

HOUSE BILL 59

Introduced by Cobb

6/26	Introduced
6/26	Referred to Education & Cultural Resources
6/27	Fiscal Note Requested
7/05	Fiscal Note Received Died in Committee

House BILL NO. 59

INTRODUCED BY \_\_\_\_\_

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING SCHOOL FUNDING; REPEALING THE ELEMENTARY AND HIGH SCHOOL GENERAL FUND PERMISSIVE LEVIES; INCREASING THE MANDATORY ELEMENTARY AND HIGH SCHOOL LEVIES FOR COUNTY EQUALIZATION OF THE FOUNDATION PROGRAM FROM 45 MILLS TO 55 MILLS; PROVIDING DEFICIENCY FUNDING FOR A PORTION OF GENERAL FUND EXPENDITURES OF A SCHOOL DISTRICT THAT ARE IN EXCESS OF THE FOUNDATION PROGRAM ENTITLEMENT OF PUBLIC SCHOOL DISTRICTS THAT HAVE DISTRICT TAXABLE VALUE PER PUPIL BELOW THE STATEWIDE TAXABLE VALUE PER PUPIL; AMENDING SECTIONS 15-10-402, 15-10-412, 20-3-106, 20-3-324, 20-5-305, 20-5-312, 20-6-506, 20-6-603, 20-7-414, 20-7-422, 20-7-431, 20-9-141, 20-9-201, 20-9-212, 20-9-301, 20-9-303, 20-9-312, 20-9-315 THROUGH 20-9-321, 20-9-331, 20-9-333, AND 90-6-309, MCA; REPEALING SECTION 20-9-352, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because the superintendent of public instruction is required to adopt rules to implement distribution of deficiency aid as

provided in [sections 1 through 4]. This bill is intended to guarantee the value of the mills levied by a district in support of that portion of its general fund not supported by the foundation program, up to the statewide average number of mills in support of the same general fund expenditures of all the districts. It is intended that the rules adopted ensure that the requesting school districts are eligible and accountable for the deficiency aid payments they receive.

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

NEW SECTION. Section 1. Definitions. As used in [sections 1 through 4], the following definitions apply:

(1) "Guaranteed budget amount per pupil" means the overschedule general fund expenditures of all elementary districts or of all high school districts, divided by the ANB of all the elementary districts or all the high school districts, respectively.

(2) "Nontax revenue" means 70% of the following revenue available to a district in support of its overschedule general fund budget:

- (a) state impact aid;
  - (b) tuition earnings;
  - (c) interest earnings;
  - (d) federal impact aid, except Public Law 81-874 funds
- until the state receives approval of an application to



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1 equalize the funds under 20 U.S.C. 240(d); and

2 (e) all other direct income from nontax sources.

3 (3) "Overschedule general fund expenditure" means that  
4 portion of a district's general fund expenditures in the  
5 preceding fiscal year in excess of its foundation program  
6 amount for that year, as established by the schedules in  
7 20-9-316 through 20-9-321, and which excess is authorized  
8 under the provisions of 20-9-353.

9 (4) "Statewide average elementary levy" means the  
10 number of mills that if applied to total taxable value of  
11 taxable property in all the elementary districts in the  
12 state would raise an amount equal to the statewide  
13 overschedule general fund expenditures of all the elementary  
14 districts.

15 (5) "Statewide average high school levy" means the  
16 number of mills that if applied to total taxable value of  
17 taxable property in all the high school districts in the  
18 state would raise an amount equal to the statewide  
19 overschedule general fund expenditures of all the high  
20 school districts.

21 **NEW SECTION. Section 2.** Deficiency aid in support of  
22 overschedule general fund expenditures. (1) An elementary or  
23 high school district that has a taxable valuation per pupil  
24 less than the statewide taxable valuation per pupil of all  
25 districts in the same class is entitled to deficiency aid as

1 provided in this section.

2 (2) The superintendent of public instruction shall by  
3 June 1 of each year determine and notify each elementary and  
4 high school district of:

5 (a) the current statewide taxable valuation per pupil  
6 of property in all elementary districts and in all high  
7 school districts in the state;

8 (b) the statewide average elementary or high school  
9 levy; and

10 (c) the guaranteed budget amount per pupil for all  
11 elementary districts and all high school districts in the  
12 state.

13 (3) If the current taxable valuation per pupil of  
14 property in any district is less than the statewide taxable  
15 valuation per pupil, the district is eligible to receive  
16 deficiency aid in an amount equal to the guaranteed budget  
17 amount per pupil times the ANB of the district, less the sum  
18 of the amount that would be raised in that district by the  
19 respective statewide average levy in support of the general  
20 fund and the 70% of the amount of nontax revenue available  
21 to the district in support of the overschedule portion of  
22 the general fund.

23 (4) If a qualifying district levies less than the  
24 respective statewide average levy in support of its  
25 overschedule general fund expenditures, the deficiency aid

1 to the district must be prorated according to the number of  
2 mills actually levied by the district. Deficiency aid does  
3 not apply to millage levied by a district above the  
4 statewide average levy.

5 NEW SECTION. Section 3. Superintendent of public  
6 instruction to distribute deficiency aid -- requirements --  
7 rulemaking. (1) The superintendent of public instruction  
8 shall administer the distribution of deficiency aid by:

9 (a) requiring each district to report to the county  
10 superintendent all budget and accounting information  
11 required to determine the amount of aid under [section 2];

12 (b) requiring each county superintendent to submit to  
13 the superintendent of public instruction by September 1 all  
14 the district reports required in subsection (1);

15 (c) keeping a record in the office of public  
16 instruction of all data concerning appropriations available  
17 for deficiency aid payments and the entitlements for  
18 qualifying districts; and

19 (d) distributing the deficiency aid entitlement to  
20 each qualified district from appropriations by the  
21 legislature for that purpose.

