is eligible for an  
 11 apportionment of state equalization aid under the provisions  
 12 of 20-9-347(1)(c), the county superintendent shall notify  
 13 the superintendent of public instruction of the deficiency.  
 14 The superintendent of public instruction shall increase the  
 15 state equalization aid payments to the districts in the  
 16 affected county to offset the deficiency. A payment may not  
 17 be made under this subsection (c) that allows a district to  
 18 receive foundation program funding in excess of the  
 19 foundation program amount of the district.

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

1 proceeds the revenue by the county treasurer in accordance  
 2 with 20-9-212(1):

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

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

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

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

17 **Section 37.** Section 20-9-343, MCA, is amended to read:  
 18 **"20-9-343.** Definition of and revenue for state  
 19 equalization aid. (1) As used in this title, the term "state  
 20 equalization aid" means those-moneys the money deposited in  
 21 the state special revenue fund as required in this section  
 22 plus any legislative appropriation of money from other  
 23 sources for distribution to the public schools for the  
 24 purpose purposes of equalization of the foundation program  
 25 and providing refunds to taxpayers under the provisions of

1 [section 46].

2 (2) ~~The legislative--appropriation legislature shall~~  
3 biennially appropriate money for state equalization aid  
4 ~~shall be made in a single sum for the biennium.~~ The  
5 superintendent of public instruction ~~has authority to may~~  
6 spend ~~such~~ the appropriation, together with the earmarked  
7 revenues provided in subsection (3), as required for  
8 foundation program purposes throughout the 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) ~~31-81 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) money received from the district equalization levy  
4 under the provisions of [section 46];

5 (h) income from the lottery, as provided in 23-5-1027;  
6 ~~(g)(i) in addition to these revenues,~~ the surplus  
7 revenues collected by the counties for foundation program  
8 support according to 20-9-331 and 20-9-333; and

9 (j) investment income earned by investing money in the  
10 state equalization aid account in the state special revenue  
11 fund.

12 (4) The superintendent of public instruction shall  
13 request the board of investments to invest the money in the  
14 state equalization aid account to maximize investment  
15 earnings to the account.

16 ~~(4)(5)~~ (5) Any surplus revenue in the state equalization  
17 aid account in the second year of a biennium may be used to  
18 reduce the appropriation required for the next succeeding  
19 biennium."

20 **Section 38.** Section 20-9-344, MCA, is amended to read:

21 **"20-9-344. Purpose of state equalization aid and**  
22 **duties of the board of public education for distribution --**  
23 **conditions of first payment. (1) The money available for**  
24 **state equalization aid shall must be distributed and**  
25 **apportioned to provide an annual minimum operating revenue**

1 for the elementary and high schools in each county,  
 2 exclusive of revenues required for debt service and for the  
 3 payment of any ~~and--all~~ costs and expense incurred in  
 4 connection with any adult education program, recreation  
 5 program, school food services program, new buildings, ~~new~~  
 6 and grounds, and transportation.

7 (2) The board of public education shall administer and  
 8 distribute the state equalization aid in the manner and with  
 9 the powers and duties provided by law. To this end, the  
 10 board of public education shall:

11 (a) adopt policies for regulating the distribution of  
 12 state equalization aid in accordance with the provisions of  
 13 law and in a manner that ~~would-most-effectively-meet-the~~  
 14 ~~financial-needs---of---districts~~ provides for monthly  
 15 distribution to each district of its foundation program  
 16 entitlement;

17 (b) have the power to require ~~such~~ reports from the  
 18 county superintendents, budget boards, county treasurers,  
 19 and trustees as it ~~may-deem~~ considers necessary; and

20 (c) order the superintendent of public instruction to  
 21 distribute the state equalization aid on the basis of each  
 22 district's annual entitlement to ~~such~~ the aid as established  
 23 by the superintendent of public instruction. In ordering the  
 24 distribution of state equalization aid, the board of public  
 25 education ~~shall~~ may not increase or decrease the state

1 equalization aid distribution to any district on account of  
 2 any difference ~~which~~ that may occur during the school fiscal  
 3 year between budgeted and actual receipts from any other  
 4 source of school revenue.

5 (3) The board of public education may order the  
 6 superintendent of public instruction to withhold  
 7 distribution of state equalization aid or the county  
 8 superintendent of schools to withhold county equalization  
 9 money from a district when the district fails to:

10 (a) submit reports or budgets as required by law or  
 11 rules adopted by the board of public education; or

12 (b) maintain accredited status.

13 (4) Prior to any proposed order by the board of public  
 14 education to withhold distribution of state equalization aid  
 15 or county equalization money, the district is entitled to a  
 16 contested case hearing before the board of public education,  
 17 as provided under the Montana Administrative Procedure Act.

18 ~~(3)~~ (5) Should If a district ~~receive~~ receives more  
 19 state equalization aid than it is entitled to, the county  
 20 treasurer ~~must~~ shall return the overpayment to the state  
 21 upon the request of the superintendent of public instruction  
 22 in the manner prescribed by the department of commerce.

