

SENATE BILL NO. 26

INTRODUCED BY NATHE, MAZUREK

BY REQUEST OF THE SENATE EDUCATION COMMITTEE

IN THE SENATE

JUNE 27, 1989

INTRODUCED AND REFERRED TO COMMITTEE
ON EDUCATION & CULTURAL RESOURCES.

FIRST READING.

COMMITTEE RECOMMEND BILL
DO PASS. REPORT ADOPTED.

STATEMENT OF INTENT ADOPTED.

PRINTING REPORT.

JUNE 28, 1989

SECOND READING, DO PASS AS AMENDED.

ENGROSSING REPORT.

THIRD READING, PASSED.
AYES, 28; NOES, 22.

IN THE HOUSE

JUNE 28, 1989

INTRODUCED AND REFERRED TO COMMITTEE
ON EDUCATION & CULTURAL RESOURCES.

FIRST READING.

COMMITTEE RECOMMEND BILL BE
CONCURRED IN. REPORT ADOPTED.

JUNE 29, 1989

ON MOTION, RULES SUSPENDED AND BILL
PLACED ON SECOND READING THIS DAY.

SECOND READING, CONCURRED IN.

ON MOTION, RULES SUSPENDED AND BILL
PLACED ON THIRD READING THIS DAY.

THIRD READING, CONCURRED IN.
AYES, 53; NOES, 47.

RETURNED TO SENATE.

IN THE SENATE

JUNE 29, 1989

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 ALLOCATED BY LAW TO COUNTY AND STATE EQUALIZATION; TO
 2 PROVIDE VARIOUS APPROPRIATIONS; AMENDING SECTIONS 2-7-504,
 3 7-1-2111, 7-7-2101, 7-7-2203, 7-14-2524, 7-14-2525,
 4 7-16-2327, 15-1-501, 15-6-132, 15-10-402, 15-10-412,
 5 15-23-602, 15-23-603, 15-23-605, 15-23-607, 15-23-703,
 6 15-30-108, 15-35-108, 15-36-101, 15-36-102, 15-36-105,
 7 15-36-112, 15-36-121, 17-3-213, 17-7-502, 20-3-106,
 8 20-3-205, 20-3-324, 20-3-331, 20-5-305, 20-5-312, 20-6-401,
 9 20-6-506, 20-6-603, 20-6-608, 20-7-414, 20-7-422, 20-7-431,
 10 20-9-104, 20-9-141, 20-9-201, 20-9-212, 20-9-213, 20-9-301,
 11 20-9-303, 20-9-311, 20-9-312, 20-9-315, 20-9-318 THROUGH
 12 20-9-322, 20-9-331, 20-9-333, 20-9-343, 20-9-344, 20-9-346,
 13 20-9-347, 20-9-351, 20-9-353, 20-9-501, 20-10-144,
 14 23-5-1027, 90-6-309, AND 90-6-402, MCA; REPEALING SECTIONS
 15 15-23-604, 15-23-615, 15-23-616, 20-9-105, 20-9-352,
 16 20-9-531, AND 20-9-532, MCA, AND SECTION 12, CHAPTER 666,
 17 LAWS OF 1987; AND PROVIDING EFFECTIVE DATES AND
 18 APPLICABILITY DATES."

20 STATEMENT OF INTENT

21 It is the intent of the legislature to enhance equality
 22 of educational opportunity for students in the elementary
 23 schools and secondary schools of Montana by revising the
 24 school funding laws to provide greater equalization of the
 25 funding available to school districts and to promote

1 equalization of school district expenditures per student. It
 2 is the further intent of the legislature to preserve local
 3 control of the public school system, as guaranteed by
 4 Montana's constitution.

5 For these purposes, the legislature determines to
 6 equalize funding aid to the school districts through the
 7 foundation program schedules for the school fiscal year
 8 ending June 30, 1991, in an amount equal to the following
 9 percentages of the total costs incurred by all the districts
 10 in the state in school fiscal year 1988: 100% of
 11 comprehensive insurance, after subtracting Public Law 81-874
 12 support for insurance, and 100% of general fund
 13 expenditures, after subtracting special education and Public
 14 Law 81-874 general fund support.

15 The legislature also determines to fully equalize
 16 funding for retirement by providing state equalization aid
 17 payments sufficient to finance 100% of the costs incurred by
 18 each school district for retirement, social security, and
 19 unemployment insurance, commencing in fiscal year 1994. The
 20 superintendent shall adopt rules that provide for funding in
 21 fiscal year 1992 the portion of any district's retirement
 22 costs that are in excess of the amount raised in that
 23 district by the statewide average mill levy per county and
 24 funding in fiscal year 1993 50% of each district's total
 25 retirement costs.

1 The legislature also determines to fully fund approved
2 allowable costs for the special education programs of the
3 school districts through the foundation program.

4 The legislature also determines to provide state
5 funding for transportation costs as currently provided by
6 law but to study transportation funding and establish an
7 appropriate method to equalize transportation funding in the
8 1991 legislative session.

9 The legislature recognizes its responsibility to devise
10 an equalized system of school funding prior to July 1, 1989,
11 and recognizes that measures in addition to the provisions
12 in this bill are necessary to fully address equalization of
13 funding and expenditures for transportation, retirement,
14 capital improvements, and other needs of the districts.
15 Because it is necessary to identify those factors that
16 affect disparate expenditure patterns, to determine whether
17 those factors are educationally relevant, and to develop
18 data not currently available to devise methods of equitably
19 funding those needs, the legislature determines that a study
20 should be conducted, as provided in [sections 52 through
21 58], and that equitable funding methods for these needs
22 should be addressed by the 52nd legislature.

23 The legislature acknowledges the constitutional
24 guarantee of equal educational opportunity for each public
25 school pupil in Montana. The legislature also acknowledges

1 the sound policy considerations for empowering local
2 trustees to supervise and control the schools in the
3 district, as required by the Montana constitution.
4 Therefore, to guarantee more equal expenditures per student
5 in similarly sized schools throughout Montana, while also
6 providing each district board of trustees the power to
7 determine and meet the unique and individual needs of
8 students and schools in the district, the legislature
9 determines that it is reasonable and necessary to establish
10 a maximum general fund budget limitation for each district,
11 except as provided in 20-9-315, of 121% of the district's
12 foundation program amount. Because of different
13 circumstances that exist from district to district, the
14 legislature finds that it is reasonable and necessary to
15 permit that range of disparity in expenditures by similarly
16 sized districts throughout the state.

17 The legislature intends that the current system of
18 funding county equalization with elementary and high school
19 levies and other revenue sources be maintained without
20 change in order to preserve the current method of providing
21 equalized local support of schools. The statutory
22 appropriation of all revenue earmarked to fund county
23 equalization does not affect the manner in which that
24 revenue is collected, controlled, and distributed to
25 districts by the county. It is intended that a district

1 eligible for federal funds under Title I of Public Law
 2 81-874 will be able to maintain the local contribution rate
 3 as required by 20 U.S.C. 238(d)(3)(C) for continuing
 4 eligibility.

5 It is intended that while school districts may conduct
 6 more than 180 days of instruction, a school district may not
 7 receive foundation program support for more than 180 days of
 8 pupil instruction.

9 Under 20-3-106, 20-9-102, 20-9-201, 20-9-211, and
 10 20-9-213, the superintendent of public instruction is
 11 authorized to supervise school financial administration and
 12 to adopt rules establishing requirements for budgeting and
 13 financial administration of public school districts,
 14 including accounting and reporting requirements. Under
 15 20-9-344, the board of public education has authority to
 16 require any reports it considers necessary. It is intended
 17 that school districts be required to maintain accounting
 18 systems based on generally accepted accounting principles
 19 and that the superintendent of public instruction adopt
 20 rules necessary to implement the requirement. The
 21 superintendent of public instruction shall provide training
 22 and assistance to the districts as necessary to enable the
 23 districts to comply.

24 It is intended that the districts be required to file
 25 accurate and timely reports with the superintendent of

1 public instruction. Districts must be required to provide
 2 student and school district data as may be required by the
 3 superintendent of public instruction concerning the
 4 condition of education in Montana, including personnel
 5 information, student and school district demographics,
 6 assessment of student and school district achievement, and
 7 other appropriate educational factors necessary to enable
 8 the legislature to assess the equality of educational
 9 opportunity being provided by the public school districts
 10 and to determine the amount of state aid to be distributed
 11 to school districts. Districts shall also provide data to
 12 meet grant requirements and other national reporting needs.

13 It is intended that the superintendent of public
 14 instruction conduct training and provide forms for the
 15 personnel responsible for completing reports. Whenever
 16 possible, the superintendent of public instruction shall
 17 develop methods for collecting educational data
 18 electronically, using formats consistent with school
 19 district data processing capabilities. The educational data
 20 must be maintained in an electronic format easily accessible
 21 by other state agencies and the legislature.

22 State equalization aid and county equalization money
 23 may be withheld from school districts, as provided by
 24 20-9-344, that do not comply with accounting and reporting
 25 requirements.

1 It is intended that the superintendent of public
2 instruction employ additional personnel during fiscal year
3 1990 and fiscal year 1991, not to exceed the appropriation,
4 for the purpose of establishing standard accounting and
5 reporting practices in the public school districts and for
6 implementing the additional provisions of this bill.

7 The legislature determines that if county equalization
8 revenue is deficient because of noncollected tax payments,
9 state equalization aid may be provided to offset the
10 delinquency.

11 In providing equalization funding through continuation
12 of the 10% personal income surtax, it is not intended that
13 the surtax be a permanent funding source for state
14 equalization aid.

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

18 **"2-7-504. Accounting methods.** The Unless otherwise
19 required by law, the department shall prescribe the general
20 methods and details of accounting for the receipt and
21 disbursement of all moneys money belonging to governmental
22 entities referred to in this part and shall establish in
23 those offices general methods and details of accounting.
24 All governmental entity officers shall conform with the
25 standards prescribed by the department."

1 **Section 2.** Section 15-1-501, MCA, is amended to read:

2 **"15-1-501. Disposition of moneys money from certain**
3 **designated license and other taxes.** (1) The state treasurer
4 shall deposit to the credit of the state general fund all
5 moneys money received by him from the collection of:

6 (a) fees from driver's licenses, motorcycle
7 endorsements, and duplicate driver's licenses as provided in
8 61-5-121;

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

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

13 (d) liquor license taxes under Title 16;

14 (e) telephone [company] license taxes under chapter
15 53; and

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

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

21 (a) ~~58.2%~~ 51.8% to the credit of the state general
22 fund;

23 (b) ~~10%~~ 9.1% to the credit of the debt service account
24 for long-range building program bonds as described in
25 17-5-408; and

1 (c) ~~31.8%~~ 39.1% to the credit of the state special
2 revenue fund for state equalization aid to the public
3 schools of Montana as described in 20-9-343.

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

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

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

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

15 (4) The state treasurer shall also deposit to the
16 credit of the state general fund all moneys money received
17 by him from the collection of license taxes, fees, and all
18 net revenues and receipts from all other sources under the
19 operation of the Montana Alcoholic Beverage Code.

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

23 **Section 3.** 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
9 districts, Title 20; or bonded indebtedness.

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

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

21 **Section 4.** Section 15-10-412, MCA, is amended to read:

22 "15-10-412. Property tax limited to 1986 levels --
23 clarification -- extension to all property classes. Section
24 15-10-402 is interpreted and clarified as follows:

25 (1) The limitation to 1986 levels is extended to apply

1 to all classes of property described in Title 15, chapter 6,
2 part 1.

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

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

- 18 (a) annexation of real property and improvements into
- 19 a taxing unit;
- 20 (b) construction, expansion, or remodeling of
- 21 improvements;
- 22 (c) transfer of property into a taxing unit;
- 23 (d) subdivision of real property;
- 24 (e) reclassification of property;
- 25 (f) increases in the amount of production or the value

1 of production for property described in 15-6-131 or
2 15-6-132;

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

5 (h) revaluations caused by:

6 (i) cyclical reappraisal; or

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

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

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

16 (a) a revaluation caused by:

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

20 (ii) cyclical reappraisal;

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

22 (c) reclassification of property;

23 (d) increases in the amount of production or the value
24 of production for property described in 15-6-131 or
25 15-6-132;

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

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

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

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

14 (a) new construction;

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

17 (c) annexed property; or

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

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

25 (7) The limitation on the amount of taxes, as

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

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

25 (a) rural improvement districts;

1 (b) special improvement districts;

2 (c) levies pledged for the repayment of bonded

3 indebtedness, including tax increment bonds;

4 (d) city street maintenance districts;

5 (e) tax increment financing districts;

6 (f) satisfaction of judgments against a taxing unit;

7 (g) street lighting assessments; and

8 (h) revolving funds to support any categories

9 specified in this subsection (8); and

10 (i) elementary and high school districts.

11 (9) The limitation on the amount of taxes levied does

12 not apply in a taxing unit if the voters in the taxing unit

13 approve an increase in tax liability following a resolution

14 of the governing body of the taxing unit containing:

15 (a) a finding that there are insufficient funds to

16 adequately operate the taxing unit as a result of 15-10-401

17 and 15-10-402;

18 (b) an explanation of the nature of the financial

19 emergency;

20 (c) an estimate of the amount of funding shortfall

21 expected by the taxing unit;

22 (d) a statement that applicable fund balances are or

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

24 (e) a finding that there are no alternative sources of

25 revenue;

1 (f) a summary of the alternatives that the governing

2 body of the taxing unit has considered; and

3 (g) a statement of the need for the increased revenue

4 and how it will be used.

5 (10) The limitation on the amount of taxes levied does

6 not apply to levies required to address the funding of

7 relief of suffering of inhabitants caused by famine,

8 conflagration, or other public calamity.

9 (11) The limitation on the amount of taxes levied by a

10 taxing jurisdiction subject to a statutory maximum mill levy

11 does not prevent a taxing jurisdiction from increasing its

12 number of mills beyond the statutory maximum mill levy to

13 produce revenue equal to its 1986 revenue.

14 (12) The limitation on the amount of taxes levied does

15 not apply to a levy increase to repay taxes paid under

16 protest in accordance with 15-1-402."

17 **Section 5.** Section 15-30-108, MCA, is amended to read:

18 "~~15-30-108. (Temporary)--Surtax. After In addition to~~

19 ~~the amount of tax liability has-been computed as required in~~

20 ~~15-30-103, each person filing a Montana individual income~~

21 ~~tax return shall add as a surtax 10% of the tax liability,~~

22 ~~and-the-amount-so-arrived-at-is-the-amount--due--the--state-~~

23 ~~(Terminates-December-31,1989--sec-127-Ch-6667-B-1987).~~"

24 **Section 6.** Section 15-35-108, MCA, is amended to read:

25 "~~15-35-108. Disposal of severance taxes. Severance~~

1 taxes collected under this chapter must be allocated
2 according to the provisions in effect on the date the tax is
3 due under 15-35-104. Severance taxes collected under the
4 provisions of this chapter are allocated as follows:

5 (1) To the trust fund created by Article IX, section
6 5, of the Montana constitution, 50% of total coal severance
7 tax collections. The trust fund moneys shall be deposited
8 in the fund established under 17-6-203(5) and invested by
9 the board of investments as provided by law.

10 (2) Starting July 1, 1987, and ending June 30, 1993,
11 12% of coal severance tax collections are allocated to the
12 highway reconstruction trust fund account in the state
13 special revenue fund.

14 (3) Coal severance tax collections remaining after the
15 allocations provided by subsections (1) and (2) are
16 allocated in the following percentages of the remaining
17 balance:

18 (a) after June 30, 1991, 20% to the state special
19 revenue fund to the credit of the education trust fund
20 account and 17.5% to the credit of the local impact account.
21 Unencumbered funds remaining in the local impact account at
22 the end of each biennium are allocated to the education
23 ~~trust--fund--account~~ state special revenue fund for state
24 equalization aid to public schools of the state.

25 (b) 35% until June 30, 1991, and thereafter 10% to the

1 state special revenue fund for state equalization aid to
2 public schools of the state;

3 (c) 1% to the state special revenue fund to the credit
4 of the county land planning account;

5 (d) 1 1/4% to the credit of the renewable resource
6 development bond fund;

7 (e) after June 30, 1991, 5% to a nonexpendable trust
8 fund for the purpose of parks acquisition or management,
9 protection of works of art in the state capitol, and other
10 cultural and aesthetic projects. Income from this trust fund
11 shall be appropriated as follows:

12 (i) 1/3 for protection of works of art in the state
13 capitol and other cultural and aesthetic projects; and

14 (ii) 2/3 for the acquisition, development, operation,
15 and maintenance of any sites and areas described in
16 23-1-102;

17 (f) 1% to the state special revenue fund to the credit
18 of the state library commission for the purposes of
19 providing basic library services for the residents of all
20 counties through library federations and for payment of the
21 costs of participating in regional and national networking;

22 (g) 1/2 of 1% to the state special revenue fund for
23 conservation districts;

24 (h) 1 1/4% to the debt service fund type to the credit
25 of the water development debt service fund;

1 (i) 2% to the state special revenue fund for the
2 Montana Growth Through Agriculture Act;

3 (j) all other revenues from severance taxes collected
4 under the provisions of this chapter to the credit of the
5 general fund of the state."

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

7 "17-3-213. Allocation to general road fund and
8 countywide school levies. (1) The forest reserve funds so
9 apportioned to each county shall must be apportioned by the
10 county treasurer in each county ~~between-the-several-funds~~ as
11 follows:

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

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

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

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

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

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

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

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

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

19 **Section 8.** Section 17-7-502, MCA, is amended to read:

20 "17-7-502. Statutory appropriations -- definition --
21 requisites for validity. (1) A statutory appropriation is an
22 appropriation made by permanent law that authorizes spending
23 by a state agency without the need for a biennial
24 legislative appropriation or budget amendment.

25 (2) Except as provided in subsection (4), to be

1 effective, a statutory appropriation must comply with both
2 of the following provisions:

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

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

8 (3) The following laws are the only laws containing
9 statutory appropriations: 2-9-202; 2-17-105; 2-18-812;
10 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304;
11 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-70-101;
12 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424;
13 17-5-804; 19-8-504; 19-9-702; 19-9-1007; 19-10-205;
14 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606;
15 19-12-301; 19-13-604; 20-6-406; 20-8-111; [section 50];
16 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-1016;
17 23-5-1027; 27-12-206; 37-51-501; 39-71-2504; 53-6-150;
18 53-24-206; 61-2-406; 61-5-121; 67-3-205; 75-1-1101;
19 75-5-1108; 75-11-313; 76-12-123; 80-2-103; 82-11-136;
20 82-11-161; 90-3-301; 90-4-215; 90-4-613; 90-6-331; 90-9-306;
21 and section 13, House Bill No. 861, Laws of 1985.

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

1 Montana. Agencies that have entered into agreements
2 authorized by the laws of Montana to pay the state
3 treasurer, for deposit in accordance with 17-2-101 through
4 17-2-107, as determined by the state treasurer, an amount
5 sufficient to pay the principal and interest as due on the
6 bonds or notes have statutory appropriation authority for
7 such payments. (In subsection (3), pursuant to sec. 10, Ch.
8 664, L. 1987, the inclusion of 39-71-2504 terminates June
9 30, 1991.)"

10 **Section 9.** Section 20-3-106, MCA, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (33) administer the distribution of state retirement
17 equalization aid for each district's retirement fund
18 expenditures in accordance with ~~20-9-532~~ 20-9-347; and

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

22 **Section 10.** Section 20-3-205, MCA, is amended to read:

23 **"20-3-205. Powers and duties.** The county
24 superintendent has general supervision of the schools of the
25 county within the limitations prescribed by this title and

1 shall perform the following duties or acts:

- 2 (1) determine, establish, and reestablish trustee
3 nominating districts in accordance with the provisions of
4 20-3-352, 20-3-353, and 20-3-354;
- 5 (2) administer and file the oaths of members of the
6 boards of trustees of the districts in his county in
7 accordance with the provisions of 20-3-307;
- 8 (3) register the teacher or specialist certificates or
9 emergency authorization of employment of any person employed
10 in the county as a teacher, specialist, principal, or
11 district superintendent in accordance with the provisions of
12 20-4-202;
- 13 (4) act on each tuition application submitted to him
14 in accordance with the provisions of 20-5-301, 20-5-302,
15 20-5-304, and 20-5-311 and transmit the tuition information
16 required by 20-5-312;
- 17 (5) file a copy of the audit report for a district in
18 accordance with the provisions of 20-9-203;
- 19 (6) classify districts in accordance with the
20 provisions of 20-6-201 and 20-6-301;
- 21 (7) keep a transcript and reconcile the district
22 boundaries of the county in accordance with the provisions
23 of 20-6-103;
- 24 (8) fulfill all responsibilities assigned to him under
25 the provisions of this title regulating the organization,

1 alteration, or abandonment of districts;

- 2 (9) act on any unification proposition and, if
3 approved, establish additional trustee nominating districts
4 in accordance with 20-6-312 and 20-6-313;
- 5 (10) estimate the average number belonging (ANB) of an
6 opening school in accordance with the provisions of
7 20-6-502, 20-6-503, 20-6-504, or 20-6-506;
- 8 (11) process and, when required, act on school
9 isolation applications in accordance with the provisions of
10 20-9-302;
- 11 (12) complete the budgets, compute the budgeted
12 revenues and tax levies, file final and emergency budgets,
13 and fulfill such other responsibilities assigned to him
14 under the provisions of this title regulating school
15 budgeting systems;
- 16 (13) submit an annual financial report to the
17 superintendent of public instruction in accordance with the
18 provisions of 20-9-211;
- 19 (14) ~~quarterly~~ monthly, unless otherwise provided by
20 law, order the county treasurer to apportion state money,
21 county school money, and any other school money subject to
22 apportionment in accordance with the provisions of 20-9-212,
23 20-9-334, 20-9-347, 20-10-145, or 20-10-146;
- 24 (15) act on any request to transfer average number
25 belonging (ANB) in accordance with the provisions of

1 20-9-313(3);

2 (16) calculate the estimated budgeted general fund
3 sources of revenue in accordance with the provisions of
4 20-9-348 and the other general fund revenue provisions of
5 the general fund part of this title;

6 (17) compute the revenues and the district and county
7 levy requirements for each fund included in each district's
8 final budget and report such the computations to the board
9 of county commissioners in accordance with the provisions of
10 the general fund, transportation, bonds, and other school
11 funds parts of this title;

12 (18) file and forward bus driver certifications,
13 transportation contracts, and state transportation
14 reimbursement claims in accordance with the provisions of
15 20-10-103, 20-10-143, or 20-10-145;

16 (19) for districts which do not employ a district
17 superintendent or principal, recommend library book and
18 textbook selections in accordance with the provisions of
19 20-7-204 or 20-7-602;

20 (20) notify the superintendent of public instruction of
21 a textbook dealer's activities when required under the
22 provisions of 20-7-605 and otherwise comply with the
23 textbook dealer provisions of this title;

24 (21) act on district requests to allocate federal money
25 for indigent children for school food services in accordance

1 with the provisions of 20-10-205;

2 (22) perform any other duty prescribed from time to
3 time by this title, any other act of the legislature, the
4 policies of the board of public education, the policies of
5 the board of regents relating to community college
6 districts, or the rules of the superintendent of public
7 instruction;

8 (23) administer the oath of office to trustees without
9 the receipt of pay for administering the oath;

10 (24) keep a record of his official acts, preserve all
11 reports submitted to him under the provisions of this title,
12 preserve all books and instructional equipment or supplies,
13 keep all documents applicable to the administration of the
14 office, and surrender such all records, books, supplies, and
15 equipment to his successor;

16 (25) within 90 days after the close of the school
17 fiscal year, publish an annual report in the county
18 newspaper stating the following financial information for
19 the school fiscal year just ended for each district of the
20 county:

21 (a) the total of the cash balances of all funds
22 maintained by the district at the beginning of the year;

23 (b) the total receipts that were realized in each fund
24 maintained by the district;

25 (c) the total expenditures that were made from each

1 fund maintained by the district; and

2 (d) the total of the cash balances of all funds
3 maintained by the district at the end of the school fiscal
4 year; and

5 (26) hold meetings for the members of the trustees from
6 time to time at which matters for the good of the districts
7 ~~shall~~ must be discussed."