22 (2) Payments of deficiency aid must be made at the  
23 same time as payments of state equalization aid and must be  
24 made in a manner determined by the superintendent of public  
25 instruction. If the appropriations are not sufficient to

1 finance the deficiency aid entitlements of all districts,  
2 each district must receive the same percentage of its  
3 deficiency.

4 (3) If the appropriations for deficiency aid for the  
5 biennium are insufficient, the superintendent of public  
6 instruction shall request the budget director to submit a  
7 request for a supplemental appropriation in the second year  
8 of the biennium. The supplemental appropriation must provide  
9 enough revenue to fund the deficiency aid requirements of  
10 the elementary and high school districts of the state.

11 (4) The superintendent of public instruction shall  
12 adopt rules necessary to implement [sections 1 through 4].

13 NEW SECTION. Section 4. Statewide deficiency levy in  
14 support of overschedule general fund expenditures of public  
15 school districts. There is a levy of 15 mills imposed on all  
16 taxable property within the state, except property for which  
17 a tax or fee is required under 23-2-517, 23-2-803,  
18 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204. Proceeds of  
19 the levy must be remitted to the state treasurer and must be  
20 deposited to the credit of the state special revenue fund  
21 for deficiency aid to the public schools of Montana in  
22 accordance with [section 2].

23 **Section 5.** Section 15-10-402, MCA, is amended to read:  
24 "15-10-402. Property tax limited to 1986 levels. (1)  
25 Except as provided in subsections (2) and (3), the amount of

1 taxes levied on property described in 15-6-133, 15-6-134,  
2 15-6-136, 15-6-139, 15-6-142, and 15-6-144 may not, for any  
3 taxing jurisdiction, exceed the amount levied for taxable  
4 year 1986.

5 (2) The limitation contained in subsection (1) does  
6 not apply to levies for rural improvement districts, Title  
7 7, chapter 12, part 21; special improvement districts, Title  
8 7, chapter 12, part 41; elementary and high school county  
9 equalization, 20-9-331 and 20-9-333; elementary and high  
10 school deficiency aid, [section 4]; or bonded indebtedness.

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

14 (4) As used in this section, the "amount of taxes  
15 levied" and the "amount levied" mean the actual dollar  
16 amount of taxes imposed on an individual piece of property,  
17 notwithstanding an increase or decrease in value due to  
18 inflation, reappraisal, adjustments in the percentage  
19 multiplier used to convert appraised value to taxable value,  
20 changes in the number of mills levied, or increase or  
21 decrease in the value of a mill."

22 **Section 6.** Section 15-10-412, MCA, is amended to read:

23 **"15-10-412. Property tax limited to 1986 levels --**  
24 **clarification -- extension to all property classes.** Section  
25 15-10-402 is interpreted and clarified as follows:

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

4 (2) The limitation on the amount of taxes levied is  
5 interpreted to mean that, except as otherwise provided in  
6 this section, the actual tax liability for an individual  
7 property is capped at the dollar amount due in each taxing  
8 unit for the 1986 tax year. In tax years thereafter, the  
9 property must be taxed in each taxing unit at the 1986 cap  
10 or the product of the taxable value and mills levied,  
11 whichever is less for each taxing unit, except in a taxing  
12 unit that levied a tax in tax years 1983 through 1985 but  
13 did not levy a tax in 1986, in which case the actual tax  
14 liability for an individual property is capped at the dollar  
15 amount due in that taxing unit for the 1985 tax year.

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

19 (a) annexation of real property and improvements into  
20 a taxing unit;

21 (b) construction, expansion, or remodeling of  
22 improvements;

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

24 (d) subdivision of real property;

25 (e) reclassification of property;

1 (f) increases in the amount of production or the value  
 2 of production for property described in 15-6-131 or  
 3 15-6-132;

4 (g) transfer of property from tax-exempt to taxable  
 5 status;

6 (h) revaluations caused by:

7 (i) cyclical reappraisal; or

8 (ii) expansion, addition, replacement, or remodeling of  
 9 improvements; or

10 (i) increases in property valuation pursuant to  
 11 15-7-111(4) through (8) in order to equalize property values  
 12 annually.

13 (4) The limitation on the amount of taxes levied does  
 14 not mean that no further increase may be made in the taxable  
 15 valuation or in the actual tax liability on individual  
 16 property in each class as a result of:

17 (a) a revaluation caused by:

18 (i) construction, expansion, replacement, or  
 19 remodeling of improvements that adds value to the property;  
 20 or

21 (ii) cyclical reappraisal;

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

23 (c) reclassification of property;

24 (d) increases in the amount of production or the value  
 25 of production for property described in 15-6-131 or

1 15-6-132;

2 (e) annexation of the individual property into a new  
 3 taxing unit;

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

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

9 (5) Property in classes four, twelve, and fourteen is  
 10 valued according to the procedures used in 1986, including  
 11 the designation of 1982 as the base year, until the  
 12 reappraisal cycle beginning January 1, 1986, is completed  
 13 and new valuations are placed on the tax rolls and a new  
 14 base year designated, if the property is:

15 (a) new construction;

16 (b) expanded, deleted, replaced, or remodeled  
 17 improvements;

18 (c) annexed property; or

19 (d) property converted from tax-exempt to taxable  
 20 status.