23 ~~(4)~~ (6) (a) The first payment of state-equalization-aid  
 24 each district's foundation program amount must be:

25 (a) based on an estimate of 20% of each district's



1 entitlement; and  
 2 (b) distributed by July 15 of the school fiscal year.  
 3 (b) Each subsequent monthly payment must be at least  
 4 7% of the district's amount."

5 **Section 39.** Section 20-9-346, MCA, is amended to read:

6 "20-9-346. Duties of the superintendent of public  
 7 instruction for state equalization aid distribution. The  
 8 superintendent of public instruction shall administer the  
 9 distribution of the state equalization aid by:

10 (1) (a) establishing each district's annual  
 11 entitlement to state equalization aid, based on the data  
 12 reported in the budget for each district that has been duly  
 13 adopted for the current school fiscal year and verified by  
 14 the superintendent of public instruction and by applying  
 15 such the verified data under the provisions of the state  
 16 equalization aid allocation procedure prescribed in  
 17 20-9-347; and

18 (b) reducing a district's state equalization aid  
 19 payment by 80% of the taxes paid for levies under the  
 20 provisions of 20-9-353 and 20-9-501 on property described in  
 21 15-6-135, 15-6-137, 15-6-138, 15-6-140, 15-6-141, 15-6-145,  
 22 and 15-6-147;

23 (2) recommending to the board of public education the  
 24 ~~annual~~ entitlement of all districts to state equalization  
 25 aid to enable the board of public education to order the

1 distribution of state equalization aid;

2 (3) distributing by state warrant or electronic  
 3 transfer the state equalization aid, for each district  
 4 entitled to ~~such~~ the aid, to the county treasurer of the  
 5 county where the district is located, in accordance with the  
 6 distribution ordered by the board of public education;

7 (4) keeping a record in his office of the full and  
 8 complete data concerning ~~moneys~~ money available for state  
 9 equalization aid and the entitlements for state equalization  
 10 aid of the ~~several~~ districts of the state;

11 (5) reporting to the board of public education the  
 12 estimated amount ~~which~~ that will be available for state  
 13 equalization aid; and

14 (6) reporting to both ~~branches~~ houses of the state  
 15 legislature in any year when a session is convened:

16 (a) the figures and data available in his office  
 17 concerning distributions of state equalization aid during  
 18 the preceding 2 school fiscal years;

19 (b) the amount of state equalization aid then  
 20 available;

21 (c) the apportionment made of ~~such~~ the available  
 22 ~~moneys~~ money but not yet distributed; and

23 (d) the latest estimate of accruals of ~~moneys~~ money  
 24 available for state equalization aid."

25 **Section 40.** Section 20-9-353, MCA, is amended to read:

1 "20-9-353. Additional levy for general fund --  
 2 election for authorization to impose. (1) ~~The~~ Except as  
 3 limited by 20-9-315(2), the trustees of any district may  
 4 propose to adopt a general fund budget in excess of the  
 5 ~~general-fund-budget-amount~~ foundation program for such the  
 6 ~~district as-established-by-the-schedules-in-20-9-316-through~~  
 7 ~~20-9-321~~ for any of the following purposes:

- 8 (a) building, altering, repairing, or enlarging any
- 9 schoolhouse of the district;
- 10 (b) furnishing additional school facilities for the
- 11 district;
- 12 (c) acquisition of land for the district;
- 13 (d) proper maintenance and operation of the school
- 14 programs of the district.

15 (2) When the trustees of any district determine that  
 16 an additional amount of financing is required for the  
 17 general fund budget that is in excess of the statutory  
 18 schedule amount, the trustees shall submit the proposition  
 19 of an additional levy to raise such the excess amount of  
 20 general fund financing to the electors who are qualified  
 21 under 20-20-301 to vote upon such the proposition, except  
 22 that ~~no~~ an election ~~shall-be~~ is not required to permit the  
 23 school trustees to use any funds available to finance the  
 24 additional amount other than those funds to be raised by the  
 25 additional levy. ~~Such~~ The special election ~~shall~~ must be

1 called and conducted in the manner prescribed by this title  
 2 for school elections. The ballot for such the election ~~shall~~  
 3 ~~must~~ state only the net amount of money to be raised by  
 4 additional property taxation after the adjustment required  
 5 in 20-9-346(1)(b), the approximate number of mills required  
 6 to raise such the money, and the purpose for which such the  
 7 money will be expended, ~~and-it-shall~~ The ballot must be in  
 8 the following format:

9 PROPOSITION

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

16  FOR the levy.

17  AGAINST the levy.

18 (3) If the election on any additional levy for the  
 19 general fund is approved by a majority vote of ~~those~~ the  
 20 electors voting at such the election, the proposition ~~shall~~  
 21 ~~carry~~ carries and the trustees may use any portion or all of  
 22 the authorized amount in adopting the preliminary general  
 23 fund budget. The trustees shall certify the additional levy  
 24 amount authorized by ~~such--a~~ the special election on the  
 25 budget form that is submitted to the county superintendent,

1 and the county commissioners shall levy such the authorized  
 2 number of mills on the taxable value of all taxable property  
 3 within the district, as prescribed in 20-9-141, ~~as--are~~  
 4 ~~required~~ to raise the amount of such the additional levy.