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

9 "20-3-324. Powers and duties. As prescribed elsewhere
10 in this title, the trustees of each district shall:

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

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

23 (3) administer the attendance and tuition provisions
24 and otherwise govern the pupils of the district in
25 accordance with the provisions of the pupils chapter of this

1 title;

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

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

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

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

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

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

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

24 (11) establish, maintain, budget, and finance the
25 transportation program of the district in accordance with

1 the provisions of the transportation parts of this title;
 2 (12) issue, refund, sell, budget, and redeem the bonds
 3 of the district in accordance with the provisions of the
 4 bonds parts of this title;
 5 (13) when applicable, establish, financially
 6 administer, and budget for the tuition fund, retirement
 7 fund, building reserve fund, adult education fund,
 8 nonoperating fund, school food services fund, miscellaneous
 9 federal programs fund, building fund, lease or rental
 10 agreement fund, traffic education fund, and interlocal
 11 cooperative agreement fund in accordance with the provisions
 12 of the other school funds parts of this title;
 13 (14) when applicable, administer any interlocal
 14 cooperative agreement, gifts, legacies, or devises in
 15 accordance with the provisions of the miscellaneous
 16 financial parts of this title;
 17 (15) hold in trust, acquire, and dispose of the real
 18 and personal property of the district in accordance with the
 19 provisions of the school sites and facilities part of this
 20 title;
 21 (16) operate the schools of the district in accordance
 22 with the provisions of the school calendar part of this
 23 title;
 24 (17) establish and maintain the instructional services
 25 of the schools of the district in accordance with the

1 provisions of the instructional services, textbooks,
 2 vocational education, and special education parts of this
 3 title;
 4 (18) establish and maintain the school food services of
 5 the district in accordance with the provisions of the school
 6 food services parts of this title;
 7 (19) make reports from time to time as the county
 8 superintendent, superintendent of public instruction, and
 9 board of public education may require;
 10 (20) retain, when considered advisable, a physician or
 11 registered nurse to inspect the sanitary conditions of the
 12 school or the general health conditions of each pupil and,
 13 upon request, make available to any parent or guardian any
 14 medical reports or health records maintained by the district
 15 pertaining to his child;
 16 (21) for each member of the trustees, visit each school
 17 of the district not less than once each school fiscal year
 18 to examine its management, conditions, and needs, except
 19 trustees from a first-class school district may share the
 20 responsibility for visiting each school in the district;
 21 (22) procure and display outside daily in suitable
 22 weather at each school of the district an American flag that
 23 measures not less than 4 feet by 6 feet;
 24 (23) adopt and administer a district policy on
 25 assessment for placement of any child who enrolls in a

1 school of the district from a nonpublic school that is not
2 accredited, as required in 20-5-110; and

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

7 **Section 12.** Section 20-3-331, MCA, is amended to read:

8 "20-3-331. Purchase of liability insurance. The
9 trustees of any district may purchase insurance coverage for
10 the district, trustees, and employees against liability for
11 the death, injury, or disability of any person or damage to
12 property. The trustees shall include the cost of coverage in
13 the general fund budget of the district."

14 **Section 13.** Section 20-5-305, MCA, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 **Section 15.** Section 20-6-401, MCA, is amended to read:

15 *20-6-401. Definitions. As used in this part, unless
 16 the context clearly indicates otherwise, the following
 17 definitions apply:

18 (1) "Component districts" means the elementary or high
 19 school districts incorporated into the enlarged district.

20 (2) "Eligible pupils" means the average number
 21 belonging (ANB) in the operating schools of the component
 22 districts and the tuition pupils residing in the component
 23 districts and attending another district's school under the
 24 tuition provisions of the school laws, except that the
 25 pupils residing in the component district having the largest

1 total number of pupils are ineligible for bonus payment
2 consideration.

3 (3) "Enlarged district" means the elementary or high
4 school district resulting from the consolidation or
5 annexation of two or more component districts.

6 (4) "General bonus payment" for first- and
7 second-class school districts must be \$300 \$450 per eligible
8 pupil per year for a period of 3 years and must be deposited
9 in the enlarged district's general fund. General bonus
10 payment for third-class school districts must be \$500 \$750
11 per eligible pupil per year for a period of 3 years and must
12 be deposited in the enlarged district's general fund. The
13 general bonus payment must be made from the state school
14 equalization aid account.

15 (5) "Transportation bonus payment" is the provision of
16 $66 \frac{2}{3}\%$ state financing of the on-schedule transportation
17 amount as provided by the transportation provisions of the
18 school laws. When an eligible pupil is entitled to
19 transportation, the enlarged district is entitled to the
20 transportation bonus payment for the eligible pupil for a
21 period of 3 years. The payment must be made from the state
22 transportation aid account. When the eligible pupil rides a
23 bus providing transportation for ineligible pupils, the
24 $66 \frac{2}{3}\%$ state financing of the on-schedule amount for this
25 payment must be prorated to provide financing for the

1 eligible pupil."

2 **Section 16.** Section 20-6-506, MCA, is amended to read:

3 **"20-6-506.** Budgeting and cost sharing when junior high
4 school operated by elementary district and high school
5 district operating a county high school. (1) Whenever the
6 opening of a junior high school is approved for the ensuing
7 school fiscal year under 20-6-505, the county superintendent
8 shall estimate the average number belonging (ANB) after
9 investigating the probable enrollment for the junior high
10 school. The ANB determined by the county superintendent and
11 the ANB actually realized in subsequent school fiscal years
12 ~~shall~~ must be applied under 20-9-320 to prorate the
13 ~~maximum-general-fund-budget-without-a-voted-levy~~ foundation
14 program schedule amount provided in 20-9-303(2)(a) between
15 the elementary and high school districts. Each district
16 shall adopt its general fund budget on the basis of the
17 prorated amount and shall finance its proportionate share of
18 the cost of operating the junior high school.

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

24 **Section 17.** Section 20-6-603, MCA, is amended to read:

25 **"20-6-603.** Trustees' authority to acquire or dispose

1 of sites and buildings -- when election required. (1) The
 2 trustees of any district ~~shall have the authority to~~ may
 3 purchase, build, exchange, or otherwise acquire, or sell, or
 4 otherwise dispose of sites and buildings of the district.
 5 ~~Such action shall~~ Action may not be taken by the trustees
 6 without the approval of the qualified electors of the
 7 district at an election called for ~~such~~ the purpose of
 8 approval unless:

9 (a) a bond issue has been authorized for the purpose
 10 of constructing, purchasing, or acquiring the site or
 11 building;

12 (b) an additional levy under the provisions of
 13 20-9-353 has been approved for the purpose of constructing,
 14 purchasing, or acquiring the site or building;

15 (c) the cost of constructing, purchasing, or acquiring
 16 the site or building is financed without exceeding the
 17 ~~maximum general fund budget without a vote amount prescribed~~
 18 ~~in 20-9-316 through 20-9-321~~ foundation program schedule
 19 amount provided in 20-9-303(2)(a), and, in the case of a
 20 site purchase, the site has been approved under the
 21 provisions of 20-6-621; or

22 (d) ~~moneys are~~ money is otherwise available under the
 23 provisions of this title and the ballot for the site
 24 approval for ~~such~~ the building incorporated a description of
 25 the building to be located on the site.

1 (2) When an election is conducted under the provisions
 2 of this section, it ~~shall~~ must be called under the
 3 provisions of 20-20-201 and ~~shall~~ must be conducted in the
 4 manner prescribed by this title for school elections. An
 5 elector qualified to vote under the provisions of 20-20-301
 6 ~~shall be permitted to~~ may vote in ~~such~~ the election. If a
 7 majority of those electors voting at the election approve
 8 the proposed action, the trustees may take the proposed
 9 action."

10 **Section 18.** Section 20-6-608, MCA, is amended to read:

11 "20-6-608. Authority and duty of trustees to insure
 12 district property. The trustees of any district shall ~~have~~
 13 ~~the authority and it shall be their duty to~~ insure any or
 14 all real and personal property of the district. The trustees
 15 shall include the cost of insurance in the general fund
 16 budget of the district."

17 **Section 19.** Section 20-7-414, MCA, is amended to read:

18 "20-7-414. Determination of children in need and type
 19 of special education needed -- approval of classes and
 20 programs by superintendent. (1) The determination of the
 21 children requiring special education and the type of special
 22 education needed by these children ~~shall be~~ is the
 23 responsibility of the trustees, and ~~such~~ the determination
 24 ~~shall~~ must be made in compliance with the procedures
 25 established in the rules of the superintendent of public

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

15 (2) Whenever the trustees of any district intend to
 16 establish a special education class or program, they shall
 17 apply for approval and funding of the class or program by
 18 the superintendent of public instruction. The superintendent
 19 of public instruction shall approve or disapprove the
 20 application for the special education class or program on
 21 the basis of its compliance with the laws of the state of
 22 Montana, the special education policies adopted by the board
 23 of public education, and the rules of the superintendent of
 24 public instruction. No special education class may be
 25 operated by the trustees without the approval of the

1 superintendent of public instruction. Each special education
 2 class or program must be approved annually to be funded as
 3 part of the maximum-budget-without-a-vote foundation program
 4 for special education."

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

6 "20-7-422. Out-of-state tuition for special education
 7 children. (1) If the trustees of any district recommend to
 8 the superintendent of public instruction the attendance of
 9 a child in need of special education in a special education
 10 program offered outside of the state of Montana, such the
 11 arrangements shall are not be subject to the out-of-state
 12 attendance provisions of the laws governing the attendance
 13 of pupils in schools outside the state of Montana.

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

24 **Section 21.** Section 20-7-431, MCA, is amended to read:

25 "20-7-431. Allowable cost schedule for special

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

15 (a) instruction: salaries, benefits, supplies,
 16 textbooks, and other expenses including:

17 (i) salaries and benefits of special program teachers,
 18 regular program teachers, teacher aides, special education
 19 supervisors, audiologists, and speech and hearing
 20 clinicians--the entire cost if employed full time in the
 21 special program; if such 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;

25 (ii) teaching supplies and textbooks if used

1 exclusively for special programs--the actual total cost;

2 (iii) other expenses:

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

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

15 (b) supportive services, including:

16 (i) salaries and benefits of professional supportive
 17 personnel--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. Professional
 22 supportive personnel may include counselors, social workers,
 23 psychologists, psychometrists, physicians, nurses, and
 24 physical and occupational therapists.

25 (ii) salaries and benefits of clerical personnel for

1 who assist professional personnel in supportive
 2 services--the entire cost if employed full time in the
 3 special program; if such the personnel are shared between
 4 special and regular programs--a portion of the entire cost
 5 corresponding to the entire working time which each such
 6 person devotes to the special program;

7 (c) equipment:

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

9 (ii) special equipment for district-owned school buses
 10 necessary to accommodate special students--the actual total
 11 cost;

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

17 (iv) repair and maintenance of equipment--the actual
 18 total cost;

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

23 (2) The superintendent of public instruction shall
 24 ~~prior--to--September--17--1977,--revise--the~~ adopt rules in
 25 accordance with the policies of the board of public

1 education for:

2 (a) keeping necessary records for supportive and
 3 administrative personnel and any personnel shared between
 4 special and regular programs;

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

10 (c) defining the kinds or types of equipment whose
 11 costs may be counted under subsection (1)(c)(i) of this
 12 section.

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

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

24 (5) Allowable costs prescribed in this section do not
 25 include the costs of the teachers' retirement system, the

1 public employees' retirement system, the federal social
2 security system, or the costs for unemployment compensation
3 insurance.

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

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

22 **Section 22.** Section 20-9-104, MCA, is amended to read:

23 "20-9-104. General fund cash reserve. (1) At the end
24 of each school fiscal year, the trustees of each district
25 shall designate what the portion of the general fund

1 end-of-the-year cash balance shall that is to be earmarked
2 as cash reserve for the purpose of paying general fund
3 warrants issued by the district from July 1 to November 30
4 of the ensuing school fiscal year. The Except as provided in
5 subsections (3) and (4), the amount of the general fund cash
6 balance that is earmarked as cash reserve shall may not
7 exceed 35% the following percentages of the final general
8 fund budget for the ensuing school fiscal year and-shall:

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

11 (b) 30% for a district that received state
12 equalization aid equal to 25% or less of its foundation
13 program schedule entitlement in the current school fiscal
14 year; and

15 (c) 20% for a district that received state
16 equalization aid equal to more than 25% of its foundation
17 program schedule entitlement in the current school fiscal
18 year.

19 (2) The amount held as cash reserve may not be used
20 for property tax reduction in the manner permitted by
21 20-9-141(1)(b) for other receipts. Any portion of the
22 general fund end-of-the-year cash balance that is not
23 earmarked for cash reserve purposes shall--be is cash
24 reappropriated which-shall and must be used for property tax
25 reduction as provided in 20-9-141(1)(b)(iii).

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

4 (a) any amount received during the current school
5 fiscal year under Public Law 81-874;

6 (b) the unused balance of any amount received in
7 settlement of tax payments protested prior to [the effective
8 date of this section]; or

9 (c) any amount received as a general bonus payment
10 under 20-6-401.

11 (4) The limitation of subsection (1) does not apply if
12 the amount earmarked as cash reserve is \$10,000 or less."

13 **Section 23.** Section 20-9-141, MCA, is amended to read:

14 "20-9-141. Computation of general fund net levy
15 requirement by county superintendent. (1) The county
16 superintendent shall compute the levy requirement for each
17 district's general fund on the basis of the following
18 procedure:

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

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

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

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

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

10 (i) anticipated federal moneys money received under
11 the provisions of Title I of Public Law 81-874 or other
12 anticipated federal moneys money received in lieu of such
13 that federal act;

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

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

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

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

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

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

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

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

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

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

21 **Section 24.** 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 25.** 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 be
6 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 specified
18 in 20-9-213(4). All investment income must be deposited, and
19 credited proportionately, in the funds established to
20 account for the taxes received for the purposes specified in
21 subsections (1)(a) and (1)(b)."

22 **Section 26.** 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 state
 13 unified investment program established in Title 17, chapter
 14 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 27.** 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.

4 (3) The amount of the general fund budget for each
5 school fiscal year ~~shall~~ may not exceed the financing
6 limitations established by this title but ~~shall-be-no~~ may
7 not be less than the amount established by law as the
8 foundation program. The general fund budget ~~shall~~ must be
9 financed by the foundation program revenues and may be
10 supplemented by ~~the-permissive-levy-and~~ an additional voted
11 ~~levies-in-the-manner~~ levy and other revenue, as provided by
12 law 20-9-353."

13 **Section 28.** Section 20-9-303, MCA, is amended to read:

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

25 (a) county equalization moneys money, as provided in

1 20-9-331 and 20-9-333; and
 2 (b) state equalization aid, as provided in 20-9-343;
 3 (c) appropriations for special education; and
 4 (d) a district levy as provided in subsection (3) for
 5 support of a school not approved as an isolated school under
 6 the provisions of 20-9-302.
 7 (2) ~~The dollar amount of the foundation program shall~~
 8 ~~be-----80%-----of-----the~~
 9 ~~maximum general fund budget without a voted levy limitation~~
 10 ~~as set forth in the schedules in 20-9-316 through 20-9-321.~~
 11 The foundation program ~~of an~~ includes:
 12 (a) amounts in support of general education programs
 13 as provided in the schedules in 20-9-316 through 20-9-320;
 14 and
 15 (b) payments in support of special education programs
 16 under 20-9-321.
 17 (3) An elementary school having an ANB of nine or
 18 fewer pupils for 2 consecutive years which is not approved
 19 as an isolated school under the provisions of 20-9-302 shall
 20 be--80%--of may budget and spend the schedule amount, but the
 21 county and state shall participate in financing one-half of
 22 the foundation program, and the district shall finance the
 23 remaining one-half by a tax levied on the property of the
 24 district. When a school of nine or fewer pupils is approved
 25 as isolated under the provisions of 20-9-302, the county and

1 state shall participate in the financing of the total amount
 2 of the foundation program.
 3 ~~(3)~~(4) Funds provided to support the special education
 4 accounting budget may be expended only for special education
 5 purposes as approved by the superintendent of public
 6 instruction in accordance with the special education
 7 budgeting provisions of this title. Expenditures for special
 8 education shall must be accounted for separately from the
 9 balance of the school district general fund. Transfers
 10 between items within the special education budget for
 11 accounting purposes may be made at the discretion of the
 12 board of trustees in accordance with the financial
 13 administration part of this title. The unexpended balance of
 14 the special education accounting budget shall ~~carry~~ carries
 15 over to the next year to reduce the amount of funding
 16 required to finance the district's ensuing year's
 17 ~~maximum budget without a vote~~ foundation program amount for
 18 special education."
 19 **Section 29.** Section 20-9-311, MCA, is amended to read:
 20 "20-9-311. Calculation of average number belonging
 21 (ANB). (1) Average number belonging must be computed by
 22 determining the total of the aggregate days of attendance by
 23 regularly enrolled, full-time pupils during the second
 24 semester of the preceding school fiscal year and the first
 25 semester of the current school fiscal year plus the

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

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

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

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

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

23 (b) a junior high school has been approved and
 24 accredited as a junior high school, all of the regularly
 25 enrolled, full-time pupils of the junior high school must be

1 considered as high school district pupils for ANB purposes;

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

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

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

19 **Section 30.** Section 20-9-312, MCA, is amended to read:

20 "20-9-312. ~~Maximum--general--fund--budget~~ Foundation
21 program schedule for grades seven and eight. The ANB
22 calculated for grades 7 and 8 ~~shall must~~ be funded at the
23 high school rate, provided that the school meets the
24 standards for accreditation of a middle school. When ~~such~~
25 the pupils are actually enrolled in an elementary school,

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

6 **Section 31.** Section 20-9-315, MCA, is amended to read:

7 "20-9-315. **Maximum general fund budget and exceptions.**

8 (1) The total amount of the general fund budget of any
9 district ~~shall may~~ not be greater than the ~~general fund~~
10 ~~budget--amount--specified--in--20-9-316---through---20-9-322~~
11 district's foundation program as provided in 20-9-303,
12 except when a district has adopted an emergency general fund
13 budget under the provisions of 20-9-165 or when a district
14 satisfies the requirements of 20-9-353.

15 (2) Notwithstanding the provisions of subsection (1),
16 a district's maximum general fund budget may not exceed 121%
17 of the foundation program amount for that district, except:

18 (a) when Public Law 81-874 funds are the source of
19 funding for the excess amount, until the state receives
20 approval of an application to equalize the funds under 20
21 U.S.C. 240(d);

22 (b) when a district had combined expenditures in
23 school fiscal year 1988 from its general fund and
24 comprehensive insurance fund in an amount greater than the
25 maximum general fund budget allowed by this section, in

1 which case the maximum general fund budget of the district
2 is limited to:

3 (i) its school fiscal year 1988 combined expenditure
4 amount until that amount does not exceed 121% of the
5 district's foundation program amount; or

6 (ii) the average of its school fiscal year 1988 and
7 1989 combined expenditure amounts until that average amount
8 does not exceed 121% of the district's foundation program
9 amount."

10 **Section 32.** Section 20-9-318, MCA, is amended to read:

11 "20-9-318. Elementary school maximum-budget foundation
12 program schedule for 1987-88 school fiscal year 1991 and
13 succeeding years. For 1987-88 the school fiscal year ending
14 June 30, 1991, and succeeding school years, the elementary
15 school maximum-budget foundation program schedule is as
16 follows:

17 (1) For each elementary school having an ANB of nine
18 or fewer pupils, the maximum ~~shall-be-\$20,158~~ is \$29,399 if
19 said the 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--\$20,158~~ is \$29,399 plus
22 ~~\$842-50~~ \$1,228.74 per pupil on the basis of the average
23 number belonging over nine.

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--\$33,042~~ is
2 ~~\$48,190~~ plus \$842-50 \$1,228.74 per pupil on the basis of the
3 average number belonging over 14.