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

1 (7) The limitation on the amount of taxes, as  
 2 clarified in this section, is intended to leave the property  
 3 appraisal and valuation methodology of the department of  
 4 revenue intact. Determinations of county classifications,  
 5 salaries of local government officers, and all other matters  
 6 in which total taxable valuation is an integral component  
 7 are not affected by 15-10-401 and 15-10-402 except for the  
 8 use of taxable valuation in fixing tax levies. In fixing tax  
 9 levies, the taxing units of local government may anticipate  
 10 the deficiency in revenues resulting from the tax  
 11 limitations in 15-10-401 and 15-10-402, while understanding  
 12 that regardless of the amount of mills levied, a taxpayer's  
 13 liability may not exceed the dollar amount due in each  
 14 taxing unit for the 1986 tax year unless the taxing unit's  
 15 taxable valuation decreases by 5% or more from the 1986 tax  
 16 year. If a taxing unit's taxable valuation decreases by 5%  
 17 or more from the 1986 tax year, it may levy additional mills  
 18 to compensate for the decreased taxable valuation, but in no  
 19 case may the mills levied exceed a number calculated to  
 20 equal the revenue from property taxes for the 1986 tax year  
 21 in that taxing unit.

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

- 1 (a) rural improvement districts;  
 2 (b) special improvement districts;  
 3 (c) levies pledged for the repayment of bonded  
 4 indebtedness, including tax increment bonds;  
 5 (d) city street maintenance districts;  
 6 (e) tax increment financing districts;  
 7 (f) state or county equalization or deficiency aid for  
 8 elementary and high school districts;  
 9 ~~(f)~~(g) satisfaction of judgments against a taxing  
 10 unit;  
 11 ~~(g)~~(h) street lighting assessments; and  
 12 ~~(h)~~(i) revolving funds to support any categories  
 13 specified in this subsection (8).  
 14 (9) The limitation on the amount of taxes levied does  
 15 not apply in a taxing unit if the voters in the taxing unit  
 16 approve an increase in tax liability following a resolution  
 17 of the governing body of the taxing unit containing:  
 18 (a) a finding that there are insufficient funds to  
 19 adequately operate the taxing unit as a result of 15-10-401  
 20 and 15-10-402;  
 21 (b) an explanation of the nature of the financial  
 22 emergency;  
 23 (c) an estimate of the amount of funding shortfall  
 24 expected by the taxing unit;  
 25 (d) a statement that applicable fund balances are or

1 by the end of the fiscal year will be depleted;

2 (e) a finding that there are no alternative sources of  
3 revenue;

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

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

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

12 (11) The limitation on the amount of taxes levied by a  
13 taxing jurisdiction subject to a statutory maximum mill levy  
14 does not prevent a taxing jurisdiction from increasing its  
15 number of mills beyond the statutory maximum mill levy to  
16 produce revenue equal to its 1986 revenue.

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

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

21 "20-3-106. Supervision of schools -- powers and  
22 duties. The superintendent of public instruction has the  
23 general supervision of the public schools and districts of  
24 the state, and he shall perform the following duties or acts  
25 in implementing and enforcing the provisions of this title:

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

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

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

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

10 (5) approve or disapprove the orders of a high school  
11 boundary commission in accordance with the provisions of  
12 20-6-311;

13 (6) approve or disapprove the opening or reopening of  
14 a school in accordance with the provisions of 20-6-502,  
15 20-6-503, 20-6-504, or 20-6-505;

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

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

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



1 (10) approve or disapprove the adoption of a district's  
 2 emergency budget resolution under the conditions prescribed  
 3 in 20-9-163 and publish rules for an application for  
 4 additional state aid for an emergency budget in accordance  
 5 with the approval and disbursement provisions of 20-9-166;  
 6 (11) generally supervise the school financial  
 7 administration provisions as prescribed by 20-9-201(2);  
 8 (12) prescribe and furnish the annual report forms to  
 9 enable the districts to report to the county superintendent  
 10 in accordance with the provisions of 20-9-213(5) and the  
 11 annual report forms to enable the county superintendents to  
 12 report to the superintendent of public instruction in  
 13 accordance with the provisions of 20-3-209;  
 14 (13) approve, disapprove, or adjust an increase of the  
 15 average number belonging (ANB) in accordance with the  
 16 provisions of 20-9-313 and 20-9-314;  
 17 (14) distribute state equalization aid in support of  
 18 the foundation program in accordance with the provisions of  
 19 20-9-342, 20-9-346, and 20-9-347;  
 20 (15) distribute state impact aid in accordance with the  
 21 provisions of 20-9-304;  
 22 (16) provide for the uniform and equal provision of  
 23 transportation by performing the duties prescribed by the  
 24 provisions of 20-10-112;  
 25 (17) approve or disapprove an adult education program

1 for which a district proposes to levy a tax in accordance  
 2 with the provisions of 20-7-705;  
 3 (18) request, accept, deposit, and expend federal  
 4 moneys in accordance with the provisions of 20-9-603;  
 5 (19) authorize the use of federal moneys for the  
 6 support of an interlocal cooperative agreement in accordance  
 7 with the provisions of 20-9-703 and 20-9-704;  
 8 (20) prescribe the form and contents of and approve or  
 9 disapprove interstate contracts in accordance with the  
 10 provisions of 20-9-705;  
 11 (21) approve or disapprove the conduct of school on a  
 12 Saturday or on pupil-instruction-related days in accordance  
 13 with the provisions of 20-1-303 and 20-1-304;  
 14 (22) recommend standards of accreditation for all  
 15 schools to the board of public education and evaluate  
 16 compliance with such standards and recommend accreditation  
 17 status of every school to the board of public education in  
 18 accordance with the provisions of 20-7-101 and 20-7-102;  
 19 (23) collect and maintain a file of curriculum guides  
 20 and assist schools with instructional programs in accordance  
 21 with the provisions of 20-7-113 and 20-7-114;  
 22 (24) establish and maintain a library of visual, aural,  
 23 and other educational media in accordance with the  
 24 provisions of 20-7-201;  
 25 (25) license textbook dealers and initiate prosecution