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

10 **Section 41.** Section 20-9-501, MCA, is amended to read:

11 "20-9-501. Retirement fund obligations -- district  
 12 deficiency levy. (1) The trustees of any district employing  
 13 personnel, except special education personnel, who are  
 14 members of the teachers' retirement system or the public  
 15 employees' retirement system or who are covered by  
 16 unemployment insurance or who are covered by any federal  
 17 social security system requiring employer contributions  
 18 shall ~~establish--a--retirement--fund--for--the--purposes--of~~  
 19 ~~budgeting--and--paying~~ budget and pay for the employer's  
 20 contributions to such the systems. The district's  
 21 contribution for each employee who is a member of the  
 22 teachers' retirement system ~~shall~~ must be calculated in  
 23 accordance with Title 19, chapter 4, part 6. The district's  
 24 contribution for each employee who is a member of the public  
 25 employees' retirement system ~~shall~~ must be calculated in

1 accordance with 19-3-801. ~~The-district-may-levy-a-special~~  
 2 ~~tax--to--pay--its--contribution--to--the--public--employees'~~  
 3 ~~retirement--system--under--the--conditions--prescribed--in~~  
 4 ~~19-3-204.~~ The district's contributions for each employee  
 5 covered by any federal social security system ~~shall~~ must be  
 6 paid in accordance with federal law and regulation. The  
 7 district's contribution for each employee who is covered by  
 8 unemployment insurance ~~shall~~ must be paid in accordance with  
 9 Title 39, chapter 51, part 11.

10 ~~{2}--The-trustees-of-any-district-required--to--make--a~~  
 11 ~~contribution--to--any--such--system--shall--include--in--the~~  
 12 ~~retirement-fund-of--the--preliminary--budget--the--estimated~~  
 13 ~~amount--of--the--employer's-contribution-and-such-additional~~  
 14 ~~moneys--within--legal--limitations--as--they--may--wish--to~~  
 15 ~~provide--for--the--retirement--fund--cash-reserve--After--the~~  
 16 ~~final-retirement-fund-budget-has-been-adopted--the--trustees~~  
 17 ~~shall--pay--the--employer--contributions--to--such--systems--in~~  
 18 ~~accordance-with-the-financial-administration-provisions--of~~  
 19 ~~this-title.~~

20 ~~{3}--When--the--final--retirement--fund-budget-has-been~~  
 21 ~~adopted--the-county-superintendent--shall--establish--the--levy~~  
 22 ~~requirement-by:~~

23 ~~{a}--determining--the--sum--of--the--moneys--available--to~~  
 24 ~~reduce--the--retirement-fund-levy-requirement--by--adding:~~

25 ~~{i}--any--anticipated-moneys--that--may--be--realized--in--the~~

1 retirement fund during the ensuing school fiscal year,  
2 including anticipated revenue from vehicle property taxes  
3 imposed under 61-3-504(2) and 61-3-537;

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

6 (iii) any cash available for reappropriation as  
7 determined by subtracting the amount of the end of the year  
8 cash balance earmarked as the retirement fund cash reserve  
9 for the ensuing school fiscal year by the trustees from the  
10 end of the year cash balance in the retirement fund. The  
11 retirement fund cash reserve shall not be more than 35% of  
12 the final retirement fund budget for the ensuing school  
13 fiscal year and shall be used for the purpose of paying  
14 retirement fund warrants issued by the district under the  
15 final retirement fund budget.

16 (b) subtracting the total of the moneys available for  
17 reduction of the levy requirement as determined in  
18 subsection (3)(a) from the budgeted amount for expenditures  
19 in the final retirement fund budget.

20 (4) The county superintendent shall:

21 (a) total the net retirement fund levy requirements  
22 separately for all elementary school districts, all high  
23 school districts, and all community college districts of the  
24 county, including any prorated joint district or special  
25 education cooperative agreement levy requirements;

1 (b) reduce the total retirement fund levy requirements  
2 of elementary school districts and high school districts by  
3 the amount available in state retirement equalization aid as  
4 calculated and distributed under the provisions of 20-9-532;  
5 and

6 (c) report each such levy requirement to the county  
7 commissioners on the second Monday of August as the  
8 respective county levy requirements for elementary district,  
9 high school district, and community college district  
10 retirement funds.

11 (5) The county commissioners shall fix and set such  
12 county levy in accordance with 20-9-142.