4 (4) For schools with an ANB of 18 pupils and employing
5 one teacher, the maximum ~~shall-be-\$27,741~~ is \$40,459 plus
6 ~~\$842-50~~ \$1,228.74 per pupil on the basis of the average
7 number belonging over 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-\$44,290~~ is
10 ~~\$64,595~~ plus \$527-60 \$769.48 per pupil on the basis of the
11 average number belonging over 18, not to exceed an ANB of
12 50.

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

16 (a) For a school having an ANB of more than 40 and
17 employing a minimum of three teachers, the maximum of ~~\$17,957~~
18 ~~shall--be~~ \$2,854.18 is decreased at the rate of ~~\$1-90~~ \$2.77
19 for each additional pupil until the total number (ANB) ~~shall~~
20 ~~have-reached~~ reaches a total of 100 pupils.

21 (b) For a school having an ANB of more than 100
22 pupils, the maximum of ~~\$17,849--shall--be~~ \$2,687.92 is
23 decreased at the rate of ~~\$1-74~~ \$2.54 for each additional
24 pupil until the ANB ~~shall-have-reached~~ reaches 300 pupils.

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

1 pupils, the maximum ~~shall~~ may not exceed ~~\$17,496~~ \$2,181.84
2 for each pupil.

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

10 **Section 33.** Section 20-9-319, MCA, is amended to read:

11 "20-9-319. High school ~~maximum--budget~~ foundation
12 program schedule for ~~1987-88~~ school fiscal year 1991 and
13 succeeding years. For ~~1987-88~~ the school fiscal year ending
14 June 30, 1991, and succeeding school years, the high school
15 ~~maximum-budget~~ foundation program schedule is as follows:

16 (1) For each high school having an ANB of 24 or fewer
17 pupils, the maximum ~~shall-be-\$114,7845~~ is \$178,762.

18 (2) For a secondary high school having an ANB of more
19 than 24 pupils, the maximum ~~\$4,785--shall-be~~ of \$7,448.11 is
20 decreased at the rate of \$26--10 \$40.63 for each additional
21 pupil until the ANB ~~shall-have-reached~~ reaches a total of 40
22 such pupils.

23 (3) For a school having an ANB of more than 40 pupils,
24 the maximum of ~~\$4,360--shall-be~~ \$6,799.03 is decreased at the
25 rate of ~~\$26--10~~ \$40.63 for each additional pupil until the

1 ANB ~~shall-have-reached~~ reaches 100 pupils.

2 (4) For a school having an ANB of more than 100
3 pupils, a the maximum of ~~\$2,802--shall--be~~ \$4,361.47 is
4 decreased at the rate of ~~\$4--37~~ \$6.80 for each additional
5 pupil until the ANB ~~shall-have-reached~~ reaches 200 pupils.

6 (5) For a school having an ANB of more than 200
7 pupils, the maximum of ~~\$2,365--shall--be~~ \$3,681.25 is
8 decreased by ~~\$2--48~~ \$3.74 for each additional pupil until the
9 ANB ~~shall-have-reached~~ reaches 300 pupils.

10 (6) For a school having an ANB of more than 300
11 pupils, the maximum of ~~\$2,125--shall--be~~ \$3,307.68 is
12 decreased at the rate of 44 68 cents for each additional
13 pupil until the ANB ~~shall-have-reached~~ reaches 600 pupils.

14 (7) For a school having an ANB over of more than 600
15 pupils, the maximum ~~shall~~ may not exceed ~~\$17,993~~ \$3,102.21
16 per pupil.

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

25 **Section 34.** Section 20-9-320, MCA, is amended to read:

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

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

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

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

20 (d) subtract the amount determined in subsection
 21 (1)(c) from the total authorized ~~general--fund--budget~~ amount
 22 for the school to determine the authorized ~~general--fund~~
 23 budget amount which--shall--be available for the high school
 24 district ~~general--fund--budget~~ foundation program.

25 (2) The ~~general--fund--budget~~ amount determined for each

1 school of a district under the schedules provided in
 2 20-9-316 through 20-9-319 ~~shall~~ must be totaled to determine
 3 the ~~maximum--general--fund--budget--without--a--voted--levy~~
 4 foundation program schedule amount for such the district."

5 **Section 35.** Section 20-9-321, MCA, is amended to read:

6 "20-9-321. ~~Maximum---general--fund--budget~~ Foundation
 7 program and contingency funds for special education. (1) For
 8 the purpose of establishing the
 9 ~~maximum--budget--without--a--vote~~ foundation program amount for
 10 a current year special education program for a school
 11 district, the superintendent of public instruction ~~will~~
 12 shall determine the total estimated cost of the special
 13 education program for the school district on the basis of a
 14 special education program budget submitted by the district.
 15 The budget ~~will~~ must be prepared on forms provided by the
 16 superintendent of public instruction and ~~will~~ must set out
 17 for each program:

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

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

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

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

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

1 year may be added to the ~~maximum-budget-without-a-vote~~
 2 foundation program amount for special education for the
 3 subsequent school year. Such ~~The~~ allowable costs must be
 4 recorded as previous year special education expenses in the
 5 school district budget for the subsequent school year.

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

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

18 **Section 36.** Section 20-9-322, MCA, is amended to read:
 19 "20-9-322. Elementary instructional aide funding
 20 qualification. (1) An elementary school that anticipates an
 21 ANB of at least 14 but less than 18 pupils for the ensuing
 22 school fiscal year may determine the ~~maximum--general--fund~~
 23 budget foundation program amount under the provisions of
 24 20-9-316(3) or 20-9-318(3) if eligibility is approved in
 25 accordance with the following provisions:

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

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

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

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

10 (iv) the factual information on which the estimate is
11 based; and

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

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

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

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

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

5 (b) a certified teacher."

6 **Section 37.** Section 20-9-331, MCA, is amended to read:

7 "20-9-331. Basic county tax and other revenues for
8 county equalization of the elementary district foundation
9 program. (1) ~~it shall be the duty of the~~ The county
10 commissioners of each county to shall levy an annual basic
11 tax of ~~28~~ 34 mills on the ~~dollars~~ dollar of the taxable
12 value of all taxable property within the county, except for
13 ~~vehicles subject to taxation under 61-3-504(2)~~ property
14 subject to a tax or fee under 23-2-517, 23-2-803,
15 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204, for the
16 purposes of local and state foundation program support. The
17 revenue ~~to be~~ collected from this levy ~~shall~~ must be
18 apportioned to the support of the foundation programs of the
19 elementary school districts in the county and to the state
20 special revenue fund, state equalization aid account, in the
21 following manner:

22 (a) In order to determine the amount of revenue raised
23 by this levy which is retained by the county, the sum of the
24 estimated revenues revenue identified in subsection (2)
25 ~~below shall~~ must be subtracted from the sum of the county

1 elementary transportation obligation and the total of the
2 foundation programs of all elementary districts of the
3 county.

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

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

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

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

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

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

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

24 (e) any federal or state money distributed to the
25 county as payment in lieu of the property taxation,

1 ~~established by the county levy required by this section~~
 2 including federal forest reserve funds allocated under the
 3 provisions of 17-3-213;

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

6 (g) anticipated revenue from vehicle property taxes
 7 and fees imposed under 23-2-517, 23-2-803, 61-3-504(2),
 8 61-3-521, and 61-3-537, and 67-3-204."

9 **Section 38.** Section 20-9-333, MCA, is amended to read:

10 "20-9-333. Basic special levy and other revenues for
 11 county equalization of high school district foundation
 12 program. (1) ~~it shall be the duty of the~~ The county
 13 commissioners of each county to shall levy an annual basic
 14 special tax for high schools of ~~17~~ 21 mills on the dollar of
 15 the taxable value of all taxable property within the county,
 16 ~~except for vehicles subject to taxation under 61-3-504(2)~~
 17 property subject to a tax or fee under 23-2-517, 23-2-803,
 18 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204, for the
 19 purposes of local and state foundation program support. The
 20 revenue ~~to be~~ collected from this levy ~~shall~~ must be
 21 apportioned to the support of the foundation programs of
 22 high school districts in the county and to the state special
 23 revenue fund, state equalization aid account, in the
 24 following manner:

25 (a) In order to determine the amount of revenue raised

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

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

16 (c) If revenue from the basic levy prescribed by this
 17 section when combined with the other revenue from subsection
 18 (2) is insufficient to fully fund the percentage determined
 19 in 20-9-347(1)(b) and the county is eligible for an
 20 apportionment of state equalization aid under the provisions
 21 of 20-9-347(1)(c), the county superintendent shall notify
 22 the superintendent of public instruction of the deficiency.
 23 The superintendent of public instruction shall increase the
 24 state equalization aid payments to the districts in the
 25 affected county to offset the deficiency. A payment may not

1 be made under this subsection (c) that allows a district to
2 receive foundation program funding in excess of the
3 foundation program amount of the district.

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

12 (a) any money remaining at the end of the immediately
13 preceding school fiscal year in the county treasurer's
14 accounts for the various sources of revenue established in
15 this section;

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

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

23 (d) anticipated revenue from vehicte property taxes
24 and fees imposed under 23-2-517, 23-2-803, 61-3-504(2),
25 61-3-521, and 61-3-537, and 67-3-204."

1 **Section 39.** Section 20-9-343, MCA, is amended to read:

2 "20-9-343. Definition of and revenue for state
3 equalization aid. (1) As used in this title, the term "state
4 equalization aid" means these-moneys the money deposited in
5 the state special revenue fund as required in this section
6 plus any legislative appropriation of money from other
7 sources for distribution to the public schools for the
8 purpose purposes of equalization of the foundation program
9 and retirement fund expenditures of the public school
10 districts.

11 (2) ~~The legislative appropriation for state~~
12 ~~equalization aid shall be made in a single sum for the~~
13 ~~biennium. The superintendent of public instruction has~~
14 ~~authority to may spend such appropriation, together with the~~
15 ~~earmarked revenues provided in subsection (3), funds~~
16 appropriated for state equalization aid as required for
17 equalization of the foundation program purposes and
18 retirement fund expenditures throughout the biennium.

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

22 (a) ~~31.8% of all~~ money received from the collection of
23 income taxes under chapter 30 of Title 15, as provided by
24 15-1-501;

25 (b) ~~25% of all money,~~ except as provided in 15-31-702,

1 money received from the collection of corporation license
2 and income taxes under chapter 31 of Title 15, as provided
3 by 15-1-501;

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

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

10 (e) interest and income money described in 20-9-341
11 and 20-9-342;

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

13 (g) money received from the state equalization aid
14 levy under [section 49];

15 (h) income from the lottery, as provided in 23-5-1027;

16 ~~(g)(i) in addition to these revenues;~~ the surplus
17 revenues collected by the counties for foundation program
18 support according to 20-9-331 and 20-9-333; and

19 (j) investment income earned by investing money in the
20 state equalization aid account in the state special revenue
21 fund.

22 (4) The superintendent of public instruction shall
23 request the board of investments to invest the money in the
24 state equalization aid account to maximize investment
25 earnings to the account.

1 ~~(4)(5)~~ Any surplus revenue in the state equalization
2 aid account in the second year of a biennium may be used to
3 reduce the any appropriation required for the next
4 succeeding biennium."

5 **Section 40.** Section 20-9-344, MCA, is amended to read:

6 "20-9-344. Purpose of state equalization aid and
7 duties of the board of public education for distribution --
8 conditions of first payment. (1) The money available for
9 state equalization aid shall must be distributed and
10 apportioned to provide an annual minimum operating revenue
11 for the elementary and high schools in each county,
12 exclusive of revenues required for debt service and for the
13 payment of any ~~and all~~ costs and expense incurred in
14 connection with any adult education program, recreation
15 program, school food services program, new buildings, ~~new~~
16 and grounds, and transportation.

17 (2) The board of public education shall administer and
18 distribute the state equalization aid in the manner and with
19 the powers and duties provided by law. To this end, the
20 board of public education shall:

21 (a) adopt policies for regulating the distribution of
22 state equalization aid in accordance with the provisions of
23 law and in a manner that ~~would most effectively meet the~~
24 financial needs of districts provides for monthly
25 distribution to each district of its foundation program

1 amount;

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

5 (c) order the superintendent of public instruction to
6 distribute the state equalization aid on the basis of each
7 district's annual entitlement to such the aid as established
8 by the superintendent of public instruction. In ordering the
9 distribution of state equalization aid, the board of public
10 ~~education shall~~ may not increase or decrease the state
11 equalization aid distribution to any district on account of
12 any difference which that may occur during the school fiscal
13 year between budgeted and actual receipts from any other
14 source of school revenue.

15 (3) The board of public education may order the
16 superintendent of public instruction to withhold
17 distribution of state equalization aid or order the county
18 superintendent of schools to withhold county equalization
19 money from a district when the district fails to:

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

22 (b) maintain accredited status.

23 (4) Prior to any proposed order by the board of public
24 education to withhold distribution of state equalization aid
25 or county equalization money, the district is entitled to a

1 contested case hearing before the board of public education,
2 as provided under the Montana Administrative Procedure Act.

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

8 ~~(4)(6)~~ (a) The first payment of state equalization aid
9 must be:

10 (a) based on an estimate of 20% of each district's
11 entitlement; and

12 (b) distributed by July 15 of the school fiscal year.

13 (b) Each subsequent monthly payment must be at least
14 7% of the district's amount."

15 **Section 41.** Section 20-9-346, MCA, is amended to read:

16 "20-9-346. Duties of the superintendent of public
17 instruction for state equalization aid distribution. The
18 superintendent of public instruction shall administer the
19 distribution of the state equalization aid by:

20 (1) establishing each district's annual entitlement to
21 state equalization aid in support of its retirement fund and
22 foundation program, based on the data reported in the budget
23 retirement and general fund budgets for each district that
24 has have been duly adopted for the current school fiscal
25 year and verified by the superintendent of public

1 instruction and by applying such the verified data under the
2 provisions of the state equalization aid allocation
3 procedure prescribed in 20-9-347;

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

8 (3) distributing by state warrant or electronic
9 transfer the state equalization aid, for each district
10 entitled to such the aid, to the county treasurer of the
11 county where the district is located, in accordance with the
12 distribution ordered by the board of public education;

13 (4) keeping a record in his office of the full and
14 complete data concerning moneys money available for state
15 equalization aid and the entitlements for state equalization
16 aid of the ~~several~~ districts of the state;

17 (5) reporting to the board of public education the
18 estimated amount which that will be available for state
19 equalization aid; and

20 (6) reporting to both branches houses of the state
21 legislature in any year when a session is convened;

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

25 (b) the amount of state equalization aid then

1 available;

2 (c) the apportionment made of such the available
3 moneys money but not yet distributed; and

4 (d) the latest estimate of accruals of moneys money
5 available for state equalization aid."

6 **Section 42.** Section 20-9-347, MCA, is amended to read:

7 **"20-9-347. Formula for state equalization aid**
8 **apportionment in support of foundation program and**
9 **retirement.** (1) The superintendent of public instruction
10 shall apportion the state equalization aid available for
11 support of the foundation program, individually for the
12 elementary districts of a county or the high school
13 districts of a county, in accordance with 20-9-346 and on
14 the basis of the following procedure:

15 (a) Determine the percentage that the total funds
16 available to all counties in the state in support of the
17 foundation program (including the state moneys money
18 available for state equalization aid in support of the
19 foundation program) is of the total amount of the foundation
20 programs of all counties.

21 (b) Determine the percentage that the total funds
22 available in each county in support of the foundation
23 programs in such the county (excluding state moneys money
24 available for state equalization aid in support of the
25 foundation program) is of the total amount of the foundation

1 programs of all districts of such the county.

2 (c) Counties in which the percentage determined in
3 subsection (1)(b) exceeds the percentage determined in
4 subsection (1)(a) ~~shall--not--be~~ are not entitled to an
5 apportionment of the state equalization aid in support of
6 the foundation program.

7 (d) After elimination of the counties referred to in
8 subsection (1)(c), determine the percentage that the total
9 moneys money available to all remaining counties in support
10 of the foundation program (including the state moneys money
11 available for state equalization aid in support of the
12 foundation program) is of the total amount of the foundation
13 programs of all such remaining counties.

14 (e) Each district of each remaining county ~~shall-be~~ is
15 entitled to an apportionment of the state equalization aid
16 ~~which-shall-be~~ in support of the foundation program equal to
17 the difference between the percentage determined in
18 subsection (1)(d) and the percentage determined for such the
19 county in subsection (1)(b) multiplied by the foundation
20 program amount for such the district.

21 (2) The superintendent of public instruction shall
22 also apportion state equalization aid to each district in
23 support of the district's retirement fund expenditures,
24 except as provided in 20-9-501(3), in the following manner
25 and in accordance with rules that must be adopted by the

1 superintendent of public instruction:

2 (a) For school fiscal year 1992, each county that
3 would be required to levy, in support of the retirement fund
4 budgets of the elementary and high school districts in the
5 county, more than the average number of mills levied per
6 county in taxable year 1989 for elementary or high school
7 district retirement fund budgets, respectively, shall
8 receive equalization aid equal to the amount required to be
9 raised in excess of the amount raised in that county by the
10 average levy per county.

11 (b) For school fiscal year 1993, each county shall
12 receive retirement equalization aid equal to 50% of the
13 amount required by the elementary districts and high school
14 districts in the county.

15 (c) For school fiscal years 1994 and succeeding years,
16 each district shall receive retirement equalization aid
17 equal to the full amount required by the elementary
18 districts and high school districts in the county.

19 +2+(3) The superintendent of public instruction shall
20 supply the county treasurer and the county superintendent
21 with a report of the apportionments of state equalization
22 aid to the ~~several-districts~~ county and each district of the
23 county, and the state equalization aid shall must be
24 apportioned to such the county and the districts in
25 accordance with such the report."

1 **Section 43.** Section 20-9-351, MCA, is amended to read:

2 "20-9-351. Funding of deficiency in state equalization
3 aid. If the foundation--program--level--made--under--the
4 ~~provisions of 20-9-348 is less than 100%, it shall be the~~
5 duty of money available for state equalization aid is not
6 sufficient to provide the foundation program schedule
7 support determined in 20-9-348 and the retirement fund
8 support required under 20-9-347, the superintendent of
9 public instruction to shall request the budget director to
10 submit a request for a supplemental appropriation in the
11 second year of the biennium that ~~would be~~ is sufficient to
12 complete the funding of retirement and the foundation
13 programs of the elementary or secondary schools, or both,
14 for the current biennium."

15 **Section 44.** Section 20-9-353, MCA, is amended to read:

16 "20-9-353. Additional levy for general fund --
17 election for authorization to impose. (1) ~~The~~ Except as
18 limited by 20-9-315(2), the trustees of any district may
19 propose to adopt a general fund budget in excess of the
20 ~~general fund budget amount~~ foundation program for such the
21 ~~district as established by the schedules in 20-9-316 through~~
22 ~~20-9-321~~ for any of the following purposes:

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

25 (b) furnishing additional school facilities for the

1 district;

2 (c) acquisition of land for the district;

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

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

23 PROPOSITION

24 Shall a levy be made in addition to the levies
25 authorized by law in ~~such~~ the number of mills as may be

1 necessary to raise the sum of (state the amount to be raised
2 by additional tax levy), and being approximately (give
3 number) mills, for the purpose of (insert the purpose for
4 which the additional tax levy is made)?

5 FOR the levy.

6 AGAINST the levy.

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

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

24 **Section 45.** Section 20-9-501, MCA, is amended to read:
25 "20-9-501. Retirement fund. (1) The trustees of any

1 district employing personnel who are members of the
2 teachers' retirement system or the public employees'
3 retirement system or who are covered by unemployment
4 insurance or who are covered by any federal social security
5 system requiring employer contributions shall establish a
6 retirement fund for the purposes of budgeting and paying the
7 employer's contributions to such systems. The district's
8 contribution for each employee who is a member of the
9 teachers' retirement system ~~shall~~ must be calculated in
10 accordance with Title 19, chapter 4, part 6. The district's
11 contribution for each employee who is a member of the public
12 employees' retirement system ~~shall~~ must be calculated in
13 accordance with 19-3-801. ~~The-district-may-levy-a-special~~
14 ~~tax--to--pay--its--contribution--to--the--public--employees'~~
15 ~~retirement---system---under---the---conditions---prescribed---in~~
16 ~~19-3-204.~~ The district's contributions for each employee
17 covered by any federal social security system ~~shall~~ must be
18 paid in accordance with federal law and regulation. The
19 district's contribution for each employee who is covered by
20 unemployment insurance ~~shall~~ must be paid in accordance with
21 Title 39, chapter 51, part 11.

22 (2) The trustees of any district required to make a
23 contribution to any such system referred to in subsection
24 (1) shall include in the retirement fund of the preliminary
25 budget the estimated amount of the employer's contribution

1 and such additional moneys, within legal limitations, as
 2 they may wish to provide for the retirement fund cash
 3 reserve. After the final retirement fund budget has been
 4 adopted, the trustees shall pay the employer contributions
 5 to such systems in accordance with the financial
 6 administration provisions of this title.