1 of textbook dealers violating the law in accordance with the  
2 provisions of the textbooks part of this title;

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

7 (27) supervise and coordinate the conduct of special  
8 education in the state in accordance with the provisions of  
9 20-7-403;

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

12 (29) administer the school food services program in  
13 accordance with the provisions of 20-10-201, 20-10-202, and  
14 20-10-203;

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

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

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

25 (33) administer the deficiency aid to elementary and

1 high school districts in accordance with [sections 1 through  
2 4];

3 ~~(33)~~(34) administer the distribution of state  
4 retirement equalization aid in accordance with 20-9-532; and  
5 ~~(34)~~(35) perform any other duty prescribed from time to  
6 time by this title, any other act of the legislature, or the  
7 policies of the board of public education. ~~-(Subsection-(33)~~  
8 ~~effective-July-17-1988--sec-87-Ch-6357-B-1987-)~~"

9 **Section 8.** Section 20-3-324, MCA, is amended to read:  
10 "20-3-324. Powers and duties. As prescribed elsewhere  
11 in this title, the trustees of each district shall:

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

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

24 (3) administer the attendance and tuition provisions  
25 and otherwise govern the pupils of the district in

1 accordance with the provisions of the pupils chapter of this  
2 title;

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

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

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

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

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

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

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

25 (11) establish, maintain, budget, and finance the

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

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

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

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

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

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

25 (17) establish and maintain the instructional services

1 of the schools of the district in accordance with the  
2 provisions of the instructional services, textbooks,  
3 vocational education, and special education parts of this  
4 title;

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

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

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

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

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

25 (23) adopt and administer a district policy on

1 assessment for placement of any child who enrolls in a  
2 school of the district from a nonpublic school that is not  
3 accredited, as required in 20-5-110; and

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

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

9 **"20-5-305. Elementary tuition rates.** (1) Whenever a  
10 pupil of an elementary district has been granted approval to  
11 attend a school outside of the district in which he resides,  
12 under the provisions of 20-5-301 or 20-5-302, such the  
13 district of residence shall pay tuition to the elementary  
14 district where the pupil attends school. Except as provided  
15 in subsection (2), the basis of the rate of tuition shall be  
16 determined by the attended district. The rate of tuition  
17 ~~shall~~ must be determined by:

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

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

24 (c) subtracting ~~the---total---of~~ from the amount  
25 determined in subsection (1)(b) the per-ANB amount allowed

1 by ~~20-9-316-through-20-9-321-that-represents~~ the foundation  
 2 program ~~as-prescribed-by-20-9-303-plus--the--per-ANB--amount~~  
 3 ~~determined--by--dividing-the-state-financing-of-the-district~~  
 4 ~~permissive-levy-by-the-ANB-of-the-district,7-from-the--amount~~  
 5 ~~determined--in--subsection--(1)(b) schedules and the per-ANB~~  
 6 ~~amount of deficiency aid entitlement as provided for in~~  
 7 ~~[sections 1 through 4].~~

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

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

15 "20-5-312. Reporting, budgeting, and payment for high  
 16 school tuition. (1) Except as provided in subsection (2), at  
 17 the close of the school term of each school fiscal year, the  
 18 trustees of each high school district shall determine the  
 19 rate of tuition for the current school fiscal year by:

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

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

1 (c) ~~subtracting the--total---of~~ from the amount  
 2 determined in subsection (1)(b) the per-ANB amount allowed  
 3 ~~by 20-9-316-through-20-9-321-that-represents~~ the foundation  
 4 program ~~as--prescribed--by-20-9-303-plus-the-per-ANB-amount~~  
 5 ~~determined-by-dividing-the-state-financing-of--the--district~~  
 6 ~~permissive--levy-by-the-ANB-of-the-district,7-from-the-amount~~  
 7 ~~determined-in-subsection-(1)(b) schedules and the per-ANB~~  
 8 ~~amount of deficiency aid entitlement as provided for in~~  
 9 ~~[sections 1 through 4].~~

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

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

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

21 (b) the number of days of school attended by each  
 22 pupil;

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

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

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

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

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

1 obligations must be paid by June 15 of the school fiscal  
2 year. The payments must be made to the county treasurer of  
3 the county where each high school entitled to tuition is  
4 located. The county treasurer shall credit tuition receipts  
5 to the general fund of the applicable high school district,  
6 and the tuition receipts must be used in accordance with the  
7 provisions of 20-9-141.

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

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

12 **Section 11.** Section 20-6-506, MCA, is amended to read:

13 "20-6-506. Budgeting and cost sharing when junior high  
 14 school operated by elementary district and high school  
 15 district operating a county high school. (1) Whenever the  
 16 opening of a junior high school is approved for the ensuing  
 17 school fiscal year under 20-6-505, the county superintendent  
 18 shall estimate the average number belonging (ANB) after  
 19 investigating the probable enrollment for the junior high  
 20 school. The ANB determined by the county superintendent and  
 21 the ANB actually realized in subsequent school fiscal years  
 22 shall must be applied under 20-9-320 to prorate the  
 23 ~~maximum-general-fund-budget-without-a-voted-levy~~ foundation  
 24 program schedule amount between the elementary and high  
 25 school districts. Each district shall adopt its general fund

1 budget on the basis of the prorated amount and shall finance  
 2 its proportionate share of the cost of operating the junior  
 3 high school.