13 (6) The net retirement fund levy requirement for a  
14 joint elementary district or a joint high school district  
15 shall be prorated to each county in which a part of such  
16 district is located in the same proportion as the district  
17 ANB of the joint district is distributed by pupil residence  
18 in each such county. The county superintendents of the  
19 counties affected shall jointly determine the net retirement  
20 fund levy requirement for each county as provided in  
21 20-9-151.

22 (7) The net retirement fund levy requirement for  
23 districts that are members of special education cooperative  
24 agreements shall be prorated to each county in which such  
25 district is located in the same proportion as the budget for

1 ~~the special education cooperative agreement of the district~~  
 2 ~~bears to the total budget of the cooperative. The county~~  
 3 ~~superintendents of the counties affected shall jointly~~  
 4 ~~determine the net retirement fund levy requirement for each~~  
 5 ~~county in the same manner as provided in 20-9-151 and fix~~  
 6 ~~and levy the net retirement fund levy for each county in the~~  
 7 ~~same manner as provided in 20-9-152. (Subsection (4)(b)~~  
 8 ~~effective July 17, 1988, sec. 8, Ch. 635, B. 1987.)~~

9 (2) If a district's approved final budgeted amount for  
 10 personnel costs required in subsection (1) is in excess of  
 11 10% of its foundation program schedule amount, the board of  
 12 trustees shall levy a tax on the property within the  
 13 district, except property for which taxes or fees are  
 14 required under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521,  
 15 61-3-537, and 67-3-204, sufficient to pay the deficiency.  
 16 The tax must be determined using the modified taxable value  
 17 calculated under the provisions of 20-9-122."

18 **Section 42.** Section 23-5-1027, MCA, is amended to  
 19 read:

20 **"23-5-1027. Disposition of revenue.** (1) A minimum of  
 21 45% of the money paid for tickets or chances must be paid  
 22 out as prize money. The prize money is statutorily  
 23 appropriated, as provided in 17-7-502, to the lottery.

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

1 (3) That part of all gross revenue not used for the  
 2 payment of prizes, commissions, and operating expenses,  
 3 together with the interest earned on the gross revenue while  
 4 the gross revenue is in the enterprise fund, is net revenue  
 5 and must be paid quarterly from the enterprise fund  
 6 established by 23-5-1026 to the superintendent of public  
 7 instruction for distribution as state equalization aid to  
 8 the retirement fund obligations of elementary and high  
 9 school districts in the manner provided in 20-9-532. The  
 10 net revenue is statutorily appropriated, as provided in  
 11 17-7-502, to the superintendent of public instruction public  
 12 schools of Montana as provided in 20-9-343.

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

16 **Section 43.** Section 90-6-309, MCA, is amended to read:

17 **"90-6-309. Tax prepayment -- large-scale mineral**  
 18 **development.** (1) After permission to commence operation is  
 19 granted by the appropriate governmental agency, and upon  
 20 request of the governing body of a county in which a  
 21 facility is to be located, a person intending to construct  
 22 or locate a large-scale mineral development in this state  
 23 shall prepay property taxes as specified in the impact plan.  
 24 This prepayment shall exclude the 6-mill university levy  
 25 established under 20-25-423 and may exclude the mandatory

1 county ~~levy~~ levies for the school foundation program of--45  
2 ~~mitts~~ established in 20-9-331 and 20-9-333.

3 (2) The person who is to prepay under this section  
4 ~~shall~~ is not be obligated to prepay the entire amount  
5 established in subsection (1) at one time. Upon request of  
6 the governing body of an affected local government unit, the  
7 person shall prepay the amount shown to be needed from time  
8 to time as determined by the board.

9 (3) The person who is to prepay shall guarantee to the  
10 hard-rock mining impact board, through an appropriate  
11 financial institution, as may be required by the board, that  
12 property tax prepayments will be paid as needed for  
13 expenditures created by the impacts of the large-scale  
14 mineral development.

15 (4) When the mineral development facilities are  
16 completed and assessed by the department of revenue, they  
17 ~~shall-be~~ are subject during the first 3 years and thereafter  
18 to taxation as all other property similarly situated, except  
19 that in each year after the start of production, the local  
20 government unit that received a property tax prepayment  
21 shall provide for repayment of prepaid property taxes in  
22 accordance with subsection (5).

23 (5) A local government unit that received all or a  
24 portion of the property tax prepayment under this section  
25 shall provide for tax crediting as specified in the impact

1 plan. The tax credit allowed in any year may not, however,  
2 exceed the tax obligation of the developer for that year,  
3 and the time period for tax crediting is limited to the  
4 productive life of the mining operation."

5 NEW SECTION. Section 44. District comprehensive  
6 insurance fund balance -- transfer. A district that has a  
7 balance remaining on [the effective date of this section] in  
8 the district comprehensive insurance fund shall transfer the  
9 balance to the district general fund.