7 (3) When the final retirement fund budget has been
 8 adopted, the county superintendent shall establish the levy
 9 requirement by:

10 (a) determining the sum of the moneys available to
 11 reduce the retirement fund levy requirement by adding:

12 (i) any anticipated moneys that may be realized in the
 13 retirement fund during the ensuing school fiscal year,
 14 including anticipated revenue from vehicle property taxes
 15 imposed under 61-3-504(2) and 61-3-537;

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

18 (iii) any cash available for reappropriation as
 19 determined by subtracting the amount of the end of the year
 20 cash balance earmarked as the retirement fund cash reserve
 21 for the ensuing school fiscal year by the trustees from the
 22 end of the year cash balance in the retirement fund. The
 23 retirement fund cash reserve shall not be more than 35% of
 24 the final retirement fund budget for the ensuing school
 25 fiscal year and shall be used for the purpose of paying

1 retirement fund warrants issued by the district under the
 2 final retirement fund budget;

3 (b) subtracting the total of the moneys available for
 4 reduction of the levy requirement as determined in
 5 subsection (3)(a) from the budgeted amount for expenditures
 6 in the final retirement fund budget;

7 (4) The county superintendent shall:

8 (a) total the net retirement fund levy requirements
 9 separately for all elementary school districts, all high
 10 school districts, and all community college districts of the
 11 county, including any prorated joint district or special
 12 education cooperative agreement levy requirements;

13 (b) reduce the total retirement fund levy requirements
 14 of elementary school districts and high school districts by
 15 the amount available in state retirement equalization aid as
 16 calculated and distributed under the provisions of 20-9-532;
 17 and

18 (c) report each such levy requirement to the county
 19 commissioners on the second Monday of August as the
 20 respective county levy requirements for elementary district,
 21 high school district, and community college district
 22 retirement funds;

23 (5) The county commissioners shall fix and set such
 24 county levy in accordance with 20-9-142;

25 (6) The net retirement fund levy requirement for a

1 joint-elementary-district-or-a-joint--high--school--district
 2 shall--be--prorated--to--each-county-in-which-a-part-of-such
 3 district-is-located-in-the-same-proportion-as--the--district
 4 ANB--of-the-joint-district-is-distributed-by-pupil-residence
 5 in-each-such--county;--The--county--superintendents--of--the
 6 counties-affected-shall-jointly-determine-the-net-retirement
 7 fund--levy--requirement--for--each--county--as--provided--in
 8 20-9-151.

9 (7)--The--net--retirement--fund--levy--requirement--for
 10 districts--that-are-members-of-special-education-cooperative
 11 agreements-shall-be-prorated-to-each-county--in--which--such
 12 district-is-located-in-the-same-proportion-as-the-budget-for
 13 the--special-education-cooperative-agreement-of-the-district
 14 bears-to-the-total-budget-of--the--cooperative;--The--county
 15 superintendents--of--the--counties--affected--shall--jointly
 16 determine-the-net-retirement-fund-levy-requirement-for--each
 17 county--in--the--same-manner-as-provided-in-20-9-151-and-fix
 18 and-levy-the-net-retirement-fund-levy-for-each-county-in-the
 19 same-manner-as-provided--in--20-9-152;---(Subsection--(4)(b)
 20 effective-July-1,1988--sec--87-Ch--6357-B--1987.)

21 (3) Retirement equalization aid may not be paid in
 22 support of discretionary retirement costs incurred by a
 23 district that provides termination pay or lump-sum deferred
 24 compensation for an employee. The trustees may levy a
 25 special tax to pay the district's contribution to the

1 appropriate retirement system for these discretionary
 2 obligations in accordance with 20-9-142."

3 **Section 46.** Section 23-5-1027, MCA, is amended to
 4 read:

5 "23-5-1027. Disposition of revenue. (1) A minimum of
 6 45% of the money paid for tickets or chances must be paid
 7 out as prize money. The prize money is statutorily
 8 appropriated, as provided in 17-7-502, to the lottery.

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

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

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

1 **Section 47.** Section 90-6-309, MCA, is amended to read:

2 **"90-6-309. Tax prepayment -- large-scale mineral**
 3 **development.** (1) After permission to commence operation is
 4 granted by the appropriate governmental agency, and upon
 5 request of the governing body of a county in which a
 6 facility is to be located, a person intending to construct
 7 or locate a large-scale mineral development in this state
 8 shall prepay property taxes as specified in the impact plan.
 9 This prepayment shall exclude the 6-mill university levy
 10 established under 20-25-423 and may exclude the mandatory
 11 county ~~levy~~ levies for the school foundation program ~~of 45~~
 12 mills established in 20-9-331 and 20-9-333.

13 (2) The person who is to prepay under this section
 14 ~~shall~~ is not be obligated to prepay the entire amount
 15 established in subsection (1) at one time. Upon request of
 16 the governing body of an affected local government unit, the
 17 person shall prepay the amount shown to be needed from time
 18 to time as determined by the board.

19 (3) The person who is to prepay shall guarantee to the
 20 hard-rock mining impact board, through an appropriate
 21 financial institution, as may be required by the board, that
 22 property tax prepayments will be paid as needed for
 23 expenditures created by the impacts of the large-scale
 24 mineral development.

25 (4) When the mineral development facilities are

1 completed and assessed by the department of revenue, they
 2 ~~shall be~~ are subject during the first 3 years and thereafter
 3 to taxation as all other property similarly situated, except
 4 that in each year after the start of production, the local
 5 government unit that received a property tax prepayment
 6 shall provide for repayment of prepaid property taxes in
 7 accordance with subsection (5).

8 (5) A local government unit that received all or a
 9 portion of the property tax prepayment under this section
 10 shall provide for tax crediting as specified in the impact
 11 plan. The tax credit allowed in any year may not, however,
 12 exceed the tax obligation of the developer for that year,
 13 and the time period for tax crediting is limited to the
 14 productive life of the mining operation."

15 **NEW SECTION. Section 48.** Comprehensive insurance fund
 16 balance -- transfer. A district that has a balance remaining
 17 on [the effective date of this section] in the district
 18 comprehensive insurance fund shall transfer the balance to
 19 the district general fund.

20 **NEW SECTION. Section 49.** State equalization aid levy.
 21 There is a levy of 45 mills imposed on all taxable property
 22 within the state, except property for which a tax or fee is
 23 required under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521,
 24 61-3-537, and 67-3-204. Proceeds of the levy must be
 25 remitted to the state treasurer and must be deposited to the

1 credit of the state special revenue fund for state
2 equalization aid for the public schools of Montana.

3 NEW SECTION. Section 50. State and county
4 equalization revenue -- statutory appropriation. Revenue
5 received in support of state and county equalization under
6 the provisions of 20-9-331, 20-9-333, and 20-9-343 is
7 statutorily appropriated, as provided in 17-7-502, to the
8 superintendent of public instruction to be used for county
9 equalization and state equalization aid for the public
10 schools, as provided by law, and must be accounted for in
11 accordance with generally accepted accounting principles.

12 NEW SECTION. Section 51. Purpose --
13 telecommunications network -- implementation -- consultant.

14 (1) The purpose of this section is to promote the use of
15 telecommunications technology for the purposes of enhancing
16 educational opportunities provided to students in the
17 Montana public school system and promoting equal access by
18 students to those opportunities.

19 (2) To provide for the training and education needs of
20 public schools, the department of administration shall
21 retain a telecommunications engineering consultant to
22 support the development of design criteria and
23 specifications for statewide video networking and
24 improvements in the use of existing voice and data networks
25 in the state.

1 (3) The telecommunications engineering consultant
2 shall:

3 (a) seek advice and recommendations on improvements in
4 telecommunications within Montana from the following
5 entities:

6 (i) the office of the superintendent of public
7 instruction;

8 (ii) the university system;

9 (iii) local government and school district officials;

10 (iv) agencies involved in economic development;

11 (v) the executive, judicial, and legislative branches
12 of state government; and

13 (vi) local exchange carriers providing service within
14 the state; and

15 (b) recommend and initiate network improvements during
16 the biennium through shared use and enhancements of existing
17 telecommunications systems, with emphasis on limiting
18 financial commitments to the extent possible.

19 NEW SECTION. Section 52. Definition. As used in
20 [sections 52 through 58], "committee" means the legislative
21 oversight committee on school funding implementation created
22 in [section 53].

23 NEW SECTION. Section 53. Legislative oversight
24 committee on school funding implementation -- composition
25 and appointment. (1) There is a legislative oversight

1 committee on school funding implementation.

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

3 (a) four members of the house of representatives
4 appointed by the speaker of the house;

5 (b) four members of the senate appointed by the
6 committee on committees of the senate;

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

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

11 (e) the governor or his designee as an ex officio
12 nonvoting member.

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

15 NEW SECTION. Section 54. Term of office -- vacancies.

16 (1) A committee member shall serve until the committee
17 terminates as provided in [section 58].

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

20 NEW SECTION. Section 55. Officers -- meetings --
21 quorum -- compensation. (1) The committee shall choose from

22 its membership a chairman and vice chairman.

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

25 (3) Six members constitute a quorum to transact

1 business.

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

4 NEW SECTION. Section 56. Duties of committee. The
5 duties of the committee include but are not limited to:

6 (1) monitoring the implementation of school funding
7 equalization, including:

8 (a) identification of any problems of implementation
9 and options for resolving these problems;

10 (b) continued analysis of school district budget and
11 expenditure data and of improvements in school district
12 accounting and reporting procedures; and

13 (c) examination of other issues related to
14 implementation;

15 (2) directing the following studies of issues related
16 to school funding equalization:

17 (a) school transportation equalization, including but
18 not limited to:

19 (i) mechanisms to equalize transportation funding; and

20 (ii) analysis of issues related to the costs and
21 efficiencies of school transportation, including
22 reimbursement schedules, load requirements, 3-mile limit,
23 transporting ineligible transportees, functions of the
24 county transportation committee, and school district
25 reporting and budgeting duties;

1 (b) school district capital outlay and debt service
 2 equalization, including but not limited to:
 3 (i) analysis of school district funds and budgets for
 4 various school district capital outlay and debt service
 5 obligations; and
 6 (ii) options for equalizing school district capital
 7 outlay and debt service obligations; and
 8 (c) continued study of issues related to equalization,
 9 including but not limited to retirement, uncollected taxes,
 10 tuition, student-based funding distribution methods, special
 11 education funding, and federal Public Law 81-874 revenue,
 12 especially as it pertains to revenue not linked to Native
 13 American students;
 14 (3) ongoing analysis of revenue sources related to
 15 school funding;
 16 (4) holding discussions with any party contemplating
 17 litigation regarding compliance with the supreme court and
 18 district court rulings on school funding equalization; and
 19 (5) reporting its findings, options for legislative
 20 consideration, and any proposed legislation to the governor
 21 and the 52nd legislature.

22 **NEW SECTION. Section 57. Staff assistance.** The
 23 committee may request the following governmental entities to
 24 provide staff assistance to the committee:
 25 (1) the office of public instruction;

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

7 **NEW SECTION. Section 58. Termination.** [Sections 52
 8 through 58] terminate December 31, 1990.

9 **Section 59. Section 7-1-2111, MCA, is amended to read:**
 10 ***7-1-2111. Classification of counties.** (1) For the
 11 purpose of regulating the compensation and salaries of all
 12 county officers, not otherwise provided for, and for fixing
 13 the penalties of officers' bonds, the ~~several~~ counties of
 14 this state ~~shall~~ must be classified according to that
 15 percentage of the true and full valuation of the property
 16 therein in the counties upon which the tax levy is made,
 17 except for vehicles subject to taxation under 61-3-504(2),
 18 as follows:
 19 (a) first class--all counties having such a taxable
 20 valuation of \$50 million or over;
 21 (b) second class--all counties having such a taxable
 22 valuation of more than \$30 million and less than \$50
 23 million;
 24 (c) third class--all counties having such a taxable
 25 valuation of more than \$20 million and less than \$30

1 million;

2 (d) fourth class--all counties having such a taxable
3 valuation of more than \$15 million and less than \$20
4 million;

5 (e) fifth class--all counties having such a taxable
6 valuation of more than \$10 million and less than \$15
7 million;

8 (f) sixth class--all counties having such a taxable
9 valuation of more than \$5 million and less than \$10 million;

10 (g) seventh class--all counties having such a taxable
11 valuation of less than \$5 million.

12 (2) As used in this section, taxable valuation means
13 the taxable value of taxable property in the county as of
14 the time of determination plus:

15 (a) that portion of the taxable value of the county on
16 December 31, 1981, attributable to automobiles and trucks
17 having a rated capacity of three-quarters of a ton or less;

18 (b) that portion of the taxable value of the county on
19 December 31, 1989, attributable to automobiles and trucks
20 having a rated capacity of more than three-quarters of a ton
21 but less than or equal to 1 ton;

22 (c) the amount of interim production and new
23 production taxes levied, as provided in 15-23-607, divided
24 by the appropriate tax rates described in 15-23-607(2)(a) or
25 (2)(b) and multiplied by 60%; and

1 (d) the amount of value represented by new production
2 exempted from tax as provided in 15-23-612 multiplied by
3 60%, plus the value of any other production occurring after
4 December 31, 1988, multiplied by 60%."

5 **Section 60.** Section 7-7-2101, MCA, is amended to read:
6 "7-7-2101. Limitation on amount of county
7 indebtedness. (1) No county may become indebted in any
8 manner or for any purpose to an amount, including existing
9 indebtedness, in the aggregate exceeding 23% of the total of
10 the taxable value of the property therein subject to
11 taxation, plus the amount of interim production and new
12 production taxes levied divided by the appropriate tax rates
13 described in 15-23-607(2)(a) or (2)(b) and multiplied by
14 60%, plus the amount of value represented by new production
15 exempted from tax as provided in 15-23-612 multiplied by
16 60%, plus the value of any other production occurring after
17 December 31, 1988, multiplied by 60%, as ascertained by the
18 last assessment for state and county taxes previous to the
19 incurring of such the indebtedness.

20 (2) No county may incur indebtedness or liability for
21 any single purpose to an amount exceeding \$500,000 without
22 the approval of a majority of the electors thereof voting at
23 an election to be provided by law, except as provided in
24 7-21-3413 and 7-21-3414.

25 (3) Nothing in this section shall apply to the

1 acquisition of conservation easements as set forth in Title
2 76, chapter 6."

3 **Section 61.** Section 7-7-2203, MCA, is amended to read:

4 "7-7-2203. Limitation on amount of bonded
5 indebtedness. (1) Except as provided in subsections (2)
6 through (4), no county may issue general obligation bonds
7 for any purpose which, with all outstanding bonds and
8 warrants except county high school bonds and emergency
9 bonds, will exceed 11.25% of the total of the taxable value
10 of the property therein, plus the amount of interim
11 production and new production taxes levied divided by the
12 appropriate tax rates described in 15-23-607(2)(a) or (2)(b)
13 and multiplied by 60%, plus the amount of value represented
14 by new production exempted from tax as provided in 15-23-612
15 multiplied by 60%, plus the value of any other production
16 occurring after December 31, 1988, multiplied by 60%, to be
17 ascertained by the last assessment for state and county
18 taxes prior to the proposed issuance of bonds.

19 (2) In addition to the bonds allowed by subsection
20 (1), a county may issue bonds which, with all outstanding
21 bonds and warrants, will not exceed 27.75% of the total of
22 the taxable value of the property in the county subject to
23 taxation, plus the amount of interim production and new
24 production taxes levied divided by the appropriate tax rates
25 described in 15-23-607(2)(a) or (2)(b) and multiplied by

1 60%, plus the amount of value represented by new production
2 exempted from tax as provided in 15-23-612 multiplied by
3 60%, when necessary to do so, plus the value of any other
4 production occurring after December 31, 1988, multiplied by
5 60% for the purpose of acquiring land for a site for county
6 high school buildings and for erecting or acquiring
7 buildings thereon and furnishing and equipping the same for
8 county high school purposes.

9 (3) In addition to the bonds allowed by subsections
10 (1) and (2), a county may issue bonds for the construction
11 or improvement of a jail which will not exceed 12.5% of the
12 taxable value of the property in the county subject to
13 taxation.

14 (4) The limitation in subsection (1) does not apply to
15 refunding bonds issued for the purpose of paying or retiring
16 county bonds lawfully issued prior to January 1, 1932, or to
17 bonds issued for the repayment of tax protests lost by the
18 county."

19 **Section 62.** Section 7-14-2524, MCA, is amended to
20 read:

21 "7-14-2524. Limitation on amount of bonds issued --
22 excess void. (1) Except as otherwise provided hereafter and
23 in 7-7-2203 and 7-7-2204, no a county shall may not issue
24 bonds which, with all outstanding bonds and warrants except
25 county high school bonds and emergency bonds, will exceed

1 11.25% of the total of the taxable value of the property
 2 therein, plus the amount of interim production and new
 3 production taxes levied divided by the appropriate tax rates
 4 described in 15-23-607(2)(a) or (2)(b) and multiplied by
 5 60%, plus the amount of value represented by new production
 6 exempted from tax as provided in 15-23-612 multiplied by
 7 60%, plus the value of any other production occurring after
 8 December 31, 1988, multiplied by 60%. The taxable property
 9 and the amount of interim production and new production
 10 taxes levied shall must be ascertained by the last
 11 assessment for state and county taxes prior to the issuance
 12 of such the bonds.

13 (2) A county may issue bonds which, with all
 14 outstanding bonds and warrants except county high school
 15 bonds, will exceed 11.25% but will not exceed 22.5% of the
 16 total of the taxable value of such property, plus the amount
 17 of interim production and new production taxes levied
 18 divided by the appropriate tax rates described in
 19 15-23-607(2)(a) or (2)(b) and multiplied by 60%, plus the
 20 amount of value represented by new production exempted from
 21 tax as provided in 15-23-612, plus the value of any other
 22 production occurring after December 31, 1988, multiplied by
 23 60% when necessary for the purpose of replacing, rebuilding,
 24 or repairing county buildings, bridges, or highways which
 25 have been destroyed or damaged by an act of God, disaster,

1 catastrophe, or accident.

2 (3) The value of the bonds issued and all other
 3 outstanding indebtedness of the county, except county high
 4 school bonds, shall not exceed 22.5% of the total of the
 5 taxable value of the property within the county, plus the
 6 amount of interim production and new production taxes levied
 7 divided by the appropriate tax rates described in
 8 15-23-607(2)(a) or (2)(b) and multiplied by 60%, plus the
 9 amount of value represented by new production exempted from
 10 tax as provided in 15-23-612, plus the value of any other
 11 production occurring after December 31, 1988, multiplied by
 12 60%, as ascertained by the last preceding general
 13 assessment."

14 **Section 63.** Section 7-14-2525, MCA, is amended to
 15 read:

16 "7-14-2525. Refunding agreements and refunding bonds
 17 authorized. (1) Whenever the total indebtedness of a county
 18 exceeds 22.5% of the total of the taxable value of the
 19 property therein, plus the amount of interim production and
 20 new production taxes levied divided by the appropriate tax
 21 rates described in 15-23-607(2)(a) or (2)(b) and multiplied
 22 by 60%, plus the amount of value represented by new
 23 production exempted from tax as provided in 15-23-612
 24 multiplied by 60%, plus the value of any other production
 25 occurring after December 31, 1988, multiplied by 60%, and

1 the board determines that the county is unable to pay such
2 the indebtedness in full, the board may:

3 (a) negotiate with the bondholders for an agreement
4 whereby the bondholders agree to accept less than the full
5 amount of the bonds and the accrued unpaid interest thereon
6 in satisfaction thereof;

7 (b) enter into such agreement;

8 (c) issue refunding bonds for the amount agreed upon.

9 (2) These bonds may be issued in more than one series,
10 and each series may be either amortization or serial bonds.

11 (3) The plan agreed upon between the board and the
12 bondholders shall be embodied in full in the resolution
13 providing for the issue of the bonds."

14 **Section 64.** Section 7-16-2327, MCA, is amended to
15 read:

16 "7-16-2327. Indebtedness for park purposes. (1)
17 Subject to the provisions of subsection (2), a county park
18 board, in addition to powers and duties now given under law,
19 ~~shall---have~~ has the power and duty to contract an
20 indebtedness in behalf of a county, upon the credit thereof,
21 for the purposes of 7-16-2321(1) and (2).

22 (2) (a) The total amount of indebtedness authorized to
23 be contracted in any form, including the then-existing
24 indebtedness, must not at any time exceed 13% of the total
25 of the taxable value of the taxable property in the county,

1 plus the amount of interim production and new production
2 taxes levied divided by the appropriate tax rates described
3 in 15-23-607(2)(a) or (2)(b) and multiplied by 60%, plus the
4 amount of value represented by new production exempted from
5 tax as provided in 15-23-612, plus the value of any other
6 production occurring after December 31, 1988, multiplied by
7 60%, ascertained by the last assessment for state and county
8 taxes previous to the incurring of such the indebtedness.

9 (b) No money may be borrowed on bonds issued for the
10 purchase of lands and improving same for any such purpose
11 until the proposition has been submitted to the vote of
12 those qualified under the provisions of the state
13 constitution to vote at such election in the county affected
14 thereby and a majority vote is cast in favor thereof."

15 **Section 65.** Section 15-6-132, MCA, is amended to read:

16 "15-6-132. Class two property -- description --
17 taxable percentage. (1) Class two property includes:
18 (a) the annual gross proceeds of metal mines;
19 (b) ~~the--annual--gross--proceeds--of--underground--coal~~
20 ~~mines;--and~~
21 (c) ~~the--annual--gross--proceeds--of--coal--mines--using--the~~
22 ~~strip--mining--method.~~

23 (2) Class two property is taxed as follows:

24 (a) ~~Property--described--in--subsection--(1)(a)--is--taxed~~
25 at 3% of its annual gross proceeds, as defined in 15-23-801.