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

9 **Section 12.** Section 20-6-603, MCA, is amended to read:

10 "20-6-603. Trustees' authority to acquire or dispose  
 11 of sites and buildings -- when election required. (1) The  
 12 trustees of any district ~~shall-have--the--authority--to~~ may  
 13 purchase, build, exchange, or otherwise acquire, or sell, or  
 14 otherwise dispose of sites and buildings of the district.  
 15 ~~Such-action-shall~~ Action may not be taken by the trustees  
 16 without the approval of the qualified electors of the  
 17 district at an election called for ~~such~~ the purpose of  
 18 approval unless:

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

22 (b) an additional levy under the provisions of  
 23 20-9-353 has been approved for the purpose of constructing,  
 24 purchasing, or acquiring the site or building;

25 (c) the cost of constructing, purchasing, or acquiring

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

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

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

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

21 "20-7-414. Determination of children in need and type  
 22 of special education needed -- approval of classes and  
 23 programs by superintendent. (1) The determination of the  
 24 children requiring special education and the type of special  
 25 education needed by these children ~~shall--be~~ is the

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

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



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

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

9 "20-7-422. Out-of-state tuition for special education  
 10 children. (1) If the trustees of any district recommend to  
 11 the superintendent of public instruction the attendance of  
 12 a child in need of special education in a special education  
 13 program offered outside of the state of Montana, such the  
 14 arrangements shall be not be subject to the out-of-state  
 15 attendance provisions of the laws governing the attendance  
 16 of pupils in schools outside the state of Montana.

17 (2) Whenever the attendance of a child at an  
 18 out-of-state special education program is approved by the  
 19 superintendent of public instruction, ~~it--shall--be--the~~  
 20 ~~responsibility--of~~ the superintendent of public instruction  
 21 shall, in cooperation with the department of family  
 22 services, to negotiate the program for the child and the  
 23 amount and manner of payment of tuition. The amount of  
 24 tuition ~~shall~~ must be included as a contracted service in  
 25 20-7-431(1)(a)(iii)(A) in the maximum-budget-without-a-vote

1 foundation program amount for special education."

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

3 "20-7-431. Allowable cost schedule for special  
 4 programs -- superintendent to make rules -- annual  
 5 accounting. (1) For the purpose of determining the  
 6 maximum-budget-without-a-vote foundation program amount for  
 7 special education as defined in 20-9-321, the following  
 8 schedule of allowable costs ~~shall~~ must be followed by the  
 9 school district in preparation of its special education  
 10 budget for state aid request purposes and by the  
 11 superintendent of public instruction in his review and  
 12 approval of the budget (for the purposes of determining the  
 13 amount of the maximum-budget-without-a-vote foundation  
 14 program for special education for the district, and as used  
 15 in this schedule, "full-time special pupil" and "regular  
 16 ANB" are to be determined in accordance with 20-9-311 and  
 17 20-9-313):

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

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

1 corresponding to the entire working time which each such  
2 person devotes to the special program;

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

5 (iii) other expenses:

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

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

18 (b) supportive services, including:

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

1 psychologists, psychometrists, physicians, nurses, and  
2 physical and occupational therapists.

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

10 (c) equipment:

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

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

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

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

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

1 (2) The superintendent of public instruction shall,  
2 ~~prior to September 17, 1977, revise the~~ adopt rules in  
3 accordance with the policies of the board of public  
4 education for:

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

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

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

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

22 (4) If a board of trustees chooses to exceed the  
23 budget approved by the superintendent of public instruction,  
24 costs in excess of the approved budget may not be reimbursed  
25 under the ~~maximum-budget-without-a-vote~~ foundation program

1 for special education.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8       (v) anticipated or reappropriated revenue from ~~vehicle~~  
9 property taxes and fees imposed under 23-2-517, 23-2-803,  
10 61-3-504(2), 61-3-521, and 61-3-537, and 67-3-204;

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

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

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

20       (ix) anticipated deficiency aid as determined under  
21 [sections 1 through 4]; and

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

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

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

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

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

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

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

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

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

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

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

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

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

1 ordered by the county superintendent. A separate accounting  
2 ~~shall~~ must be maintained for each county fund supported by a  
3 countywide levy for a specific, authorized purpose,  
4 including:

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

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

9 ~~{c}--the--county--tax--in--support--of--the--county's--high~~  
10 ~~school--transportation--obligation;~~

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

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

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

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

23 (2) whenever requested, notify the county  
24 superintendent and the superintendent of public instruction  
25 of the amount of county school money on deposit in each of

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

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

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

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

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

22 (7) send all revenues revenue received for a joint  
23 district, part of which is situated in his county, to the  
24 county treasurer designated as the custodian of ~~such~~  
25 revenues the revenue, no later than December 15 of each year

1 and every 3 months thereafter until the end of the school  
2 fiscal year;

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

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

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

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

21 (12) remit promptly to the state treasurer receipts for  
22 the county tax for a vocational-technical center when levied  
23 by the board of county commissioners under the provisions of  
24 20-16-202; and

25 (13) invest the money received from the basic county

1 tax in support of the elementary foundation programs and the  
2 basic special tax in support of the high school foundation  
3 programs within 3 working days of receipt. The money must be  
4 invested until the working day before it is required to be  
5 distributed to school districts within the county or  
6 remitted to the state. Permissible investments are specified  
7 in 20-9-213(4). All investment income must be deposited, and  
8 credited proportionately, in the funds established to  
9 account for the taxes received for the purposes specified in  
10 subsections (1)(a) and (1)(b)."