10 NEW SECTION. Section 45. State and county  
11 equalization revenue -- statutory appropriation. Revenue  
12 received in support of state and county equalization under  
13 the provisions of 20-9-331, 20-9-333, 20-9-343, and [section  
14 46] is statutorily appropriated, as provided in 17-7-502, to  
15 the superintendent of public instruction to be used for  
16 county equalization and state equalization aid for the  
17 public schools, as provided by law, and must be accounted  
18 for in accordance with generally accepted accounting  
19 principles.

20 NEW SECTION. Section 46. District equalization levy.  
21 (1) It is the duty of county commissioners to levy a  
22 district equalization levy on all property in a school  
23 district described in 15-6-135, 15-6-137, 15-6-138,  
24 15-6-140, 15-6-141, 15-6-145, and 15-6-147. This levy is in  
25 addition to all other property tax levies for school

1 districts provided by law.

2 (2) The district equalization levy must be determined  
3 for each district by subtracting 80% of the number of mills  
4 to be levied for the ensuing school fiscal year pursuant to  
5 20-9-353 and 20-9-501 from:

6 (a) 26 mills for a high school district; or

7 (b) 44 mills for an elementary district.

8 (3) In no case may the district equalization levy  
9 calculated under subsection (2) be less than zero.

10 (4) If the total elementary district and high school  
11 district mills that a taxpayer is subject to under the  
12 provisions of subsection (2) exceeds 70, the taxpayer is  
13 entitled to a refund equal to the taxable value of the  
14 affected property times the mills in excess of 70. The  
15 superintendent of public instruction shall provide the  
16 refund to the taxpayer from the state equalization aid  
17 account. A refund may not be made to a taxpayer that has  
18 protested the tax obligation in this section.

19 (5) Receipts from the district equalization levy must  
20 be deposited in the state equalization aid account in the  
21 state special revenue fund.

22 NEW SECTION. Section 47. Definition. As used in  
23 [sections 47 through 53], "committee" means the legislative  
24 oversight committee on school funding implementation created  
25 in [section 48].

1 NEW SECTION. Section 48. Legislative oversight  
2 committee on school funding implementation -- composition  
3 and appointment. (1) There is a legislative oversight  
4 committee on school funding implementation.

5 (2) The committee consists of 11 members, including:

6 (a) four members of the house of representatives  
7 appointed by the speaker of the house;

8 (b) four members of the senate appointed by the  
9 committee on committees of the senate;

10 (c) the superintendent of public instruction or his  
11 designee as an ex officio nonvoting member;

12 (d) a member of the board of public education as an ex  
13 officio nonvoting member; and

14 (e) the governor or his designee as an ex officio  
15 nonvoting member.

16 (3) No more than two legislative members from each  
17 house may be of the same political party.

18 NEW SECTION. Section 49. Term of office -- vacancies.

19 (1) A committee member shall serve until the committee  
20 terminates as provided in [section 53].

21 (2) A vacancy on the committee must be filled in the  
22 same manner as the original appointment.

23 NEW SECTION. Section 50. Officers -- meetings --  
24 quorum -- compensation. (1) The committee shall choose from  
25 its membership a chairman and vice chairman.

1 (2) The committee shall meet upon the call of the  
2 chairman or at the request of any five members.

3 (3) Six members constitute a quorum to transact  
4 business.

5 (4) A legislative member is entitled to compensation  
6 as provided in 5-2-302.

7 NEW SECTION. Section 51. Duties of the committee. The  
8 duties of the committee include but are not limited to:

9 (1) monitoring the implementation of school funding  
10 equalization, including:

11 (a) identification of any problems of implementation  
12 and options for resolving these problems;

13 (b) continued analysis of school district budget and  
14 expenditure data and of improvements in school district  
15 accounting and reporting procedures;

16 (c) examination of other issues related to  
17 implementation;

18 (2) directing the following studies of issues related  
19 to school funding equalization:

20 (a) school transportation equalization including but  
21 not limited to:

22 (i) mechanisms to equalize transportation funding; and

23 (ii) analysis of issues related to the costs and  
24 efficiencies of school transportation, including  
25 reimbursement schedules, load requirements, 3-mile limit,

1 transporting ineligible transportees, functions of the  
2 county transportation committee, and school district  
3 reporting and budgeting duties;

4 (b) school district capital outlay and debt service  
5 equalization, including but not limited to:

6 (i) analysis of school district funds and budgets for  
7 various school district capital outlay and debt service  
8 obligations;

9 (ii) options for equalizing school district capital  
10 outlay and debt service obligations;

11 (c) continued study of issues related to equalization,  
12 including but not limited to comprehensive insurance,  
13 uncollected taxes, tuition, student-based funding  
14 distribution methods, special education funding, and federal  
15 Public Law 81-874 revenue, especially as it pertains to  
16 revenue not linked to Native American students;

17 (3) ongoing analysis of revenue sources related to  
18 school funding;

19 (4) holding discussions with any party contemplating  
20 litigation regarding compliance with the supreme court and  
21 district court rulings on school funding equalization; and

22 (5) reporting its findings, options for legislative  
23 consideration, and any proposed legislation to the governor  
24 and the 52nd legislature.