1 ~~(b) Property described in subsection (1)(b) is taxed~~
2 ~~at 33 1/3% of its annual gross proceeds.~~

3 ~~(c) Property described in subsection (1)(c) is taxed~~
4 ~~at 45% of its annual gross proceeds."~~

5 **Section 66.** Section 15-23-602, MCA, is amended to
6 read:

7 "15-23-602. Statement of sales proceeds on interim
8 production and new production. (1) ~~Except as~~ As provided in
9 subsection (2), each operator or producer of interim
10 production or new production of natural gas, petroleum, or
11 other crude or mineral oil ~~must on or before April 15 in~~
12 each year shall make out and deliver to the department of
13 revenue a statement of the gross sales proceeds of such
14 interim production or new production of natural gas,
15 petroleum, or other crude or mineral oil from each well
16 owned or worked by such the person during ~~the next preceding~~
17 calendar year. The gross sales proceeds ~~shall~~ must be
18 determined by multiplying the units of production sold from
19 the well times the royalty unit value of that production at
20 the well. Such The statement ~~shall~~ must be in the form
21 prescribed by the department and must be verified by the
22 oath of the operator or producer or the manager,
23 superintendent, agent, president, or vice-president of such
24 the corporation, association, or partnership. Such The
25 statement ~~shall~~ must show the following:

1 (a) the name and address of the operator, together
2 with a list in duplicate of the names and addresses of any
3 ~~and all~~ persons owning or claiming any royalty interest in
4 the production from the well or the proceeds derived from
5 the sale thereof of the production, and the amount or
6 amounts paid or yielded as royalty to each of such those
7 persons during the period covered by the statement;

8 (b) the description and location of the well;

9 (c) the number of cubic feet of natural gas, barrels
10 of petroleum or other crude or mineral oil sold from the
11 well during the period covered by the statement; and

12 (d) the gross sales proceeds in dollars and cents or,
13 in the case of sales between parties not acting at arm's
14 length, the greater of the gross sales proceeds from or the
15 fair market value of the products sold;

16 ~~(e) except for interim production and new production~~
17 ~~as defined in 15-23-601;~~

18 ~~(i) actual cost of extracting product from well;~~

19 ~~(ii) cost of construction, repairs, and betterments;~~

20 ~~(iii) actual cost of fire insurance and workers'~~
21 ~~compensation insurance;~~

22 ~~(iv) the amount paid or withheld in satisfaction of~~
23 ~~liability for excise taxes imposed by the U.S. government on~~
24 ~~the production, sale, or removal of the natural gas,~~
25 ~~petroleum, or other crude or mineral oil reported pursuant~~

1 to-subsection-(1)(c),-including-a-separate-statement-of--the
2 amount--of--such--taxes--paid--or-withheld-from-each-royalty
3 owner.

4 (2) Each operator having interim production or new
5 production as defined in 15-23-601 shall, on or before the
6 last day of the months of October, January, April, and July,
7 make out and deliver to the department of revenue a
8 statement of the gross sales proceeds of such the interim
9 production or new production from each well owned or worked
10 by such the person during the preceding calendar quarter.
11 The statement must be in the form prescribed by the
12 department and verified as provided in subsection (1). The
13 statement shall must show the information required in
14 subsections (1)(a) through (1)(d)."

15 **Section 67.** Section 15-23-603, MCA, is amended to
16 read:

17 "15-23-603. Net proceeds -- how computed. (1) Except
18 as As provided in subsection (3) (2), the department of
19 revenue shall calculate and compute from the returns the
20 gross sales proceeds of the product yielded from such the
21 well for the year covered by the statement and shall
22 calculate the net proceeds of the well yielded to the
23 producer, which net proceeds shall--be are determined by
24 subtracting from the gross sales proceeds thereof--the
25 following: of the well

1 (a) all royalty paid in cash by the operator or
2 producer and the gross value of all royalty apportioned in
3 kind by the operator or producer that-shall-be determined by
4 using as the value of a barrel of oil or a cubic foot of gas
5 the average selling price for the calendar year of a barrel
6 of oil or a cubic foot of gas from the well out of which the
7 royalty was paid;

8 (b)--all--money--expended--for--necessary--labor--and
9 machinery-needed-and-used-in-the-operation-and--development;

10 (c)--except--as--provided--in-subsection-(5),-all-money
11 expended-for-necessary--supplies--needed--and--used--in--the
12 operation-and-development;

13 (d)--all--money-expended-for-improvements,-repairs,-and
14 betterments-necessary-in-and-about-the-working-of-the--well;

15 (e)--that--portion--of--all--money,-including-costs-of
16 insurance,-expended-for-the-acquisition-and-operation-of-any
17 vehicle-used-in-the-operation-and-development--of--the--well
18 which--bears--the--same--ratio-to-all-money-expended-for-the
19 acquisition-and-use-of-the-vehicle-during-the--year--covered
20 by--the-statement-as-the-number-of-miles-the-vehicle-is-used
21 in-operation-and-development-of-the--well--during--the--year
22 covered--by--the--statement--bears--to--the--total-miles-the
23 vehicle-is-used-during-the-year-covered-by-the-statement;

24 (f)--all-money-expended-for--fire--insurance,-workers+
25 compensation--insurance,-liability--insurance,-and-casualty

1 insurance directly attributable to the operation and
 2 development of the well and for payments by operators to
 3 welfare and retirement funds when provided for in wage
 4 contracts between operators and employees;

5 (g) all money expended for any performance or
 6 indemnity bonds required by the laws of this state or the
 7 rules of any state agency, with respect to the well for
 8 which the net proceeds are being calculated;

9 (h) 70% of the amount paid or withheld in satisfaction
 10 of liability for excise taxes imposed by the U.S. government
 11 on the production, sale, or removal of the natural gas,
 12 petroleum, or other crude or mineral oil yielded from such
 13 well, other than the amount of such taxes paid by or
 14 withheld from each royalty owner; and

15 (i) net proceeds determined under subsection (3);

16 (2) No money invested in the well and improvements
 17 during any year except the year for which such statement is
 18 made may be included in such expenditures, except as
 19 provided in 15-23-604, and such expenditures may not include
 20 the salaries or any portion thereof of any person or officer
 21 not actually engaged in the working of the well or
 22 superintending the management thereof;

23 (3)(2) For interim production or new production, net
 24 proceeds are the equivalent of the gross sales proceeds,
 25 without deduction for excise taxes, of the product yielded

1 from such the well for the year quarter covered by the
 2 statement, except that in computing the total number of
 3 barrels of petroleum and other mineral or crude oil or cubic
 4 feet of natural gas produced, there shall must be deducted
 5 therefrom so much thereof of the product as is used in the
 6 operation of the well from which the petroleum or other
 7 mineral or crude oil or natural gas is produced for pumping
 8 the petroleum or other mineral or crude oil or natural gas
 9 from the well to a tank or pipeline.

10 (4)(3) To determine net proceeds under subsection (1)
 11 In the statement of sales proceeds required under 15-23-602
 12 for lease or unitized areas from which interim or new
 13 production and other production have been sold, the
 14 deductions allowed in subsections (1)(b) through (1)(h) must
 15 be prorated on the basis of the number of barrels of interim
 16 and new production of oil or cubic feet of interim or new
 17 production of gas to must be segregated from and stated
 18 separately from the number of barrels of other production of
 19 oil or cubic feet of other production of gas.

20 (5)(4) In calculating the deduction for money expended
 21 for necessary chemical supplies needed and used in a
 22 tertiary recovery project approved by the department of
 23 revenue, as provided in 15-36-101, the department shall
 24 require that the necessary chemical supplies, which include
 25 but are not limited to carbon dioxide supplies, be amortized

1 over a 10-year period beginning with the year in which the
2 money was expended."

3 **Section 68.** Section 15-23-605, MCA, is amended to
4 read:

5 "15-23-605. Assessment of royalties on interim
6 production and new production. ~~(1)---The~~ For interim
7 production and new production, the amount of royalty
8 ~~received, valued as provided in 15-23-603(1)(a), less 70% of~~
9 ~~the amount of excise taxes paid by or withheld from the~~
10 ~~royalty owner as reported pursuant to 15-23-602(1)(e)(iv),~~
11 shall in cash paid by the operator or producer and the gross
12 value of all royalty apportioned in kind by the operator or
13 producer determined by using as the value of a barrel of oil
14 or a cubic foot of gas the average selling price for the
15 calendar year of a barrel of oil or a cubic foot of gas from
16 the well out of which the royalty was paid must be
17 considered net proceeds to the recipient and shall must be
18 assessed as follows: upon receipt of the lists or schedules
19 setting forth the names and addresses of any ~~and all~~ persons
20 owning or claiming royalty and the amount paid or yielded as
21 royalty to such the royalty owners or claimants during the
22 year for which such the return is made, the department of
23 revenue shall proceed to assess and tax the same as net
24 proceeds of mines.

25 ~~(2)---Net proceeds for interim production and new~~

1 ~~production, as defined in 15-23-601, includes royalties~~
2 ~~received without deduction for excise taxes."~~

3 **Section 69.** Section 15-23-607, MCA, is amended to
4 read:

5 "15-23-607. County assessors to compute taxes. (1)
6 Immediately after the board of county commissioners has
7 fixed tax levies on the second Monday in August, the county
8 assessor shall, subject to the provisions of 15-23-612,
9 compute the taxes on such net proceeds, except as provided
10 ~~in 15-23-612 and~~ in subsection (2) of this section, and
11 royalty assessments and shall deliver the book to the county
12 treasurer on or before September 15. The county treasurer
13 shall proceed to give full notice thereof of the assessments
14 to such the operator and ~~to~~ shall collect the ~~same in manner~~
15 taxes as provided by law.

16 (2) For interim production or new production, as
17 defined in 15-23-601, the county assessor may not levy or
18 assess any mills against the value of such the interim
19 production or new production, but shall instead levy a tax
20 as follows:

21 (a) for interim production or new production of
22 petroleum or other mineral or crude oil, 7% of net proceeds,
23 as described in 15-23-603(3)(2); or

24 (b) for interim production or new production of
25 natural gas, 12% of net proceeds, as described in

1 15-23-603(3)(2).

2 (3) The amount of tax levied in subsections (2)(a) and
3 (2)(b), divided by the appropriate tax rate and multiplied
4 by 60%, ~~shall~~ must be treated as taxable value for county
5 bonding purposes.

6 (4) The operator or producer ~~shall~~ is liable for
7 the payment of ~~said the taxes and same shall that~~, except as
8 provided in 15-16-121, be payable by and ~~shall~~ must be
9 collected from such the operators in the same manner and
10 under the same penalties as provided for the collection of
11 taxes upon net proceeds of mines; ~~provided; however; that.~~
12 However, the operator may at his option withhold from the
13 proceeds of royalty interest, either in kind or in money, an
14 estimated amount of the tax to be paid by him upon such the
15 royalty or royalty interest. After such the withholding, any
16 deviation between the estimated tax and the actual tax may
17 be accounted for by adjusting subsequent withholdings from
18 the proceeds of royalty interests."

19 **Section 70.** Section 15-23-703, MCA, is amended to
20 read:

21 "15-23-703. Taxation of gross proceeds -- taxable
22 value for bonding. (1) The county assessor shall prepare
23 compute from the reported gross proceeds from coal a tax
24 roll which that he shall transmit to the county treasurer on
25 or before September 15 each year. The county assessor may

1 not levy or assess any mills against the reported gross
2 proceeds of coal but shall levy a tax of 5% against the
3 value of the reported gross proceeds. The county treasurer
4 shall proceed to give full notice thereof to each coal
5 producer of the taxes due and to collect the taxes due
6 within 60 days after mailing as provided in 15-16-101.

7 (2) The amount of tax levied in subsection (1) divided
8 by the tax rate is the taxable value of the gross proceeds
9 of coal for bonding purposes."

10 **NEW SECTION. Section 71.** Disposition of taxes. The
11 county treasurer shall credit all taxes collected under
12 15-23-703 in the relative proportions required by the levies
13 for state, county, school district, and municipal purposes
14 in the same manner as property taxes were distributed in the
15 year preceding the budget year.

16 **Section 72.** Section 15-36-101, MCA, is amended to
17 read:

18 "15-36-101. Definitions and rate of tax -- local
19 government severance tax. (1) Every person engaging in or
20 carrying on the business of producing petroleum, other
21 mineral or crude oil, or natural gas within this state or
22 engaging in or carrying on the business of owning,
23 controlling, managing, leasing, or operating within this
24 state any well or wells from which any merchantable or
25 marketable petroleum, other mineral or crude oil, or natural

1 gas is extracted or produced sufficient in quantity to
 2 justify the marketing of the same must, except as provided
 3 in 15-36-121, each year when engaged in or carrying on any
 4 such the business in this state pay to the department of
 5 revenue a severance tax for the exclusive use and benefit of
 6 the state of Montana a-severance-tax plus a local government
 7 severance tax in lieu of a tax on net proceeds for the
 8 exclusive use and benefit of local government. The severance
 9 tax and the local government severance tax are computed at
 10 the following rates:

11 (a) except as provided in subsections (1)(b), (1)(c),
 12 and (1)(d), 5% of the total gross value of all the petroleum
 13 and other mineral or crude oil produced by the person, plus
 14 the local government severance tax of 8.4% on production
 15 other than interim production and new production, from each
 16 lease or unit; but in determining the amount of severance
 17 tax, there ~~shall~~ must be excluded from consideration all
 18 petroleum or other crude or mineral oil produced and used by
 19 the person during the year in connection with his operations
 20 in prospecting for, developing, and producing the petroleum
 21 or crude or mineral oil;

22 (b) 2.65% of the total gross value of all natural gas
 23 produced, plus the local government severance tax of 15.25%
 24 on natural gas production other than interim production or
 25 new production, from each lease or unit; but in determining

1 the amount of severance tax, there ~~shall~~ must be excluded
 2 from consideration all gas produced and used by the person
 3 during the year in connection with his operations in
 4 prospecting for, developing, and producing the gas or
 5 petroleum or crude or mineral oil; and there ~~shall~~ must also
 6 be excluded from consideration all gas, including carbon
 7 dioxide gas, recycled or reinjected into the ground;

8 (c) 2.5% of the total gross value of the incremental
 9 petroleum and other mineral or crude oil produced, plus the
 10 local government severance tax of 4.2% on production other
 11 than interim production and new production, from each lease
 12 or unit in a tertiary recovery project after July 1, 1985.
 13 For purposes of this section, a tertiary recovery project
 14 must meet the following requirements:

15 (i) the project must be approved as a tertiary
 16 recovery project by the department of revenue. The approval
 17 may be extended only after notice and hearing in accordance
 18 with Title 2, chapter 4.

19 (ii) the property to be affected by the project must be
 20 adequately delineated according to the specifications
 21 required by the department; and

22 (iii) the project must involve the application of one
 23 or more tertiary recovery methods that can reasonably be
 24 expected to result in an increase, determined by the
 25 department to be significant in light of all the facts and

1 circumstances, in the amount of crude oil which may
2 potentially be recovered. For the purpose of this section,
3 tertiary recovery methods include but are not limited to:

- 4 (A) miscible fluid displacement;
- 5 (B) steam drive injection;
- 6 (C) micellar/emulsion flooding;
- 7 (D) in situ combustion;
- 8 (E) polymer augmented water flooding;
- 9 (F) cyclic steam injection;
- 10 (G) alkaline or caustic flooding;
- 11 (H) carbon dioxide water flooding;
- 12 (I) immiscible carbon dioxide displacement; or
- 13 (J) any other method approved by the department as a
14 tertiary recovery method.

15 (d) Except as provided in 15-36-121(2), 3% of the
16 total gross value of all the petroleum and other mineral or
17 crude oil, plus the local government severance tax of 4.2%
18 on production other than interim production and new
19 production, after the first 5 barrels, produced by a
20 stripper well, as defined in 15-36-121, that produces more
21 than 5 barrels a day during the period beginning April 1,
22 1989, and ending March 31, 1991.

23 (2) For purposes of this section, the term
24 "incremental petroleum and other mineral or crude oil" means
25 the amount of oil, as determined by the department of

1 revenue, to be in excess of what would have been produced by
2 primary and secondary methods. The determination arrived at
3 by the department must be made only after notice and hearing
4 and shall specify through the life of a tertiary project,
5 calendar year by calendar year, the combined amount of
6 primary and secondary production that must be used to
7 establish the incremental production from each lease or unit
8 in a tertiary recovery project.

9 (3) Nothing in this part may be construed as requiring
10 laborers or employees hired or employed by any person to
11 drill any oil well or to work in or about any oil well or
12 prospect or explore for or do any work for the purpose of
13 developing any petroleum or other mineral or crude oil to
14 pay the severance tax, nor may work done or the drilling of
15 a well or wells for the purpose of prospecting or exploring
16 for petroleum or other mineral or crude oils or for the
17 purpose of developing them be considered to be the engaging
18 in or carrying on of the business. If, in the doing of any
19 work, in the drilling of any oil well, or in prospecting,
20 exploring, or development work, any merchantable or
21 marketable petroleum or other mineral or crude oil in excess
22 of the quantity required by the person for carrying on the
23 operation is produced sufficient in quantity to justify the
24 marketing of the petroleum or other mineral or crude oil,
25 the work, drilling, prospecting, exploring, or development

1 work is considered to be the engaging in and carrying on of
2 the business of producing petroleum or other mineral or
3 crude oil within this state within the meaning of this
4 section.

5 (4) Every person required to pay the severance tax
6 under this section shall pay the tax in full for his own
7 account and for the account of each of the other owner or
8 owners of the gross proceeds in value or in kind of all the
9 marketable petroleum or other mineral or crude oil or
10 natural gas extracted and produced, including owner or
11 owners of working interest, royalty interest, overriding
12 royalty interest, carried working interest, net proceeds
13 interest, production payments, and all other interest or
14 interests owned or carved out of the total gross proceeds in
15 value or in kind of the extracted marketable petroleum or
16 other mineral or crude oil or natural gas, except that any
17 of the interests that are owned by the federal, state,
18 county, or municipal governments shall be are exempt from
19 taxation under this chapter. Unless otherwise provided in a
20 contract or lease, the pro rata share of any royalty owner
21 or owners will be deducted from any settlements under the
22 lease or leases or division of proceeds orders or other
23 contracts. (Subsection (1)(d) terminates on occurrence of
24 contingency--sec. 7, Ch. 656, L. 1987.)"

25 **Section 73.** Section 15-36-102, MCA, is amended to

1 read:

2 "15-36-102. Quarterly payment of tax -- delayed
3 payment of local government severance tax. Such (1) Except
4 as provided in subsection (2), severance tax shall must be
5 paid in quarterly installments for the quarterly periods
6 ending, respectively, March 31, June 30, September 30, and
7 December 31 of each year, and the amount of the tax for each
8 quarterly period shall must be paid to the department of
9 revenue within 60 days after the end of each quarterly
10 period.

11 (2) Local government severance tax must be paid in
12 quarterly installments 1 year after the end of each quarter
13 for which a statement is completed as required by
14 15-36-105."

15 **Section 74.** Section 15-36-105, MCA, is amended to
16 read:

17 "15-36-105. Statement to accompany payment -- records
18 -- collection of tax -- refunds. (1) Each ~~and~~-every person
19 ~~must~~ shall, within 60 days after the end of each following
20 quarter, ~~make--out~~ complete on forms prescribed by the
21 department of revenue a statement showing the total number
22 of barrels of merchantable or marketable petroleum and other
23 mineral or crude oil or cubic feet of natural gas produced
24 or extracted by ~~such~~ the person in the state during each
25 month of ~~such~~ the quarter and during the whole quarter, the

1 average value thereof of the production during each month,
 2 and the total value thereof of the production for the whole
 3 quarter, together with the total amount due to the state as
 4 severance taxes and local government severance taxes for
 5 such the quarter, and ~~must~~ shall within such 60 days deliver
 6 such the statement and, except as provided in 15-36-102(2)
 7 and 15-36-121, pay to the department the amount of the taxes
 8 shown by such the statement to be due to the state for the
 9 quarter for which such the statement is made. Such The
 10 statement must be signed by the individual or the president,
 11 vice-president, treasurer, assistant treasurer, or managing
 12 agent in this state of the association, corporation,
 13 joint-stock company, or syndicate making the statement. Any
 14 such person engaged in carrying on such business at more
 15 than one place in this state or owning, leasing,
 16 controlling, or operating more than one oil or gas well in
 17 this state may include all thereof operations in one
 18 statement. The department shall receive and file all such
 19 statements and collect and receive from such the person
 20 making and filing a statement the amount of tax payable by
 21 such the person, if any, as ~~the same shall appear from the~~
 22 ~~face of~~ appears in the statement.

23 (2) It ~~shall be~~ is the duty of the department to
 24 examine each of such the statements and compute the taxes
 25 thereon, and the amount so computed by the department ~~shall~~

1 be is the taxes tax imposed, assessed against, and payable
 2 by the taxpayer making the statement for the quarter for
 3 which the statement is filed. If the tax found to be due
 4 ~~shall be~~ is greater than the amount paid, the excess ~~shall~~
 5 must be paid by the taxpayer to the department within 10
 6 days after written notice of the amount of the deficiency
 7 ~~shall be~~ is mailed by the department to such the taxpayer.
 8 If the tax imposed ~~shall be~~ is less than the amount paid,
 9 the difference must be applied as a credit against tax
 10 liability for subsequent quarters or refunded if there is no
 11 subsequent tax liability.

12 (3) If the tax is not paid on or before the due date,
 13 there ~~shall~~ must be assessed a penalty of 10% of the amount
 14 of the tax, unless it is shown that the failure was due to
 15 reasonable cause and not due to neglect. If any tax under
 16 this chapter is not paid when due, interest ~~shall~~ must be
 17 added thereto to the tax at the rate of 1% a month or
 18 fraction thereof, computed on the total amount of severance
 19 tax and penalty from the due date until paid."

20 **Section 75.** Section 15-36-112, MCA, is amended to
 21 read:

22 "15-36-112. Disposition of oil and gas severance taxes
 23 -- calculation of unit value for local government severance
 24 tax. (1) Each year the department of revenue shall determine
 25 the amount of tax collected under this chapter from within

1 each county.

2 (2) For purposes of the distribution of local
3 government severance taxes collected under 15-36-101, the
4 department shall determine the unit value of oil and gas for
5 each county as follows:

6 (a) The unit value for petroleum and other mineral or
7 crude oil for each county is the quotient obtained by
8 dividing the local government severance taxes calculated on
9 petroleum or mineral or crude oil produced in that county in
10 the current calendar year by the number of barrels of
11 petroleum or other mineral or crude oil subject to local
12 government severance tax produced in that county during the
13 year.

14 (b) The unit value for natural gas is the quotient
15 obtained by dividing the local government severance taxes
16 calculated on natural gas produced in that county in the
17 current calendar year by the number of cubic feet of natural
18 gas subject to local government severance tax produced in
19 that county during the year.