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

12 "20-9-301. Purpose ~~and---definition~~ of foundation  
13 program and definition of general fund budget. (1) A uniform  
14 system of free public schools sufficient for the education  
15 of and open to all school age children of the state ~~shall~~  
16 must be established and maintained throughout the state of  
17 Montana. The state shall aid in the support of its several  
18 school districts on the basis of their financial need as  
19 measured by the foundation program and in the manner  
20 established in this title.

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

1 district not financed by other funds established for special  
2 purposes in this title.

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

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

12 "20-9-303. Definition of foundation program and ~~its~~  
13 ~~proportion of the maximum general fund without a voted levy~~  
14 ~~schedule amount~~ -- nonisolated school foundation program  
15 financing -- special education funds. (1) As used in this  
16 title, the term "foundation program" shall ~~mean~~ means the  
17 minimum operating expenditures, ~~as established herein,~~ that  
18 are sufficient to provide for the educational program of a  
19 school. The foundation program relates only to those  
20 expenditures authorized by a district's general fund budget  
21 and shall may not include expenditures from any other fund.  
22 It shall ~~be~~ is financed by:

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

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

1 (c) appropriations for special education; and  
2 (d) a district levy as provided in subsection (3) for  
3 support of a school not approved as an isolated school under  
4 the provisions of 20-9-302.

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

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

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

12 (b) payments in support of special education programs  
13 under 20-9-321.

14 (3) An elementary school having an ANB of nine or  
15 fewer pupils for 2 consecutive years which is not approved  
16 as an isolated school under the provisions of 20-9-302 shall  
17 be 80% of may budget and spend the schedule amount, but the  
18 county and state shall participate in financing one-half of  
19 the foundation program, and the district shall finance the  
20 remaining one-half by a tax levied on the property of the  
21 district. When a school of nine or fewer pupils is approved  
22 as isolated under the provisions of 20-9-302, the county and  
23 state shall participate in the financing of the total amount  
24 of the foundation program.  
25



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

17       **Section 21.** Section 20-9-312, MCA, is amended to read:  
 18       "20-9-312. Maximum--general--fund--budget Foundation  
 19       program schedule for grades seven and eight. The ANB  
 20       calculated for grades 7 and 8 ~~shall~~ must be funded at the  
 21       high school rate, provided that the school meets the  
 22       standards for accreditation of a middle school. When ~~such~~  
 23       the pupils are actually enrolled in an elementary school,  
 24       the foundation program schedule ~~amount of-the--general--fund~~  
 25       budget per ANB is determined from the high school schedule

1       using the total ANB of the elementary school. To determine  
 2       the total ANB of ~~such-an~~ the elementary school, the 7th and  
 3       8th grade pupils ~~shall~~ must be included in ~~such~~ the total."

4       **Section 22.** Section 20-9-315, MCA, is amended to read:  
 5       "20-9-315. Maximum general fund budget and exceptions.  
 6       The total amount of the general fund budget of any district  
 7       ~~shall~~ may not be greater than the ~~general-fund-budget-amount~~  
 8       specified-in-20-9-316-through-20-9-321 district's foundation  
 9       program as provided in 20-9-303, except when a district has  
 10       adopted an emergency general fund budget under the  
 11       provisions of 20-9-165 or when a district satisfies the  
 12       requirements of 20-9-353."

13       **Section 23.** Section 20-9-316, MCA, is amended to read:  
 14       "20-9-316. Elementary school maximum-budget foundation  
 15       program schedule for 1985-86. For school year 1985-86, the  
 16       elementary school foundation program is as follows:

- 17               (1) For each elementary school having an ANB of nine  
 18               or fewer pupils, the maximum ~~shall-be~~ is \$19,959 if ~~said~~ the  
 19               school is approved as an isolated school.
- 20               (2) For schools with an ANB of 10 pupils but less than  
 21               18 pupils, the maximum ~~shall-be~~ is \$19,959 plus \$834.10 per  
 22               pupil on the basis of the average number belonging over nine  
 23               9.
- 24               (3) For schools with an ANB of at least 14 pupils but  
 25               less than 18 pupils that qualify for instructional aide

1 funding under 20-9-322, the maximum ~~shall-be~~ is \$32,714 plus  
2 \$834.10 per pupil on the basis of the average number  
3 belonging over 14.

4 (4) For schools with an ANB of 18 pupils and employing  
5 one teacher, the maximum ~~shall-be~~ is \$27,466 plus \$834.10  
6 per pupil on the basis of the average number belonging over  
7 18, not to exceed an ANB of 25.

8 (5) For schools with an ANB of 18 pupils and employing  
9 two full-time teachers, the maximum ~~shall-be~~ is \$43,851 plus  
10 \$522.40 per pupil on the basis of the average number  
11 belonging over 18, not to exceed an ANB of 50.

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

15 (a) For a school having an ANB of more than 40 and  
16 employing a minimum of three teachers, the maximum of \$1,938  
17 ~~shall--be~~ is decreased at the rate of \$1.88 for each  
18 additional pupil until the total number (ANB) ~~shall--have~~  
19 reached reaches a total of 100 pupils.

20 (b) For a school having an ANB of more than 100  
21 pupils, the maximum of \$1,825 ~~shall-be~~ is decreased at the  
22 rate of \$1.72 for each additional pupil until the ANB ~~shall~~  
23 have-reached reaches 300 pupils.