25 NEW SECTION. Section 52. Staff assistance. The



1 committee may request the following governmental entities to  
2 provide staff assistance to the committee:

- 3 (1) the office of public instruction;
- 4 (2) the governor's office of budget and program  
5 planning;
- 6 (3) the board of public education;
- 7 (4) the legislative council;
- 8 (5) the office of the legislative fiscal analyst; and
- 9 (6) the office of the legislative auditor.

10 NEW SECTION. Section 53. Termination. [Sections 47  
11 through 52] terminate December 31, 1990.

12 NEW SECTION. Section 54. Repealer. Sections 20-9-105,  
13 20-9-352, 20-9-531, and 20-9-532, MCA, are repealed.

14 NEW SECTION. Section 55. Appropriation. (1) There is  
15 appropriated from the general fund \$56,807,000 for the  
16 fiscal year ending June 30, 1991, to the superintendent of  
17 public instruction to be used to the extent that funds  
18 appropriated in 20-9-343 are insufficient to finance the  
19 foundation program schedules for public schools, excluding  
20 special education.

21 (2) There is appropriated from the general fund  
22 \$353,950 for the biennium ending June 30, 1991, to the  
23 superintendent of public instruction to establish standard  
24 accounting and reporting practices in all Montana public  
25 school districts and to implement [this act].

1 (3) There is appropriated from the general fund  
2 \$20,000 to the legislative council for the biennium ending  
3 June 30, 1991, for use by the committee established in  
4 [section 48].

5 NEW SECTION. Section 56. Codification instruction.  
6 [Sections 45 and 46] are intended to be codified as an  
7 integral part of Title 20, chapter 9, and the provisions of  
8 Title 20 apply to [sections 45 and 46].

9 NEW SECTION. Section 57. Effective dates -- rules.  
10 (1) (a) [Sections 1 through 26, 28 through 46, 54, and 56]  
11 are effective July 1, 1990.

12 (b) The superintendent of public instruction may,  
13 prior to July 1, 1990, adopt rules and conduct training  
14 necessary to implement [section 22].

15 (2) [Sections 27, 47 through 53, 58, and this section]  
16 are effective July 1, 1989.

17 NEW SECTION. Section 58. Applicability. [Section 45],  
18 20-9-331, and 20-9-333 apply retroactively, within the  
19 meaning of 1-2-109, to taxable years beginning after  
20 December 31, 1989.

-End-

APPROVED BY COMM. ON EDUCATION  
AND CULTURAL RESOURCES

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INTRODUCED BY HOUSE BILL NO. 45  
Merger Hofma  
BY REQUEST OF THE GOVERNOR

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE PUBLIC SCHOOL FUNDING; TO CREATE DISTRICT EQUALIZATION LEVIES TO ENSURE FUNDING FOR THE FOUNDATION PROGRAM; TO ELIMINATE THE COUNTY RETIREMENT LEVY AND THE DISTRICT RETIREMENT FUND AND TO INCLUDE RETIREMENT BENEFIT COSTS IN THE GENERAL FUND BUDGET OF SCHOOL DISTRICTS; TO REQUIRE A DISTRICT TO LEVY FOR RETIREMENT BENEFIT EXPENDITURES IN EXCESS OF 10 PERCENT OF THE DISTRICT'S FOUNDATION PROGRAM SCHEDULE AMOUNT; TO REQUIRE COMPUTATION OF A MODIFIED TAXABLE VALUE FOR USE IN SETTING LEVIES; TO INCLUDE COMPREHENSIVE INSURANCE COSTS IN THE GENERAL FUND BUDGET OF SCHOOL DISTRICTS; TO ELIMINATE THE PRESENT PERMISSIVE LEVY; TO ADJUST THE FOUNDATION PROGRAM SCHEDULES FOR SCHOOL FISCAL YEAR 1991 AND SUCCEEDING YEARS; TO LIMIT THE MAXIMUM GENERAL FUND BUDGET OF A DISTRICT TO EITHER 104 PERCENT OF THE PREVIOUS YEAR'S COMBINED BUDGETS FOR GENERAL FUND, RETIREMENT, AND INSURANCE OR 125 PERCENT OF THE DISTRICT'S FOUNDATION PROGRAM SCHEDULE AMOUNT; TO FURTHER LIMIT THE GENERAL FUND RESERVE OF CERTAIN DISTRICTS; TO REALLOCATE LOTTERY REVENUE FROM RETIREMENT EQUALIZATION TO STATE EQUALIZATION AID; TO INCREASE THE COUNTY ELEMENTARY LEVY TO

There is no change on HB 45 and will not be reprinted. Please refer to the Introduced copy (white) for complete text.