20 (3) The severance taxes collected under this
21 chapter are allocated as follows:

22 (a) the amount, if any, by which the tax collected
23 from within a county for any fiscal year exceeds the total
24 amount collected from within that county for the previous
25 fiscal year, by reason of increased production and not

1 ~~because of increase in or elimination of federal price~~
2 ~~ceilings on oil and gas, The local government severance tax~~
3 ~~is statutorily appropriated, as provided in 17-7-502, for~~
4 ~~allocation to the general fund of the county for~~
5 ~~distribution as provided in subsection (3) (b);~~

6 ~~(b) any Any amount not allocated to the county under~~
7 ~~subsection (2)(a) (3)(a) is allocated to the state general~~
8 ~~fund.~~

9 (4) (a) For the purpose of distribution of the
10 local government severance tax, the department shall adjust
11 the unit value determined under this section according to
12 the ratio that the local government severance taxes
13 collected during the quarters to be distributed plus
14 accumulated interest earned by the state and penalties and
15 interest on delinquent local government severance taxes
16 bears to the total liability for local government severance
17 taxes for the quarters to be distributed. The taxes must be
18 calculated and distributed as follows:

19 (i) By November 30 of each year, the department shall
20 calculate and distribute to each eligible county the amount
21 of local government severance tax, determined by multiplying
22 unit value as adjusted in this subsection (4)(a) times the
23 units of production on which severance tax was owed during
24 the calendar quarters ending March 31 and June 30 of the
25 preceding calendar year.

1 (ii) By May 31 of each year, the department shall
 2 calculate and distribute to each eligible county the amount
 3 of local government severance tax, determined by multiplying
 4 unit value as adjusted in this subsection (4)(a) times the
 5 units of production on which severance tax was owed during
 6 the 2 calendar quarters immediately following those quarters
 7 referred to in subsection (4)(a)(i).

8 ~~(a)(b)~~ The county treasurer shall distribute the money
 9 received under subsection ~~(2)(a)~~ ~~of this section to the~~
 10 ~~county and to all the incorporated cities and towns within~~
 11 ~~the county in the following manner: The county receives the~~
 12 ~~available money multiplied by the ratio of the rural~~
 13 ~~population to the county population. Each incorporated~~
 14 ~~municipality receives the available money multiplied by the~~
 15 ~~ratio of the population of the incorporated municipality to~~
 16 ~~the county population. The rural population is that~~
 17 ~~population of the county living outside the boundaries of an~~
 18 ~~incorporated municipality. Population shall be based on the~~
 19 ~~most recent figures as determined by the department of~~
 20 ~~commerce.~~

21 ~~(b)~~ ~~The money distributed under this subsection may be~~
 22 ~~used for any purpose as determined by the governing body of~~
 23 ~~the county, city, or town (3)(a) in the same manner that all~~
 24 other property tax proceeds were distributed during fiscal
 25 year 1989."

1 **Section 76.** Section 15-36-121, MCA, is amended to
 2 read:

3 "15-36-121. Exemption from severance tax. (1) It is
 4 the public policy of this state to promote a sufficient
 5 supply of natural gas to provide for the residents of this
 6 state, to lessen Montana's dependence on imported natural
 7 gas, and to encourage the exploration for and development
 8 and production of natural gas, petroleum, and other mineral
 9 and crude oil within the state.

10 (2) All new production, as defined in 15-23-601, from
 11 a well during the 24 months immediately following the date
 12 of notification to the department of revenue that an oil
 13 well is flowing or being pumped or that a gas well has been
 14 connected to a gathering or distribution system is exempt
 15 from all of the severance tax imposed by 15-36-101, provided
 16 the notification was made after March 31, 1987, and before
 17 July 1, 1991.

18 (3) All the natural gas produced from any well that
 19 has produced 60,000 cubic feet or less of natural gas a day
 20 for the calendar year prior to the current year shall be
 21 taxed as provided in this section. Production must be
 22 determined by dividing the amount of production from a lease
 23 or unitized area for the year prior to the current calendar
 24 year by the number of producing wells in the lease or
 25 unitized area and by dividing the resulting quotient by 365.

1 The first 30,000 cubic feet of average daily production per
2 well is exempt from all of the severance tax imposed by
3 15-36-101. Everything over 30,000 cubic feet of gas produced
4 is taxed at 1.59% plus a local government severance tax of
5 7.625%.

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

9 (5) For the purposes of this section, "stripper well"
10 means a well that produces less than 10 barrels per day,
11 determined by dividing the amount of production from a lease
12 or unitized area for the year prior to the current calendar
13 year by the number of producing wells in the lease or
14 unitized area, and by dividing the resulting quotient by
15 365.

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

20 **Section 77.** 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 schedules in 20-9-316 through 20-9-321 by
4 totaling:

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

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

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

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

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

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

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

1 (iv) anticipated or reappropriated state impact aid
 2 received under the provisions of 20-9-304;
 3 (v) anticipated or reappropriated revenue from vehicle
 4 property taxes imposed under 61-3-504(2) and 61-3-537;
 5 (vi) anticipated net proceeds taxes for interim
 6 production and new production, as defined in 15-23-601;
 7 (vii) anticipated revenue from local government
 8 severance taxes as provided in 15-36-112;
 9 ~~(viii)~~(viii) anticipated interest to be earned or
 10 reappropriated interest earned by the investment of general
 11 fund cash in accordance with the provisions of 20-9-213(4);
 12 and
 13 ~~(viii)~~(ix) any other revenue anticipated by the
 14 trustees to be received during the ensuing school fiscal
 15 year which may be used to finance the general fund.
 16 (c) Subtract the ~~total-of-the-moneys~~ money available
 17 to reduce the property tax required to finance the general
 18 fund that has been determined in subsection (1)(b) from the
 19 total requirement determined in subsection (1)(a).
 20 (2) The net general fund levy requirement determined
 21 in subsection (1)(c) ~~shall~~ must be reported to the county
 22 commissioners on the second Monday of August by the county
 23 superintendent as the general fund levy requirement for the
 24 district, and a levy ~~shall~~ must be made by the county
 25 commissioners in accordance with 20-9-142."

1 **Section 78.** Section 20-9-331, MCA, is amended to read:
 2 "20-9-331. Basic county tax and other revenues for
 3 county equalization of the elementary district foundation
 4 program. (1) ~~It shall be the duty of the~~ The county
 5 commissioners of each county to shall levy an annual basic
 6 tax of 28 mills on the ~~dollars~~ dollar of the taxable value
 7 of all taxable property within the county, except for
 8 vehicles subject to taxation under 61-3-504(2), for the
 9 purposes of local and state foundation program support. The
 10 revenue ~~to be~~ collected from this levy ~~shall~~ must be
 11 apportioned to the support of the foundation programs of the
 12 elementary school districts in the county and to the state
 13 special revenue fund, state equalization aid account, in the
 14 following manner:
 15 (a) In order to determine the amount of revenue raised
 16 by this levy which is retained by the county, the sum of the
 17 estimated ~~revenues~~ revenue identified in subsection (2)
 18 ~~below shall~~ must be subtracted from the sum of the county
 19 elementary transportation obligation and the total of the
 20 foundation programs of all elementary districts of the
 21 county.
 22 (b) If the basic levy prescribed by this section
 23 produces more revenue than is required to finance the
 24 difference determined ~~above~~ in subsection (1)(a), the county
 25 treasurer shall remit the surplus funds to the state

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

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

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

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

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

25 (d) any money remaining at the end of the immediately

1 preceding school fiscal year in the county treasurer's
 2 account accounts for the various sources of revenue
 3 established or referred to in this section;

4 (e) any federal or state money distributed to the
 5 county as payment in lieu of the property taxation
 6 established by the county levy required by this section;

7 (f) net proceeds taxes for interim production and new
 8 production, as defined in 15-23-601, and local government
 9 severance taxes on any other production occurring after
 10 December 31, 1988; and

11 (g) anticipated revenue from vehicle property taxes
 12 imposed under 61-3-504(2) and 61-3-537."

13 **Section 79.** Section 20-9-333, MCA, is amended to read:

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

1 in the following manner:

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

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

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

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

5 (b) any federal or state ~~moneys~~ money distributed to
6 the county as a payment in lieu of the property taxation
7 established by the county levy required by this section;

8 (c) net proceeds taxes for interim production and new
9 production, as defined in 15-23-601, and local government
10 severance taxes on any other production occurring after
11 December 31, 1988; and

12 (d) anticipated revenue from vehicle property taxes
13 imposed under 61-3-504(2) and 61-3-537."

14 **Section 80.** Section 20-9-352, MCA, is amended to read:
15 "20-9-352. Permissive amount and permissive levy. (1)
16 Whenever the trustees of any a district ~~shall-deem~~ consider
17 it necessary to adopt a general fund budget in excess of the
18 foundation program amount but not in excess of the maximum
19 general fund budget amount for such the district as
20 established by the schedules in 20-9-316 through 20-9-321,
21 the trustees shall adopt a resolution stating the reasons
22 and purposes for exceeding the foundation program amount.
23 Such The excess above the foundation program amount ~~shall-be~~
24 is known as the "permissive amount", and it ~~shall~~ must be
25 financed by a levy, as prescribed in 20-9-141, on the

1 taxable value of all taxable property within the district,
 2 except for vehicles subject to taxation under 61-3-504(2),
 3 supplemented with any biennial appropriation by the
 4 legislature for this purpose. The proceeds of ~~such-an~~ the
 5 appropriation ~~shall~~ must be deposited to the state special
 6 revenue fund.

7 (2) The district levies to be set for the purpose of
 8 funding the permissive amount are determined as follows:

9 (a) For each elementary school district, the county
 10 commissioners shall annually set a levy not exceeding 6
 11 mills on all the taxable property in the district, except
 12 for vehicles subject to taxation under 61-3-504(2), for the
 13 purpose of funding the permissive amount of the district.
 14 The permissive levy in mills ~~shall--be~~ is obtained by
 15 multiplying the ratio of the permissive amount to the
 16 maximum permissive amount by 6 or by using the number of
 17 mills which that would fund the permissive amount, whichever
 18 is less. If the amount of revenue raised by this levy, plus
 19 anticipated revenue from vehicle property taxes imposed
 20 under 61-3-504(2) and 61-3-537, is not sufficient to fund
 21 the permissive amount in full, the amount of the deficiency
 22 ~~shall~~ must be paid to the district from the state special
 23 revenue fund according to the provisions of subsections (3)
 24 and (4) of this section.

25 (b) For each high school district, the county

1 commissioners shall annually set a levy not exceeding 4
 2 mills on all taxable property in the district, except for
 3 vehicles subject to taxation under 61-3-504(2), for the
 4 purpose of funding the permissive amount of the district.
 5 The permissive levy in mills ~~shall--be~~ is obtained by
 6 multiplying the ratio of the permissive levy to the maximum
 7 permissive amount by 4 or by using the number of mills which
 8 that would fund the permissive amount, whichever is less. If
 9 the amount of revenue raised by this levy, plus anticipated
 10 revenue from vehicle property taxes imposed under
 11 61-3-504(2) and 61-3-537, and plus net proceeds taxes for
 12 interim production and new production, as defined in
 13 15-23-601, and local government severance taxes on any other
 14 production occurring after December 31, 1988, is not
 15 sufficient to fund the permissive amount in full, the amount
 16 of the deficiency ~~shall~~ must be paid to the district from
 17 the state special revenue fund according to the provisions
 18 of subsections (3) and (4) of this section.

19 (3) The superintendent of public instruction shall, if
 20 the appropriation by the legislature for the permissive
 21 amount for the biennium is insufficient, request the budget
 22 director to submit a request for a supplemental
 23 appropriation in the second year of the biennium. The
 24 supplemental appropriation ~~shall~~ must provide enough revenue
 25 to fund the permissive deficiency of the elementary and high

1 school districts of the state. The proceeds of this
 2 appropriation shall must be deposited to the state special
 3 revenue fund and shall must be distributed to the elementary
 4 and high school districts in accordance with their
 5 entitlements as determined by the superintendent of public
 6 instruction according to the provisions of subsections (1)
 7 and (2) of ~~this section~~.

8 (4) Distribution under this section from the state
 9 special revenue fund shall must be made in two payments. The
 10 first payment shall must be made at the same time as the
 11 first distribution of state equalization aid is made after
 12 January 1 of the fiscal year. The second payment shall must
 13 be made at the same time as the last payment of state
 14 equalization aid is made for the fiscal year. If the
 15 appropriation is not sufficient to finance the deficiencies
 16 of the districts as determined according to subsection (2),
 17 each district will receive the same percentage of its
 18 deficiency. Surplus revenue in the second year of the
 19 biennium may be used to reduce the appropriation required
 20 for the next succeeding biennium or may be transferred to
 21 the state equalization aid state special revenue fund if
 22 revenues in that fund are insufficient to meet foundation
 23 program requirements."

24 **Section 81.** Section 20-10-144, MCA, is amended to
 25 read:

1 "20-10-144. Computation of revenues and net tax levy
 2 requirements for the transportation fund budget. Before the
 3 fourth Monday of July and in accordance with 20-9-123, the
 4 county superintendent shall compute the revenue available to
 5 finance the transportation fund budget of each district. The
 6 county superintendent shall compute the revenue for each
 7 district on the following basis:

8 (1) The "schedule amount" of the preliminary budget
 9 expenditures that is derived from the rate schedules in
 10 20-10-141 and 20-10-142 shall must be determined by adding
 11 the following amounts:

12 (a) the sum of the maximum reimbursable expenditures
 13 for all approved school bus routes maintained by the
 14 district (to determine the maximum reimbursable expenditure,
 15 multiply the applicable rate per bus mile by the total
 16 number of miles to be traveled during the ensuing school
 17 fiscal year on each bus route approved by the county
 18 transportation committee and maintained by such district);
 19 plus

20 (b) the total of all individual transportation per
 21 diem reimbursement rates for such the district as determined
 22 from the contracts submitted by the district multiplied by
 23 the number of pupil-instruction days scheduled for the
 24 ensuing school attendance year; plus

25 (c) any estimated costs for supervised home study or

1 supervised correspondence study for the ensuing school
2 fiscal year; plus

3 (d) the amount budgeted on the preliminary budget for
4 the contingency amount permitted in 20-10-143, except if
5 ~~such~~ the amount exceeds 10% of the total of subsections
6 (1)(a), (1)(b), and (1)(c) or \$100, whichever is larger, the
7 contingency amount on the preliminary budget ~~shall~~ must be
8 reduced to ~~such~~ the limitation amount and used in this
9 determination of the schedule amount.

10 (2) The schedule amount determined in subsection (1)
11 or the total preliminary transportation fund budget,
12 whichever is smaller, ~~shall--be~~ is divided by 3 and the
13 resulting one-third amount ~~shall--be~~ is used to determine the
14 available state and county revenue to be budgeted on the
15 following basis:

16 (a) the resulting one-third amount ~~shall--be~~ is the
17 budgeted state transportation reimbursement, except that the
18 state transportation reimbursement for the transportation of
19 special education pupils under the provisions of 20-7-442
20 ~~shall~~ must be two-thirds of the schedule amount attributed
21 to the transportation of special education pupils;

22 (b) the resulting one-third amount, except as provided
23 for joint elementary districts in subsection (2)(e), ~~shall~~
24 be is the budgeted county transportation reimbursement for
25 elementary districts and ~~shall~~ must be financed by the basic

1 county tax under the provisions of 20-9-334;

2 (c) the resulting one-third amount multiplied by 2
3 ~~shall--be~~ is the budgeted county transportation reimbursement
4 amount for high school districts financed under the
5 provisions of subsection (5) ~~of--this--section~~, except as
6 provided for joint high school districts in subsection
7 (2)(e), and except that the county transportation
8 reimbursement for the transportation of special education
9 pupils under the provisions of 20-7-442 ~~shall~~ must be
10 one-third of the schedule amount attributed to the
11 transportation of special education pupils;

12 (d) when the district has a sufficient amount of cash
13 for reappropriation and other sources of district revenue,
14 as determined in subsection (3), to reduce the total
15 district obligation for financing to zero, any remaining
16 amount of ~~such~~ district revenue and cash reappropriated
17 ~~shall~~ must be used to reduce the county financing obligation
18 in subsections subsection (2)(b) or (2)(c) and, if ~~such~~ the
19 county financing obligations are reduced to zero, to reduce
20 the state financial obligation in subsection (2)(a); and

21 (e) the county revenue requirement for a joint
22 district, after the application of any district ~~moneys~~ money
23 under subsection (2)(d) above, ~~shall~~ must be prorated to
24 each county incorporated by the joint district in the same
25 proportion as the ANB of the joint district is distributed

1 by pupil residence in each such county.

2 (3) The total of the moneys money available for the
3 reduction of property tax on the district for the
4 transportation fund ~~shall~~ must be determined by totaling:

5 (a) anticipated federal moneys money received under
6 the provisions of Title I of Public Law 81-874 or other
7 anticipated federal moneys money received in lieu of such
8 that federal act; plus

9 (b) anticipated payments from other districts for
10 providing school bus transportation services for such the
11 district; plus

12 (c) anticipated payments from a parent or guardian for
13 providing school bus transportation services for his child;
14 plus

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

18 (e) anticipated or reappropriated revenue from vehicle
19 property taxes imposed under 61-3-504(2) and 61-3-537; plus

20 (f) net proceeds taxes for interim production and new
21 production, as defined in 15-23-601, and local government
22 severance taxes on any other production occurring after
23 December 31, 1988; plus

24 (g) any other revenue anticipated by the trustees to
25 be earned during the ensuing school fiscal year which may be

1 used to finance the transportation fund; plus

2 (h) any cash available for reappropriation as
3 determined by subtracting the amount of the end-of-the-year
4 cash balance earmarked as the transportation fund cash
5 reserve for the ensuing school fiscal year by the trustees
6 from the end-of-the-year cash balance in the transportation
7 fund. Such The cash reserve ~~shall~~ may not be more than 20%
8 of the final transportation fund budget for the ensuing
9 school fiscal year and ~~shall-be~~ is for the purpose of paying
10 transportation fund warrants issued by the district under
11 the final transportation fund budget.

12 (4) The district levy requirement for each district's
13 transportation fund ~~shall~~ must be computed by:

14 (a) subtracting the schedule amount calculated in
15 subsection (1) from the total preliminary transportation
16 budget amount and, for an elementary district, adding such
17 the difference to the district obligation to finance
18 one-third of the schedule amount as determined in subsection
19 (2); and

20 (b) subtracting the amount of moneys money available
21 to reduce the property tax on the district, as determined in
22 subsection (3), from the amount determined in subsection
23 (4)(a) above.

24 (5) The county levy requirement for the financing of
25 the county transportation reimbursement to high school

1 districts ~~shall~~ is computed by adding all such
2 requirements for all the high school districts of the
3 county, including the county's obligation for reimbursements
4 in joint high school districts.

5 (6) The transportation fund levy requirements
6 determined in subsection (4) for each district and in
7 subsection (5) for the county ~~shall~~ must be reported to the
8 county commissioners on the second Monday of August by the
9 county superintendent as the transportation fund levy
10 requirements for the district and for the county, and ~~such~~
11 the levies shall must be made by the county commissioners in
12 accordance with 20-9-142."

13 **Section 82.** Section 90-6-402, MCA, is amended to read:
14 **"90-6-402. Definitions.** As used in this part, the
15 following definitions apply:

16 (1) "Affected local government unit" means a local
17 government unit that will experience a need to increase
18 services or facilities as a result of the commencement of
19 large-scale mineral development or within which a
20 large-scale mineral development is located in accordance
21 with an impact plan adopted pursuant to 90-6-307.

22 (2) "Board" means the hard-rock mining impact board
23 established in 2-15-1822.

24 (3) "Mineral development employee" means a person who
25 resides within the jurisdiction of an affected local

1 government unit as a result of employment with a large-scale
2 mineral development or its contractors or subcontractors.

3 (4) "Mineral development student" means a student
4 whose parent or guardian resides within the jurisdiction of
5 an affected local government unit as a result of employment
6 with a large-scale mineral development or its contractors or
7 subcontractors.

8 (5) "Jurisdictional revenue disparity" means property
9 tax revenues resulting from a large-scale hard-rock mineral
10 development that are inequitably distributed among affected
11 local government units as finally determined by the board in
12 an approved impact plan.

13 (6) "Large-scale mineral development", for the
14 purposes of this part, is defined in 90-6-302.

15 (7) "Local government unit", for the purposes of this
16 part, means a county, municipality, or school district.

17 (8) "Taxable valuation" of a mineral development means
18 the total of the gross proceeds taxable percentage specified
19 in 15-6-132(2){a} when added to the taxable percentages of
20 real property, improvements, machinery, equipment, and other
21 property classified under Title 15, chapter 6, part 1."

22 **Section 83.** Section 15-1-501, MCA, is amended to read:

23 **"15-1-501. Disposition of moneys from certain**
24 **designated license and other taxes.** (1) The state treasurer
25 shall deposit to the credit of the state general fund all

1 moneys money received by him from the collection of:

2 (a) fees from driver's licenses, motorcycle
3 endorsements, and duplicate driver's licenses as provided in
4 61-5-121;

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

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

9 (d) liquor license taxes under Title 16;

10 (e) telephone [company] license taxes under chapter
11 53; and

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

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

17 (a) ~~56.2%~~ 48.1% to the credit of the state general
18 fund;

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

22 (c) ~~31.8%~~ 41.9% to the credit of the state special
23 revenue fund for state equalization aid to the public
24 schools of Montana as described in 20-9-343.

25 (3) All moneys money received from the collection of

1 corporation license and income taxes under chapter 31 of
2 this title, except as provided in 15-31-702, ~~shall~~ must be
3 deposited as follows:

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

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

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

11 (4) The state treasurer shall also deposit to the
12 credit of the state general fund all moneys money received
13 by him from the collection of license taxes, fees, and all
14 net revenues and receipts from all other sources under the
15 operation of the Montana Alcoholic Beverage Code.

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

19 **Section 84.** Section 20-9-344, MCA, is amended to read:
20 "20-9-344. Purpose of state equalization aid and
21 duties of the board of public education for distribution --
22 conditions of first payment. (1) The money available for
23 state equalization aid ~~shall~~ must be distributed and
24 apportioned to provide an annual minimum operating revenue
25 for the elementary and high schools in each county,

1 exclusive of revenues required for debt service and for the
2 payment of any ~~and--all~~ costs and expense incurred in
3 connection with any adult education program, recreation
4 program, school food services program, new buildings~~7--new~~
5 and grounds, and transportation.