24 (c) For a school having an ANB of more than 300  
25 pupils, the maximum ~~shall~~ may not exceed \$1,481 for each

1 pupil.

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

9 **Section 24.** Section 20-9-317, MCA, is amended to read:

10 "20-9-317. High school ~~maximum--budget foundation~~  
11 program schedule for 1985-86. For school year 1985-86, the  
12 high school foundation program schedule is as follows:

13 (1) For each high school having an ANB of 24 or fewer  
14 pupils, the maximum ~~shall-be~~ is \$113,708.

15 (2) For a secondary high school having an ANB of more  
16 than 24 pupils, the maximum of \$4,738 ~~shall-be~~ is decreased  
17 at the rate of \$25.84 for each additional pupil until the  
18 ANB ~~shall-have-reached~~ reaches a total of 40 such pupils.

19 (3) For a school having an ANB of more than 40 pupils,  
20 the maximum of \$4,324 ~~shall-be~~ is decreased at the rate of  
21 \$25.84 for each additional pupil until the ANB ~~shall--have~~  
22 reached reaches 100 pupils.

23 (4) For a school having an ANB of more than 100  
24 pupils, ~~a~~ the maximum of \$2,774 ~~shall-be~~ is decreased at the  
25 rate of \$4.32 for each additional pupil until the ANB ~~shall~~

1 ~~have-reached~~ reaches 200 pupils.

2 (5) For a school having an ANB of more than 200  
3 pupils, the maximum of \$2,342 ~~shall-be is~~ decreased by \$2.38  
4 for each additional pupil until the ANB ~~shall--have--reached~~  
5 reaches 300 pupils.

6 (6) For a school having an ANB of more than 300  
7 pupils, the maximum of \$2,104 ~~shall-be is~~ decreased at the  
8 rate of 44 cents for each additional pupil until the ANB  
9 ~~shall-have-reached~~ reaches 600 pupils.

10 (7) For a school having an ANB ~~ever of more than~~ 600  
11 pupils, the maximum ~~shall~~ may not exceed \$1,973 per pupil.

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

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

21 "20-9-318. Elementary school maximum-budget foundation  
22 program schedule for 1987-88 and succeeding years. For  
23 1987-88 and succeeding school years, the elementary school  
24 maximum-budget foundation program schedule is as follows:

25 (1) For each elementary school having an ANB of nine

1 or fewer pupils, the maximum ~~shall-be is~~ \$20,158 if ~~said the~~  
2 school is approved as an isolated school.

3 (2) For schools with an ANB of 10 pupils but less than  
4 18 pupils, the maximum ~~shall-be is~~ \$20,158 plus \$842.50 per  
5 pupil on the basis of the average number belonging over nine  
6 9.

7 (3) For schools with an ANB of at least 14 pupils but  
8 less than 18 pupils that qualify for instructional aide  
9 funding under 20-9-322, the maximum ~~shall-be is~~ \$33,042 plus  
10 \$842.50 per pupil on the basis of the average number  
11 belonging over 14.

12 (4) For schools with an ANB of 18 pupils and employing  
13 one teacher, the maximum ~~shall-be is~~ \$27,741 plus \$842.50  
14 per pupil on the basis of the average number belonging over  
15 18, not to exceed an ANB of 25.

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

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

23 (a) For a school having an ANB of more than 40 and  
24 employing a minimum of three teachers, the maximum of \$1,957  
25 ~~shall-be is~~ decreased at the rate of \$1.90 for each

1 additional pupil until the total number (ANB) ~~shall have~~  
2 ~~reached a total of~~ reaches 100 pupils.

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

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

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

17 **Section 26.** Section 20-9-319, MCA, is amended to read:

18 "20-9-319. High school maximum---budget foundation  
19 program schedule for 1987-88 and succeeding years. For  
20 1987-88 and succeeding school years, the high school maximum  
21 budget foundation program schedule is as follows:

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

24 (2) For a secondary high school having an ANB of more  
25 than 24 pupils, the maximum of \$4,785 ~~shall be~~ is decreased

1 at the rate of \$26.10 for each additional pupil until the  
2 ANB ~~shall have reached~~ reaches a total of 40 such pupils.

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

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

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

15 (6) For a school having an ANB of more than 300  
16 pupils, the maximum of \$2,125 ~~shall be~~ is decreased at the  
17 rate of 44 cents for each additional pupil until the ANB  
18 ~~shall have reached~~ reaches 600 pupils.

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

21 (8) The maximum per pupil for all pupils (ANB) and for  
22 all high schools ~~shall~~ must be computed on the basis of the  
23 amount allowed herein in this section on account of the last  
24 eligible pupil (ANB). All high schools and junior high  
25 schools which have been approved and accredited as junior

1 high schools, operated within the incorporated limits of a  
2 city or town, ~~shall~~ must be treated as one school for the  
3 purpose of this schedule."

4 **Section 27.** Section 20-9-320, MCA, is amended to read:

5 "20-9-320. ~~Maximum--general--fund--budget~~ Foundation  
6 program schedule amount for junior high school. (1) The  
7 ~~general--fund--budget~~ foundation program schedule amount for  
8 an approved and accredited junior high school ~~shall~~ must be  
9 prorated between the elementary district ~~general--fund--budget~~  
10 foundation program schedule amount and the high school  
11 district ~~general--fund--budget~~ foundation program schedule  
12 amount in the following manner:

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

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

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

24 (d) subtract the amount determined in subsection  
25 (1)(c) from the total authorized ~~general--fund--budget~~ amount

1 for the school to determine the authorized ~~general--fund~~  
2 budget amount which shall-be available for the high school  
3 district ~~general--fund--budget~~ foundation program.