SECOND READING  
**HB45**

## STATE OF MONTANA - FISCAL NOTE

Form BD-15


In compliance with a written request, there is hereby submitted a Fiscal Note for HB45, as introduced


DESCRIPTION OF PROPOSED LEGISLATION:

A bill for an act entitled: "An act to generally revise public school funding; to create district equalization levies to ensure funding for the foundation program; to eliminate the county retirement levy and the district retirement fund and to include retirement benefit costs in the general fund budget of school districts; to require a district to levy for retirement benefit expenditures in excess of 10 percent of the district's foundation program schedule amount; to require computation of a modified taxable value for use in setting levies; to include comprehensive insurance costs in the general fund budget of school districts; to eliminate the present permissive levy; to adjust the foundation program schedules for school fiscal year 1991 and succeeding years; to limit the maximum general fund budget of a district to either 104 percent of the previous year's combined budgets for general fund, retirement, and insurance or 125 percent of the district's foundation program schedule amount; to further limit the general fund reserve of certain districts; to reallocate lottery revenue from retirement equalization to state equalization aid; to increase the county elementary levy to 53 mills and the county high school levy to 32 mills; to statutorily appropriate revenue allocated by law to county and state equalization; to exclude all school levies from the property tax limitations of initiative measure no. 105; to limit to 180 the number of pupil-instruction days for which foundation program support may be received; to require distribution of state equalization aid in monthly payments; to require school districts to use generally accepted accounting principles; to provide for a legislative oversight committee on school funding implementation to direct studies of the equalization of transportation, insurance, and capital expenditures and to perform other duties; to provide appropriations; amending Sections 2-7-504, 15-10-402, 15-10-412, 17-3-213, 17-7-502, 19-4-605, 20-3-106, 20-3-324, 20-3-331, 20-5-305, 20-5-312, 20-6-506, 20-6-603, 20-6-608, 20-7-414, 20-7-422, 20-7-431, 20-9-104, 20-9-122, 20-9-141, 20-9-142, 20-9-201, 20-9-212, 20-9-213, 20-9-301, 20-9-303, 20-9-311, 20-9-312, 20-9-315, 20-9-318 through 20-9-322, 20-9-331, 20-9-333, 20-9-343, 20-9-344, 20-9-346, 20-9-353, 20-9-501, 23-5-1027, and 90-6-309, MCA; repealing Sections 20-9-105, 20-9-352, 20-9-531, and 20-9-532, MCA; and providing effective dates and an applicability date."

ASSUMPTIONS:

1. Total individual income tax collections are estimated to be \$256,616,109 in FY90 and \$274,731,883 in FY91, with 31.8% each year available for state equalization aid.(HJR13).
2. Total corporation tax receipts are estimated to be \$51,039,648 in FY90 and \$51,468,353 in FY91, with 25% each year available for state equalization aid net of county distribution.(HJR13)
3. Total coal severance tax receipts are estimated to be \$52,902,000 in FY90 and \$46,871,000 in FY91, with 3.8% each year available for state equalization aid.(HJR13)
4. Total interest earnings from the Education Coal Trust are estimated to be \$2,318,000 in FY90 and \$2,712,000 in FY91, with 67.5% available for state equalization aid.(HJR13)
5. Total royalties from the Federal Mineral Leasing Act are estimated to be \$17,119,000 in FY90 and \$17,404,000 in FY91. All receipts are available for state equalization aid.(HJR13)

  
 W.DAVID DARBY, BUDGET DIRECTOR      6/26/89  
 Office of Budget and Program Planning      DATE

  
 TOM HANNAH, PRIMARY SPONSOR      6/26/89  
 Fiscal Note for HB45, as introduced      DATE

**HB45**

Fiscal Note Request HB45, as introduced

Form BD-15

Page 2

6. Revenue raised from the lottery is estimated to be \$13,934,000 in FY90 and \$14,003,000 in FY91, with 40% available for state equalization of retirement costs.(HJR13)
7. The taxable value of all property in Montana is estimated to be \$1,903,008,000 in FY90 and \$1,882,194,000 in FY91. Revenue raised through the mandatory 45 mills for state equalization aid is estimated to be \$85,635,000 in FY90 and \$84,699,000 in FY91.(HJR13)
8. The portion of miscellaneous district revenue allocated to state equalization due to the permissive levy is estimated to be \$1,410,000 in FY90 and \$1,454,000 in FY91. (HJR13)
9. The portion of miscellaneous county revenue allocated to state equalization due to the mandatory levy is estimated to be \$4,310,000 in FY90 and \$4,310,000 in FY91. (HJR13)
10. Total receipts allocated to the foundation program from interest and income are estimated to be \$33,699,000 in FY90 and \$34,770,000 in FY91. (HJR13)
11. The general fund appropriation for special education is \$33,861,646 in both FY90 and FY91. (HB100)
12. Teacher retirement costs are estimated to be \$52,846,000 in FY90 and FY91. (OSPI)
13. Funds available for state equalization from forest reserve funds will increase \$614,000.
14. The taxable value of net and gross proceeds is estimated to be \$330,941,000 in FY91. (HJR13)
15. For the purposes of this note, it is assumed that property taxes on net and gross proceeds will be replaced by a flat rate system. It is assumed that the change from property taxation to the flat rate system will be revenue neutral for all taxing jurisdictions and would be initiated beginning FY91.
16. Revenue raised from the lottery is estimated to be \$14,003,000 in FY91, with 40% available for state equalization of retirement costs. (HJR13)
17. The increase in revenue for the foundation program due to district equalization (Section 46) is estimated at \$6,000,000 in FY91. (Department of Revenue)
18. The decrease in foundation payments due to Section 39(1)(b) is estimated at \$47,000,000 in FY91. (Department of Revenue.
19. The statewide ANB for FY89 will remain constant for both FY90 and FY91.
20. The general fund will include the general fund, retirement fund, and comprehensive insurance fund.