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

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

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

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

1 any difference which that may occur during the school fiscal
2 year between budgeted and actual receipts from any other
3 source of school revenue.

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

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

11 (b) maintain accredited status.

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

17 ~~(3)~~(5) Should If a district receive receives more
18 state equalization aid than it is entitled to, the county
19 treasurer must shall return the overpayment to the state
20 upon the request of the superintendent of public instruction
21 in the manner prescribed by the department of commerce.

22 ~~(4)~~(6) (a) The first payment of state equalization aid
23 must be:

24 (a) based on an estimate of 20% of each district's
25 entitlement; and

1 ~~(b)~~ distributed by July 15 of the school fiscal year.

2 (b) Each subsequent monthly payment must be at least
3 7% of the district's amount."

4 NEW SECTION. Section 85. Repealer. (1) Sections
5 15-23-604, 15-23-615, and 15-23-616, MCA, and section 12,
6 Chapter 666, Laws of 1987, are repealed on passage and
7 approval of [this act].

8 (2) Sections 20-9-105, 20-9-352, 20-9-531, and
9 20-9-532, MCA, are repealed July 1, 1990.

10 NEW SECTION. Section 86. Appropriation. (1) There is
11 appropriated from the general fund \$353,950 for the biennium
12 ending June 30, 1991, to the superintendent of public
13 instruction to establish standard accounting and reporting
14 practices in all Montana public school districts and to
15 implement [this act].

16 (2) There is appropriated from the general fund
17 \$20,000 to the legislative council for the biennium ending
18 June 30, 1991, for use by the committee established in
19 [section 53].

20 (3) There is appropriated from the general fund to the
21 department of administration \$200,000 for the fiscal year
22 ending June 30, 1990, to retain a telecommunications
23 engineering consultant and to support development of and
24 improvements in telecommunications networks in Montana as
25 provided in [section 51].

1 (4) There is appropriated from the general fund to the
2 department of administration \$300,000 for the biennium
3 ending June 30, 1991, to be used for education network
4 implementation and improvements if a 50% match in funds or
5 equipment is available from other sources.

6 NEW SECTION. Section 87. Codification instruction.
7 (1) [Sections 49 and 50] are intended to be codified as an
8 integral part of Title 20, chapter 9, and the provisions of
9 Title 20 apply to [sections 49 and 50].

10 (2) [Section 71] is intended to be codified as an
11 integral part of Title 15, chapter 23, part 7, and the
12 provisions of Title 15, chapter 23, part 7, apply to
13 [section 71].

14 NEW SECTION. Section 88. Effective dates -- rules.
15 (1) [Sections 2, 5, 6, 39, and 51] are effective July 1,
16 1989.

17 (2) [Sections 1, 3, 4, 10 through 12, 13(1)(b) and (c)
18 and (2), 14(1)(b) and (c) and (2) through (7), 15 through
19 24, 25(13), 26 through 38, 40, 44, 46 through 49, and 83]
20 are effective July 1, 1990.

21 (3) [Sections 9, 41 through 43, and 84] are effective
22 July 1, 1991.

23 (4) [Sections 7, 13(1)(a), 14(1)(a), 25(1) through
24 (12), and 45] are effective July 1, 1993.

25 (5) [Sections 8, 50, 52 through 82, and 85 through 90]

1 are effective on passage and approval.

2 (6) The superintendent of public instruction may,
3 prior to July 1, 1990, adopt rules and conduct training
4 necessary to implement [sections 24 and 26].

5 NEW SECTION. Section 89. Applicability. (1) [Section
6 49], 20-9-331, and 20-9-333 apply retroactively, within the
7 meaning of 1-2-109, to all taxable years beginning after
8 December 31, 1989.

9 (2) [Sections 59 through 82] apply retroactively,
10 within the meaning of 1-2-109, to net proceeds taxes,
11 severance taxes, and local government taxes on oil and gas,
12 other than interim production and new production, produced
13 after December 31, 1988.

14 (3) [Sections 2 and 6] apply to all tax revenue
15 recorded on or after July 1, 1989, without regard to the
16 time the tax accrued.

17 (4) [Section 83] applies to all tax revenue recorded
18 on or after July 1, 1990, without regard to the time the tax
19 accrued.

20 NEW SECTION. Section 90. Coordination instruction. If
21 House Bill No. 16 is passed and approved, the appropriation
22 in [section 86(1)] is reduced by the amount of money
23 appropriated in House Bill No. 16.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB27, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

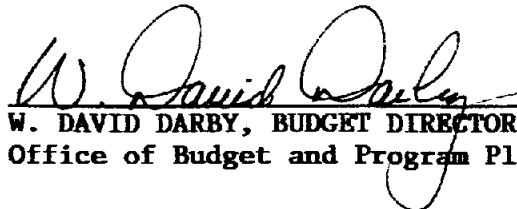
An act imposing a tax on certain corporate stocks and bonds; exempting stocks of Montana corporations; prorating the tax on stocks of a foreign corporation according to the percentage its Montana operations bear to its total operations; allocating proceeds of the tax to the Worker's Compensation Tax Account to reduce the unfunded liability in the state compensation mutual insurance fund; and providing an effective date, a termination date, and a retroactive applicability date.

FISCAL IMPACT:

An accurate estimate of the revenue from this proposal is not possible. Estimating the revenue impact for this proposal would require knowledge of the distribution of the market value of stocks by household, due to the exclusions provided for single filers and married couples. Also it would require knowledge of the portion of total market value attributable to corporations operating entirely in Montana and the percentage of Montana operations to total operations of foreign corporations operating in Montana that have stock held by Montanans. None of this data is readily available.

TECHNICAL NOTE:

The Division of Workers' Compensation is required by MCA 39-71-2304 to give 30 days notice to employers of a rate change. This section would need to be amended to implement a rate change by July 1, 1989.


W. DAVID DARBY, BUDGET DIRECTOR 7/6/89
Office of Budget and Program Planning DATE


PAUL RAPP-SVECZEK, PRIMARY SPONSOR 7/7/89 DATE

Fiscal Note for SB27 as introduced

SB 27

APPROVED BY COMM. ON EDUCATION
AND CULTURAL RESOURCES

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Senate BILL NO. *26*

INTRODUCED BY NATHAN THOMPSON
BY REQUEST OF THE SENATE EDUCATION COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE PUBLIC SCHOOL FUNDING AND RELATED TAXATION LAWS; TO ELIMINATE THE PRESENT ELEMENTARY AND HIGH SCHOOL PERMISSIVE LEVIES; TO PROVIDE FOR PHASED-IN EQUALIZATION AID FOR RETIREMENT BEGINNING IN FISCAL YEAR 1992; TO ELIMINATE THE COUNTY RETIREMENT LEVY AND PROVIDE FULL EQUALIZATION SUPPORT OF EACH DISTRICT'S RETIREMENT FUND EXPENDITURES BEGINNING IN FISCAL YEAR 1994; TO INCLUDE COMPREHENSIVE INSURANCE COSTS IN THE GENERAL FUND BUDGET OF SCHOOL DISTRICTS; TO ADJUST THE FOUNDATION PROGRAM SCHEDULES FOR SCHOOL FISCAL YEAR 1991 AND SUCCEEDING YEARS; TO LIMIT, WITH CERTAIN EXCEPTIONS, THE MAXIMUM GENERAL FUND BUDGET OF A DISTRICT TO 121 PERCENT OF THE COMBINED FOUNDATION PROGRAM AND RETIREMENT FUND AMOUNTS FOR THE DISTRICT; TO FURTHER LIMIT THE GENERAL FUND RESERVE OF CERTAIN DISTRICTS; 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 INCREASE THE GENERAL BONUS PAYMENTS FOR ENLARGED DISTRICTS; TO REQUIRE SCHOOL DISTRICTS TO USE GENERALLY ACCEPTED ACCOUNTING PRINCIPLES; TO PROVIDE FUNDING FOR A TELECOMMUNICATIONS

THERE IS NO CHANGE ON SB 26 AND WILL NOT BE REPRINTED. PLEASE REFER TO THE INTRODUCED (WHITE) COPY FOR COMPLETE TEXT.

SECOND READING
SB 26



1 SENATE BILL NO. 26
2 INTRODUCED BY NATHE, MAZUREK
3 BY REQUEST OF THE SENATE EDUCATION COMMITTEE
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE
6 PUBLIC SCHOOL FUNDING AND RELATED TAXATION LAWS; TO
7 ELIMINATE THE PRESENT ELEMENTARY AND HIGH SCHOOL PERMISSIVE
8 LEVIES; TO PROVIDE FOR PHASED-IN EQUALIZATION AID FOR
9 RETIREMENT BEGINNING IN FISCAL YEAR 1992; TO ELIMINATE THE
10 COUNTY RETIREMENT LEVY AND PROVIDE FULL EQUALIZATION SUPPORT
11 OF EACH DISTRICT'S RETIREMENT FUND EXPENDITURES BEGINNING IN
12 FISCAL YEAR 1994; TO INCLUDE COMPREHENSIVE INSURANCE COSTS
13 IN THE GENERAL FUND BUDGET OF SCHOOL DISTRICTS; TO ADJUST
14 THE FOUNDATION PROGRAM SCHEDULES FOR SCHOOL FISCAL YEAR 1991
15 AND SUCCEEDING YEARS; TO LIMIT, WITH CERTAIN EXCEPTIONS, THE
16 MAXIMUM GENERAL FUND BUDGET OF A DISTRICT TO 121 PERCENT OF
17 THE COMBINED FOUNDATION PROGRAM AND RETIREMENT FUND AMOUNTS
18 FOR THE DISTRICT; TO FURTHER LIMIT THE GENERAL FUND RESERVE
19 OF CERTAIN DISTRICTS; TO LIMIT TO 180 THE NUMBER OF
20 PUPIL-INSTRUCTION DAYS FOR WHICH FOUNDATION PROGRAM SUPPORT
21 MAY BE RECEIVED; TO REQUIRE DISTRIBUTION OF STATE
22 EQUALIZATION AID IN MONTHLY PAYMENTS; TO INCREASE THE
23 GENERAL BONUS PAYMENTS FOR ENLARGED DISTRICTS; TO REQUIRE
24 SCHOOL DISTRICTS TO USE GENERALLY ACCEPTED ACCOUNTING
25 PRINCIPLES; TO PROVIDE FUNDING FOR A TELECOMMUNICATIONS

1 NETWORK FOR EDUCATION; TO PROVIDE FOR A LEGISLATIVE
2 OVERSIGHT COMMITTEE ON SCHOOL FUNDING IMPLEMENTATION TO
3 DIRECT STUDIES ON FURTHER EQUALIZATION OF TRANSPORTATION,
4 CAPITAL EXPENDITURES, AND RETIREMENT AND TO PERFORM OTHER
5 DUTIES; TO REALLOCATE LOTTERY REVENUE FROM RETIREMENT
6 EQUALIZATION TO STATE EQUALIZATION AID; TO IMPOSE A 45-MILL
7 STATEWIDE LEVY IN SUPPORT OF STATE EQUALIZATION AID; TO
8 INCREASE THE COUNTY ELEMENTARY LEVY FROM 28 MILLS TO 34
9 MILLS AND THE COUNTY HIGH SCHOOL LEVY FROM 17 MILLS TO 21
10 MILLS; TO EXCLUDE ALL SCHOOL LEVIES FROM THE PROPERTY TAX
11 LIMITATIONS OF INITIATIVE MEASURE NO. 105; TO IMPOSE A FLAT
12 TAX RATE ON COAL GROSS PROCEEDS; TO ELIMINATE TAXATION OF
13 NET PROCEEDS OF OIL AND GAS ON OTHER THAN INTERIM PRODUCTION
14 AND NEW PRODUCTION; TO ESTABLISH A LOCAL GOVERNMENT
15 SEVERANCE TAX IN LIEU OF A TAX ON NET PROCEEDS ON THE
16 PRODUCTION OF OIL AND GAS OTHER THAN INTERIM PRODUCTION AND
17 NEW PRODUCTION; TO PROVIDE FOR A 1-YEAR DELAY IN THE PAYMENT
18 OF LOCAL GOVERNMENT SEVERANCE TAX ON OIL AND GAS; TO
19 ALLOCATE THE PROCEEDS OF THE LOCAL GOVERNMENT SEVERANCE TAX
20 ON OIL AND GAS IN THE SAME MANNER AS PROPERTY TAXES ARE
21 DISTRIBUTED; TO CONTINUE THE 10 PERCENT PERSONAL INCOME
22 SURTAX; TO INCREASE THE ALLOCATION OF PERSONAL INCOME TAX
23 PROCEEDS TO STATE EQUALIZATION AID; TO REALLOCATE COAL
24 SEVERANCE TAX PROCEEDS AND INCREASE THE ALLOCATION TO STATE
25 EQUALIZATION AID; TO STATUTORILY APPROPRIATE ALL REVENUE

1 ALLOCATED BY LAW TO COUNTY AND STATE EQUALIZATION; TO
 2 PROVIDE VARIOUS APPROPRIATIONS; AMENDING SECTIONS 2-7-504,
 3 7-1-2111, 7-7-2101, 7-7-2203, 7-14-2524, 7-14-2525,
 4 7-16-2327, 15-1-501, 15-6-132, 15-10-402, 15-10-412,
 5 15-23-602, 15-23-603, 15-23-605, 15-23-607, 15-23-703,
 6 15-30-108, 15-35-108, 15-36-101, 15-36-102, 15-36-105,
 7 15-36-112, 15-36-121, 17-3-213, 17-7-502, 20-3-106,
 8 20-3-205, 20-3-324, 20-3-331, 20-5-305, 20-5-312, 20-6-401,
 9 20-6-506, 20-6-603, 20-6-608, 20-7-414, 20-7-422, 20-7-431,
 10 20-9-104, 20-9-141, 20-9-201, 20-9-212, 20-9-213, 20-9-301,
 11 20-9-303, 20-9-311, 20-9-312, 20-9-315, 20-9-318 THROUGH
 12 20-9-322, 20-9-331, 20-9-333, 20-9-343, 20-9-344, 20-9-346,
 13 20-9-347, 20-9-351, 20-9-353, 20-9-501, 20-10-144,
 14 23-5-1027, 90-6-309, AND 90-6-402, MCA; REPEALING SECTIONS
 15 15-23-604, 15-23-615, 15-23-616, 20-9-105, 20-9-352,
 16 20-9-531, AND 20-9-532, MCA, AND SECTION 12, CHAPTER 666,
 17 LAWS OF 1987; AND PROVIDING EFFECTIVE DATES AND
 18 APPLICABILITY DATES."

19
 20 STATEMENT OF INTENT

21 It is the intent of the legislature to enhance equality
 22 of educational opportunity for students in the elementary
 23 schools and secondary schools of Montana by revising the
 24 school funding laws to provide greater equalization of the
 25 funding available to school districts and to promote

1 equalization of school district expenditures per student. It
 2 is the further intent of the legislature to preserve local
 3 control of the public school system, as guaranteed by
 4 Montana's constitution.

5 For these purposes, the legislature determines to
 6 equalize funding aid to the school districts through the
 7 foundation program schedules for the school fiscal year
 8 ending June 30, 1991, in an amount equal to the following
 9 percentages of the total costs incurred by all the districts
 10 in the state in school fiscal year 1988: 100% of
 11 comprehensive insurance, after subtracting Public Law 81-874
 12 support for insurance, and 100% of general fund
 13 expenditures, after subtracting special education and Public
 14 Law 81-874 general fund support.

15 The legislature also determines to fully equalize
 16 funding for retirement by providing state equalization aid
 17 payments sufficient to finance 100% of the costs incurred by
 18 each school district for retirement, social security, and
 19 unemployment insurance, commencing in fiscal year 1994. The
 20 superintendent shall adopt rules that provide for funding in
 21 fiscal year 1992 the portion of any district's retirement
 22 costs that are in excess of the amount raised in that
 23 district by the statewide average mill levy per county and
 24 funding in fiscal year 1993 50% of each district's total
 25 retirement costs.

1 The legislature also determines to fully fund approved
2 allowable costs for the special education programs of the
3 school districts through the foundation program.

4 The legislature also determines to provide state
5 funding for transportation costs as currently provided by
6 law but to study transportation funding and establish an
7 appropriate method to equalize transportation funding in the
8 1991 legislative session.

9 The legislature recognizes its responsibility to devise
10 an equalized system of school funding prior to July 1, 1989,
11 and recognizes that measures in addition to the provisions
12 in this bill are necessary to fully address equalization of
13 funding and expenditures for transportation, retirement,
14 capital improvements, and other needs of the districts.
15 Because it is necessary to identify those factors that
16 affect disparate expenditure patterns, to determine whether
17 those factors are educationally relevant, and to develop
18 data not currently available to devise methods of equitably
19 funding those needs, the legislature determines that a study
20 should be conducted, as provided in [sections 52 through
21 58], and that equitable funding methods for these needs
22 should be addressed by the 52nd legislature.

23 The legislature acknowledges the constitutional
24 guarantee of equal educational opportunity for each public
25 school pupil in Montana. The legislature also acknowledges

1 the sound policy considerations for empowering local
2 trustees to supervise and control the schools in the
3 district, as required by the Montana constitution.
4 Therefore, to guarantee more equal expenditures per student
5 in similarly sized schools throughout Montana, while also
6 providing each district board of trustees the power to
7 determine and meet the unique and individual needs of
8 students and schools in the district, the legislature
9 determines that it is reasonable and necessary to establish
10 a maximum general fund budget limitation for each district,
11 except as provided in 20-9-315, of 121% of the district's
12 foundation program amount. Because of different
13 circumstances that exist from district to district, the
14 legislature finds that it is reasonable and necessary to
15 permit that range of disparity in expenditures by similarly
16 sized districts throughout the state.

17 The legislature intends that the current system of
18 funding county equalization with elementary and high school
19 levies and other revenue sources be maintained without
20 change in order to preserve the current method of providing
21 equalized local support of schools. The statutory
22 appropriation of all revenue earmarked to fund county
23 equalization does not affect the manner in which that
24 revenue is collected, controlled, and distributed to
25 districts by the county. It is intended that a district

1 eligible for federal funds under Title I of Public Law
 2 81-874 will be able to maintain the local contribution rate
 3 as required by 20 U.S.C. 238(d)(3)(C) for continuing
 4 eligibility.

5 It is intended that while school districts may conduct
 6 more than 180 days of instruction, a school district may not
 7 receive foundation program support for more than 180 days of
 8 pupil instruction.

9 Under 20-3-106, 20-9-102, 20-9-201, 20-9-211, and
 10 20-9-213, the superintendent of public instruction is
 11 authorized to supervise school financial administration and
 12 to adopt rules establishing requirements for budgeting and
 13 financial administration of public school districts,
 14 including accounting and reporting requirements. Under
 15 20-9-344, the board of public education has authority to
 16 require any reports it considers necessary. It is intended
 17 that school districts be required to maintain accounting
 18 systems based on generally accepted accounting principles
 19 and that the superintendent of public instruction adopt
 20 rules necessary to implement the requirement. The
 21 superintendent of public instruction shall provide training
 22 and assistance to the districts as necessary to enable the
 23 districts to comply.

24 It is intended that the districts be required to file
 25 accurate and timely reports with the superintendent of

1 public instruction. Districts must be required to provide
 2 student and school district data as may be required by the
 3 superintendent of public instruction concerning the
 4 condition of education in Montana, including personnel
 5 information, student and school district demographics,
 6 assessment of student and school district achievement, and
 7 other appropriate educational factors necessary to enable
 8 the legislature to assess the equality of educational
 9 opportunity being provided by the public school districts
 10 and to determine the amount of state aid to be distributed
 11 to school districts. Districts shall also provide data to
 12 meet grant requirements and other national reporting needs.

13 It is intended that the superintendent of public
 14 instruction conduct training and provide forms for the
 15 personnel responsible for completing reports. Whenever
 16 possible, the superintendent of public instruction shall
 17 develop methods for collecting educational data
 18 electronically, using formats consistent with school
 19 district data processing capabilities. The educational data
 20 must be maintained in an electronic format easily accessible
 21 by other state agencies and the legislature.

22 State equalization aid and county equalization money
 23 may be withheld from school districts, as provided by
 24 20-9-344, that do not comply with accounting and reporting
 25 requirements.

1 It is intended that the superintendent of public
2 instruction employ additional personnel during fiscal year
3 1990 and fiscal year 1991, not to exceed the appropriation,
4 for the purpose of establishing standard accounting and
5 reporting practices in the public school districts and for
6 implementing the additional provisions of this bill.

7 The legislature determines that if county equalization
8 revenue is deficient because of noncollected tax payments,
9 state equalization aid may be provided to offset the
10 delinquency.

11 In providing equalization funding through continuation
12 of the 10% personal income surtax, it is not intended that
13 the surtax be a permanent funding source for state
14 equalization aid.

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

18 "**2-7-504. Accounting methods.** The Unless otherwise
19 required by law, the department shall prescribe the general
20 methods and details of accounting for the receipt and
21 disbursement of all moneys money belonging to governmental
22 entities referred to in this part and shall establish in
23 those offices general methods and details of accounting.
24 All governmental entity officers shall conform with the
25 standards prescribed by the department."

1 **Section 2.** Section 15-1-501, MCA, is amended to read:

2 "**15-1-501. Disposition of moneys money from certain**
3 **designated license and other taxes.** (1) The state treasurer
4 shall deposit to the credit of the state general fund all
5 moneys money received by him from the collection of:

6 (a) fees from driver's licenses, motorcycle
7 endorsements, and duplicate driver's licenses as provided in
8 61-5-121;

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

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

13 (d) liquor license taxes under Title 16;

14 (e) telephone [company] license taxes under chapter
15 53; and

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

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

21 (a) ~~58.2%~~ 51.8% to the credit of the state general
22 fund;

23 (b) ~~10%~~ 9.1% to the credit of the debt service account
24 for long-range building program bonds as described in
25 17-5-408; and

1 (c) ~~31.8%~~ 39.1% to the credit of the state special
 2 revenue fund, for state equalization aid to the public
 3 schools of Montana as described in 20-9-343.