4 (2) The ~~general--fund--budget~~ amount determined for each  
5 school of a district under the schedules provided in  
6 20-9-316 through 20-9-319 ~~shall~~ must be totaled to determine  
7 the ~~maximum--general--fund--budget--without--a--voted--levy~~  
8 foundation program schedule amount for such the district."

9 **Section 28.** Section 20-9-321, MCA, is amended to read:

10 "20-9-321. ~~Maximum--general--fund--budget~~ Foundation  
11 program and contingency funds for special education. (1) For  
12 the purpose of establishing the  
13 ~~maximum-budget--without--a--vote~~ foundation program amount for  
14 a current year special education program for a school  
15 district, the superintendent of public instruction ~~will~~  
16 shall determine the total estimated cost of the special  
17 education program for the school district on the basis of a  
18 special education program budget submitted by the district.  
19 The budget ~~will~~ must be prepared on forms provided by the  
20 superintendent of public instruction and ~~will~~ must set out  
21 for each program:

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

25 (b) the number of pupils expected to be enrolled in

1 the program; and

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

5 (2) The total amount of allowable costs approved by  
6 the superintendent of public instruction ~~shall--be~~ is the  
7 special education ~~maximum-budget-without-a-vote~~ foundation  
8 program amount for current year special education program  
9 purposes. The total amount of allowable costs that are  
10 approved for the special education budget ~~shall~~ may not,  
11 under any condition, be less than the  
12 ~~maximum-budget-without-a-vote~~ foundation program amount for  
13 one regular ANB for each ~~special~~ full-time special pupil in  
14 the school district.

15 (3) If a special education program is implemented or  
16 expanded during a given school term too late to be included  
17 in the determination of the district  
18 ~~maximum-budget-without-a-vote~~ foundation program for the  
19 school year as prescribed in this part, allowable costs  
20 approved under the budgeting provisions of subsections (1)  
21 and (2) for the operation of the program during the given  
22 year must be funded from any legislative appropriation for  
23 contingency financing for special education. Contingency  
24 funds granted under this subsection must be deposited in a  
25 separate account of the miscellaneous programs fund of the

1 district as provided in 20-9-507. However, if contingency  
2 funds are not available, then subject to the approval of the  
3 program by the superintendent under the emergency budget  
4 provisions of 20-9-161(5), allowable costs for the given  
5 year may be added to the ~~maximum-budget-without-a-vote~~  
6 foundation program amount for special education for the  
7 subsequent school year. ~~Such~~ The allowable costs must be  
8 recorded as previous year special education expenses in the  
9 school district budget for the subsequent school year.

10 (4) The sum of the previous year special education  
11 expenses as defined in subsection (3) ~~above~~ and the  
12 ~~maximum-budget-without-a-vote~~ foundation program amount for  
13 current year special education as defined in subsections (1)  
14 and (2) ~~shall--be~~ is the special education budget for  
15 accounting purposes.

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

22 **Section 29.** 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~~ 34 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 or 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 (2) The ~~proceeds~~ revenue realized from the county's  
 5 portion of the levy prescribed by this section and the  
 6 ~~revenues~~ revenue from the following sources ~~shall~~ must be  
 7 used for the equalization of the elementary district  
 8 foundation programs of the county as prescribed in 20-9-334,  
 9 and a separate accounting ~~shall~~ must be kept of ~~such~~  
 10 ~~proceeds-and-revenues~~ the revenue by the county treasurer in  
 11 accordance with 20-9-212(1):

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

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

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

23 (d) any money remaining at the end of the immediately  
 24 preceding school fiscal year in the county treasurer's  
 25 ~~account~~ accounts for the various sources of revenue

1 established or referred to in this section;

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

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

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

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

13 "20-9-333. Basic special levy and other revenues for  
14 county equalization of high school district foundation  
15 program. (1) ~~It shall be the duty of the~~ The county  
16 commissioners of each county to shall levy an annual basic  
17 special tax for high schools of ~~17~~ 21 mills on the dollar of  
18 the taxable value of all taxable property within the county,  
19 ~~except for vehicles subject to taxation under 61-3-504(2)~~  
20 property subject to taxes or fees under 23-2-517, 23-2-803,  
21 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204, for the  
22 purposes of local and state foundation program support. The  
23 revenue ~~to be~~ collected from this levy ~~shall~~ must be  
24 apportioned to the support of the foundation programs of  
25 high school districts in the county and to the state special

1 revenue fund, state equalization aid account, in the  
2 following manner:

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

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

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



1 with 20-9-212(1):

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

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

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

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

16 **Section 31.** 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 miils 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 32.** Repealer. Section 20-9-352,  
6 MCA, is repealed.

7 NEW SECTION. **Section 33.** Codification instruction.  
8 [Sections 1 through 4] are intended to be codified as an  
9 integral part of Title 20, chapter 9, part 3, and the  
10 provisions of Title 20 apply to [sections 1 through 4].

11 NEW SECTION. **Section 34.** Appropriation. There is  
12 appropriated to the superintendent of public instruction  
13 \$\_\_\_\_\_ for the fiscal year ending June 30, 1991, from the  
14 state special revenue fund, deficiency aid account, for  
15 deficiency aid to public schools to be distributed to the  
16 public school districts as provided in [sections 1 through  
17 4].

18 NEW SECTION. **Section 35.** Effective date --  
19 retroactive applicability. (1) [This act] is effective July  
20 1, 1990.

21 (2) [Section 4] applies retroactively, within the  
22 meaning of of 1-2-109, to taxable years beginning after  
23 December 31, 1989.

-End-