FISCAL IMPACT:

FOUNDATION PROGRAM

REVENUE IMPACT:

	FY90			FY91		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Taxable Valuation	\$1,903,008,000	\$1,903,008,000	\$0	\$1,882,194,000	\$1,882,194,000	\$0
<u>STATE REVENUE</u>						
<u>Individual</u>						
Income Tax	81,603,923	81,603,923	0	87,364,723	87,364,723	0
Corporation Income Tax	11,692,195	11,692,195	0	11,783,305	11,783,305	0
Coal Severance Tax	2,010,000	2,010,000	0	1,781,000	1,781,000	0
Interest & Income	33,699,000	33,699,000	0	34,770,000	34,770,000	0
US Oil & Gas Royalties	17,119,000	17,119,000	0	17,404,000	17,404,000	0
Education Trust Interest	1,564,000	1,564,000	0	1,831,000	1,831,000	0
Special Ed. Approp	0	0	0	0	33,861,646	33,861,646
Lottery	0	0	0	0	5,598,684	5,598,684

	FY90			FY91		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
<b>COUNTY REVENUE</b>						
Mandatory Levy	\$ 85,635,000	\$ 85,635,000	\$ 0	\$ 84,699,000	\$159,987,000	\$ (75,288,000)
Elementary Trans.	(3,717,000)	(3,717,000)	0	(3,717,000)	(3,717,000)	0
Cash Reappropriated	2,604,000	2,604,000	0	2,955,000	2,955,000	0
Forest Funds	1,465,000	1,465,000	0	1,465,000	1,465,000	0
Taylor Grazing	102,000	102,000	0	102,000	102,000	0
Misc. Rev.	4,310,000	4,310,000	0	4,310,000	10,710,000	6,400,000
High School Tuition	\$ (838,000)	\$ (838,000)	\$ 0	\$ (838,000)	\$ (838,000)	\$ 0
<b>DISTRICT REVENUE</b>						
Permissive Levy	\$17,127,000	\$ 17,127,000	\$ 0	16,940,000	0	(16,940,000)
Misc. Rev.	1,410,000	1,410,000	0	1,454,000	0	(1,454,000)
Total Revenue	\$255,786,118	\$289,147,764	\$ 0	\$262,304,028	\$365,058,358	\$102,754,330

SCHEDULE INCREASE IN PERCENT

	0%	0%	0%	0%	0%	0%
<u>Beginning Fund Balance</u>	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
<u>Total Revenue</u>	\$255,786,118	\$289,147,764	\$ 0	\$262,304,028	\$365,058,358	\$102,754,330
<u>Total Available</u>	\$255,786,118	\$289,147,764	\$ 0	\$262,304,028	\$365,058,358	\$102,754,330
<b>Expenditures:</b>						
Foundation Program	\$278,355,000	\$278,355,000	\$ 0	\$276,678,000	\$407,371,000	\$130,693,000
Less: Reduction in Schedule Payments due to Section 39(1)(b)	0	0	0	0	70,000,000	(70,000,000)
Special Education	0	0	0	0	33,861,646	33,861,646
Total Expenditures	\$278,355,000	\$278,355,000	\$ 0	\$276,678,000	\$371,232,646	\$ 94,554,646
<u>Ending Fund Balance</u>	(\$22,568,882)	(\$22,568,882)	\$ 0	(\$14,373,972)	\$ ( 6,174,288)	\$ 8,199,634
<u>General Fund Need</u>	\$ 22,568,882	\$ 22,568,882		\$14,373,972	6,174,288	
General Fund Appropriation					56,807,000	56,807,000

TECHNICAL NOTE:

When taking into account the flat tax proposal for property classes one and two, \$26 million is lost from the assessment of the 85 mill mandatory levy. However, \$30 million is anticipated in the foundation program due to the allocation mechanism contained in the flat tax proposal. The difference of \$4 million plus the effect of the 180 pupil instruction day section of the bill offsets the general fund need of \$6 million.

EFFECT OF COUNTY:

Passage of this bill will result in major changes for school finance. The effects of the bill will vary from district to district.

LONG RANGE EFFECT:

It is estimated the proposal will reduce the amount of taxes paid for education in school districts containing 73% of the students in the state while maintaining current funding levels.

**HB45**