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

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

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

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

15 (4) The state treasurer shall also deposit to the
 16 credit of the state general fund all moneys money received
 17 by him from the collection of license taxes, fees, and all
 18 net revenues and receipts from all other sources under the
 19 operation of the Montana Alcoholic Beverage Code.

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

23 **Section 3.** 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
 9 districts, Title 20; or bonded indebtedness.

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

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

21 **Section 4.** Section 15-10-412, MCA, is amended to read:

22 "15-10-412. Property tax limited to 1986 levels --
 23 clarification -- extension to all property classes. Section
 24 15-10-402 is interpreted and clarified as follows:

25 (1) The limitation to 1986 levels is extended to apply

1 to all classes of property described in Title 15, chapter 6,
2 part 1.

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

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

- 18 (a) annexation of real property and improvements into
19 a taxing unit;
20 (b) construction, expansion, or remodeling of
21 improvements;
22 (c) transfer of property into a taxing unit;
23 (d) subdivision of real property;
24 (e) reclassification of property;
25 (f) increases in the amount of production or the value

1 of production for property described in 15-6-131 or
2 15-6-132;

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

5 (h) revaluations caused by:

6 (i) cyclical reappraisal; or

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

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

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

16 (a) a revaluation caused by:

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

20 (ii) cyclical reappraisal;

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

22 (c) reclassification of property;

23 (d) increases in the amount of production or the value
24 of production for property described in 15-6-131 or
25 15-6-132;

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

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

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

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

14 (a) new construction;

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

17 (c) annexed property; or

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

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

25 (7) The limitation on the amount of taxes, as

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

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

25 (a) rural improvement districts;

1 (b) special improvement districts;

2 (c) levies pledged for the repayment of bonded

3 indebtedness, including tax increment bonds;

4 (d) city street maintenance districts;

5 (e) tax increment financing districts;

6 (f) satisfaction of judgments against a taxing unit;

7 (g) street lighting assessments; and

8 (h) revolving funds to support any categories

9 specified in this subsection (8); and

10 (i) elementary and high school districts.

11 (9) The limitation on the amount of taxes levied does

12 not apply in a taxing unit if the voters in the taxing unit

13 approve an increase in tax liability following a resolution

14 of the governing body of the taxing unit containing:

15 (a) a finding that there are insufficient funds to

16 adequately operate the taxing unit as a result of 15-10-401

17 and 15-10-402;

18 (b) an explanation of the nature of the financial

19 emergency;

20 (c) an estimate of the amount of funding shortfall

21 expected by the taxing unit;

22 (d) a statement that applicable fund balances are or

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

24 (e) a finding that there are no alternative sources of

25 revenue;

1 (f) a summary of the alternatives that the governing

2 body of the taxing unit has considered; and

3 (g) a statement of the need for the increased revenue

4 and how it will be used.

5 (10) The limitation on the amount of taxes levied does

6 not apply to levies required to address the funding of

7 relief of suffering of inhabitants caused by famine,

8 conflagration, or other public calamity.

9 (11) The limitation on the amount of taxes levied by a

10 taxing jurisdiction subject to a statutory maximum mill levy

11 does not prevent a taxing jurisdiction from increasing its

12 number of mills beyond the statutory maximum mill levy to

13 produce revenue equal to its 1986 revenue.

14 (12) The limitation on the amount of taxes levied does

15 not apply to a levy increase to repay taxes paid under

16 protest in accordance with 15-1-402."

17 **Section 5.** Section 15-30-108, MCA, is amended to read:

18 "15-30-108. ~~{Temporary}~~--Surtax. After In addition to

19 the amount of tax liability has been computed as required in

20 15-30-103, each person filing a Montana individual income

21 tax return shall add as a surtax 10% of the tax liability,

22 ~~and the amount so arrived at is the amount due the state.~~

23 ~~{Terminates December 31, 1989--sec 127, Ch 6667-BT-1987}.~~"

24 **Section 6.** Section 15-35-108, MCA, is amended to read:

25 "15-35-108. Disposal of severance taxes. Severance

1 taxes collected under this chapter must be allocated
2 according to the provisions in effect on the date the tax is
3 due under 15-35-104. Severance taxes collected under the
4 provisions of this chapter are allocated as follows:

5 (1) To the trust fund created by Article IX, section
6 5, of the Montana constitution, 50% of total coal severance
7 tax collections. The trust fund moneys shall be deposited
8 in the fund established under 17-6-203(5) and invested by
9 the board of investments as provided by law.

10 (2) Starting July 1, 1987, and ending June 30, 1993,
11 12% of coal severance tax collections are allocated to the
12 highway reconstruction trust fund account in the state
13 special revenue fund.

14 (3) Coal severance tax collections remaining after the
15 allocations provided by subsections (1) and (2) are
16 allocated in the following percentages of the remaining
17 balance:

18 (a) after June 30, 1991, 20% to the state special
19 revenue fund to the credit of the education trust fund
20 account and 17.5% to the credit of the local impact account.
21 Unencumbered funds remaining in the local impact account at
22 the end of each biennium are allocated to the education
23 trust--fund--account state special revenue fund for state
24 equalization aid to public schools of the state.

25 (b) 35% until June 30, 1991, and thereafter 10% to the

1 state special revenue fund for state equalization aid to
2 public schools of the state;

3 (c) 1% to the state special revenue fund to the credit
4 of the county land planning account;

5 (d) 1 1/4% to the credit of the renewable resource
6 development bond fund;

7 (e) after June 30, 1991, 5% to a nonexpendable trust
8 fund for the purpose of parks acquisition or management,
9 protection of works of art in the state capitol, and other
10 cultural and aesthetic projects. Income from this trust fund
11 shall be appropriated as follows:

12 (i) 1/3 for protection of works of art in the state
13 capitol and other cultural and aesthetic projects; and

14 (ii) 2/3 for the acquisition, development, operation,
15 and maintenance of any sites and areas described in
16 23-1-102;

17 (f) 1% to the state special revenue fund to the credit
18 of the state library commission for the purposes of
19 providing basic library services for the residents of all
20 counties through library federations and for payment of the
21 costs of participating in regional and national networking;

22 (g) 1/2 of 1% to the state special revenue fund for
23 conservation districts;

24 (h) 1 1/4% to the debt service fund type to the credit
25 of the water development debt service fund;

SB 0026/02

1 (i) 2% to the state special revenue fund for the
2 Montana Growth Through Agriculture Act;

3 (j) all other revenues from severance taxes collected
4 under the provisions of this chapter to the credit of the
5 general fund of the state."

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

7 "17-3-213. Allocation to general road fund and
8 countywide school levies. (1) The forest reserve funds so
9 apportioned to each county shall must be apportioned by the
10 county treasurer in each county ~~between-the-several-funds~~ as
11 follows:

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

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

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

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

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

22 ~~(iv)--the--elementary--teacher--retirement--and--social~~
23 ~~security--fund--provided--for--in--20-9-501;~~

24 ~~(v)--the--high--school--teacher--retirement--and--social~~
25 ~~security--fund--provided--for--in--20-9-501.~~

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

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

19 **Section 8.** Section 17-7-502, MCA, is amended to read:

20 "17-7-502. Statutory appropriations -- definition --
21 requisites for validity. (1) A statutory appropriation is an
22 appropriation made by permanent law that authorizes spending
23 by a state agency without the need for a biennial
24 legislative appropriation or budget amendment.

25 (2) Except as provided in subsection (4), to be

1 effective, a statutory appropriation must comply with both
2 of the following provisions:

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

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

8 (3) The following laws are the only laws containing
9 statutory appropriations: 2-9-202; 2-17-105; 2-18-812;
10 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304;
11 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-70-101;
12 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424;
13 17-5-804; 19-8-504; 19-9-702; 19-9-1007; 19-10-205;
14 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606;
15 19-12-301; 19-13-604; 20-6-406; 20-8-111; section 50;
16 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-1016;
17 23-5-1027; 27-12-206; 37-51-501; 39-71-2504; 53-6-150;
18 53-24-206; 61-2-406; 61-5-121; 67-3-205; 75-1-1101;
19 75-5-1108; 75-11-313; 76-12-123; 80-2-103; 82-11-136;
20 82-11-161; 90-3-301; 90-4-215; 90-4-613; 90-6-331; 90-9-306;
21 and section 13, House Bill No. 861, Laws of 1985.

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

1 Montana. Agencies that have entered into agreements
2 authorized by the laws of Montana to pay the state
3 treasurer, for deposit in accordance with 17-2-101 through
4 17-2-107, as determined by the state treasurer, an amount
5 sufficient to pay the principal and interest as due on the
6 bonds or notes have statutory appropriation authority for
7 such payments. (In subsection (3), pursuant to sec. 10, Ch.
8 664, L. 1987, the inclusion of 39-71-2504 terminates June
9 30, 1991.)"

10 **Section 9.** Section 20-3-106, MCA, is amended to read:
11 "20-3-106. Supervision of schools -- powers and
12 duties. The superintendent of public instruction has the
13 general supervision of the public schools and districts of
14 the state, and he shall perform the following duties or acts
15 in implementing and enforcing the provisions of this title:
16 (1) resolve any controversy resulting from the
17 proration of costs by a joint board of trustees under the
18 provisions of 20-3-362;
19 (2) issue, renew, or deny teacher certification and
20 emergency authorizations of employment;
21 (3) negotiate reciprocal tuition agreements with other
22 states in accordance with the provisions of 20-5-314;
23 (4) serve on the teachers' retirement board in
24 accordance with the provisions of 2-15-1010;
25 (5) approve or disapprove the orders of a high school

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (33) administer the distribution of state retirement
17 equalization aid for each district's retirement fund
18 expenditures in accordance with ~~20-9-532~~ 20-9-347; and

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

22 **Section 10.** Section 20-3-205, MCA, is amended to read:
23 *20-3-205. Powers and duties. The county
24 superintendent has general supervision of the schools of the
25 county within the limitations prescribed by this title and

1 shall perform the following duties or acts:

2 (1) determine, establish, and reestablish trustee
3 nominating districts in accordance with the provisions of
4 20-3-352, 20-3-353, and 20-3-354;

5 (2) administer and file the oaths of members of the
6 boards of trustees of the districts in his county in
7 accordance with the provisions of 20-3-307;

8 (3) register the teacher or specialist certificates or
9 emergency authorization of employment of any person employed
10 in the county as a teacher, specialist, principal, or
11 district superintendent in accordance with the provisions of
12 20-4-202;

13 (4) act on each tuition application submitted to him
14 in accordance with the provisions of 20-5-301, 20-5-302,
15 20-5-304, and 20-5-311 and transmit the tuition information
16 required by 20-5-312;

17 (5) file a copy of the audit report for a district in
18 accordance with the provisions of 20-9-203;

19 (6) classify districts in accordance with the
20 provisions of 20-6-201 and 20-6-301;

21 (7) keep a transcript and reconcile the district
22 boundaries of the county in accordance with the provisions
23 of 20-6-103;

24 (8) fulfill all responsibilities assigned to him under
25 the provisions of this title regulating the organization,

1 alteration, or abandonment of districts;

2 (9) act on any unification proposition and, if
3 approved, establish additional trustee nominating districts
4 in accordance with 20-6-312 and 20-6-313;

5 (10) estimate the average number belonging (ANB) of an
6 opening school in accordance with the provisions of
7 20-6-502, 20-6-503, 20-6-504, or 20-6-506;

8 (11) process and, when required, act on school
9 isolation applications in accordance with the provisions of
10 20-9-302;

11 (12) complete the budgets, compute the budgeted
12 revenues and tax levies, file final and emergency budgets,
13 and fulfill such other responsibilities assigned to him
14 under the provisions of this title regulating school
15 budgeting systems;

16 (13) submit an annual financial report to the
17 superintendent of public instruction in accordance with the
18 provisions of 20-9-211;

19 (14) quarterly monthly, unless otherwise provided by
20 law, order the county treasurer to apportion state money,
21 county school money, and any other school money subject to
22 apportionment in accordance with the provisions of 20-9-212,
23 20-9-334, 20-9-347, 20-10-145, or 20-10-146;

24 (15) act on any request to transfer average number
25 belonging (ANB) in accordance with the provisions of

1 20-9-313(3);

2 (16) calculate the estimated budgeted general fund
3 sources of revenue in accordance with the provisions of
4 20-9-348 and the other general fund revenue provisions of
5 the general fund part of this title;

6 (17) compute the revenues and the district and county
7 levy requirements for each fund included in each district's
8 final budget and report such the computations to the board
9 of county commissioners in accordance with the provisions of
10 the general fund, transportation, bonds, and other school
11 funds parts of this title;

12 (18) file and forward bus driver certifications,
13 transportation contracts, and state transportation
14 reimbursement claims in accordance with the provisions of
15 20-10-103, 20-10-143, or 20-10-145;

16 (19) for districts which do not employ a district
17 superintendent or principal, recommend library book and
18 textbook selections in accordance with the provisions of
19 20-7-204 or 20-7-602;

20 (20) notify the superintendent of public instruction of
21 a textbook dealer's activities when required under the
22 provisions of 20-7-605 and otherwise comply with the
23 textbook dealer provisions of this title;

24 (21) act on district requests to allocate federal money
25 for indigent children for school food services in accordance

1 with the provisions of 20-10-205;

2 (22) perform any other duty prescribed from time to
3 time by this title, any other act of the legislature, the
4 policies of the board of public education, the policies of
5 the board of regents relating to community college
6 districts, or the rules of the superintendent of public
7 instruction;

8 (23) administer the oath of office to trustees without
9 the receipt of pay for administering the oath;

10 (24) keep a record of his official acts, preserve all
11 reports submitted to him under the provisions of this title,
12 preserve all books and instructional equipment or supplies,
13 keep all documents applicable to the administration of the
14 office, and surrender such all records, books, supplies, and
15 equipment to his successor;

16 (25) within 90 days after the close of the school
17 fiscal year, publish an annual report in the county
18 newspaper stating the following financial information for
19 the school fiscal year just ended for each district of the
20 county:

21 (a) the total of the cash balances of all funds
22 maintained by the district at the beginning of the year;

23 (b) the total receipts that were realized in each fund
24 maintained by the district;

25 (c) the total expenditures that were made from each

1 fund maintained by the district; and

2 (d) the total of the cash balances of all funds
3 maintained by the district at the end of the school fiscal
4 year; and

5 (26) hold meetings for the members of the trustees from
6 time to time at which matters for the good of the districts
7 ~~shall~~ must be discussed."

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

9 "20-3-324. Powers and duties. As prescribed elsewhere
10 in this title, the trustees of each district shall:

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

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

23 (3) administer the attendance and tuition provisions
24 and otherwise govern the pupils of the district in
25 accordance with the provisions of the pupils chapter of this

1 title;

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

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

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

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

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

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

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

24 (11) establish, maintain, budget, and finance the
25 transportation program of the district in accordance with

1 the provisions of the transportation parts of this title;
 2 (12) issue, refund, sell, budget, and redeem the bonds
 3 of the district in accordance with the provisions of the
 4 bonds parts of this title;
 5 (13) when applicable, establish, financially
 6 administer, and budget for the tuition fund, retirement
 7 fund, building reserve fund, adult education fund,
 8 nonoperating fund, school food services fund, miscellaneous
 9 federal programs fund, building fund, lease or rental
 10 agreement fund, traffic education fund, and interlocal
 11 cooperative agreement fund in accordance with the provisions
 12 of the other school funds parts of this title;
 13 (14) when applicable, administer any interlocal
 14 cooperative agreement, gifts, legacies, or devises in
 15 accordance with the provisions of the miscellaneous
 16 financial parts of this title;
 17 (15) hold in trust, acquire, and dispose of the real
 18 and personal property of the district in accordance with the
 19 provisions of the school sites and facilities part of this
 20 title;
 21 (16) operate the schools of the district in accordance
 22 with the provisions of the school calendar part of this
 23 title;
 24 (17) establish and maintain the instructional services
 25 of the schools of the district in accordance with the

1 provisions of the instructional services, textbooks,
 2 vocational education, and special education parts of this
 3 title;
 4 (18) establish and maintain the school food services of
 5 the district in accordance with the provisions of the school
 6 food services parts of this title;
 7 (19) make reports from time to time as the county
 8 superintendent, superintendent of public instruction, and
 9 board of public education may require;
 10 (20) retain, when considered advisable, a physician or
 11 registered nurse to inspect the sanitary conditions of the
 12 school or the general health conditions of each pupil and,
 13 upon request, make available to any parent or guardian any
 14 medical reports or health records maintained by the district
 15 pertaining to his child;
 16 (21) for each member of the trustees, visit each school
 17 of the district not less than once each school fiscal year
 18 to examine its management, conditions, and needs, except
 19 trustees from a first-class school district may share the
 20 responsibility for visiting each school in the district;
 21 (22) procure and display outside daily in suitable
 22 weather at each school of the district an American flag that
 23 measures not less than 4 feet by 6 feet;
 24 (23) adopt and administer a district policy on
 25 assessment for placement of any child who enrolls in a

1 school of the district from a nonpublic school that is not
2 accredited, as required in 20-5-110; and

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

7 **Section 12.** Section 20-3-331, MCA, is amended to read:

8 "20-3-331. Purchase of liability insurance. The
9 trustees of any district may purchase insurance coverage for
10 the district, trustees, and employees against liability for
11 the death, injury, or disability of any person or damage to
12 property. The trustees shall include the cost of coverage in
13 the general fund budget of the district."

14 **Section 13.** Section 20-5-305, MCA, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 **Section 15.** Section 20-6-401, MCA, is amended to read:
 15 **"20-6-401. Definitions.** As used in this part, unless
 16 the context clearly indicates otherwise, the following
 17 definitions apply:

18 (1) "Component districts" means the elementary or high
 19 school districts incorporated into the enlarged district.

20 (2) "Eligible pupils" means the average number
 21 belonging (ANB) in the operating schools of the component
 22 districts and the tuition pupils residing in the component
 23 districts and attending another district's school under the
 24 tuition provisions of the school laws, except that the
 25 pupils residing in the component district having the largest

1 total number of pupils are ineligible for bonus payment
2 consideration.

3 (3) "Enlarged district" means the elementary or high
4 school district resulting from the consolidation or
5 annexation of two or more component districts.

6 (4) "General bonus payment" for first- and
7 second-class school districts must be \$300 \$450 per eligible
8 pupil per year for a period of 3 years and must be deposited
9 in the enlarged district's general fund. General bonus
10 payment for third-class school districts must be \$500 \$750
11 per eligible pupil per year for a period of 3 years and must
12 be deposited in the enlarged district's general fund. The
13 general bonus payment must be made from the state school
14 equalization aid account.

15 (5) "Transportation bonus payment" is the provision of
16 ~~66 2/3%~~ state financing of the on-schedule transportation
17 amount as provided by the transportation provisions of the
18 school laws. When an eligible pupil is entitled to
19 transportation, the enlarged district is entitled to the
20 transportation bonus payment for the eligible pupil for a
21 period of 3 years. The payment must be made from the state
22 transportation aid account. When the eligible pupil rides a
23 bus providing transportation for ineligible pupils, the
24 ~~66 2/3%~~ state financing of the on-schedule amount for this
25 payment must be prorated to provide financing for the

1 eligible pupil."

2 **Section 16.** Section 20-6-506, MCA, is amended to read:

3 "**20-6-506.** Budgeting and cost sharing when junior high
4 school operated by elementary district and high school
5 district operating a county high school. (1) Whenever the
6 opening of a junior high school is approved for the ensuing
7 school fiscal year under 20-6-505, the county superintendent
8 shall estimate the average number belonging (ANB) after
9 investigating the probable enrollment for the junior high
10 school. The ANB determined by the county superintendent and
11 the ANB actually realized in subsequent school fiscal years
12 shall must be applied under 20-9-320 to prorate the
13 maximum-general-fund-budget-without-a-voted-levy foundation
14 program schedule amount provided in 20-9-303(2)(a) between
15 the elementary and high school districts. Each district
16 shall adopt its general fund budget on the basis of the
17 prorated amount and shall finance its proportionate share of
18 the cost of operating the junior high school.

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

24 **Section 17.** Section 20-6-603, MCA, is amended to read:

25 "**20-6-603.** Trustees' authority to acquire or dispose

1 of sites and buildings -- when election required. (1) The
 2 trustees of any district ~~shall have the authority to~~ may
 3 purchase, build, exchange, or otherwise acquire, or sell, or
 4 otherwise dispose of sites and buildings of the district.
 5 ~~Such action shall~~ Action may not be taken by the trustees
 6 without the approval of the qualified electors of the
 7 district at an election called for such the purpose of
 8 approval unless:

9 (a) a bond issue has been authorized for the purpose
 10 of constructing, purchasing, or acquiring the site or
 11 building;

12 (b) an additional levy under the provisions of
 13 20-9-353 has been approved for the purpose of constructing,
 14 purchasing, or acquiring the site or building;

15 (c) the cost of constructing, purchasing, or acquiring
 16 the site or building is financed without exceeding the
 17 ~~maximum general fund budget without a vote amount prescribed~~
 18 ~~in 20-9-316 through 20-9-321~~ foundation program schedule
 19 amount provided in 20-9-303(2)(a), and, in the case of a
 20 site purchase, the site has been approved under the
 21 provisions of 20-6-621; or

22 (d) ~~moneys are~~ money is otherwise available under the
 23 provisions of this title and the ballot for the site
 24 approval for such the building incorporated a description of
 25 the building to be located on the site.

1 (2) When an election is conducted under the provisions
 2 of this section, it shall must be called under the
 3 provisions of 20-20-201 and shall must be conducted in the
 4 manner prescribed by this title for school elections. An
 5 elector qualified to vote under the provisions of 20-20-301
 6 shall ~~be permitted to~~ may vote in such the election. If a
 7 majority of those electors voting at the election approve
 8 the proposed action, the trustees may take the proposed
 9 action."

10 **Section 18.** Section 20-6-608, MCA, is amended to read:

11 "20-6-608. Authority and duty of trustees to insure
 12 district property. The trustees of any district shall have
 13 ~~the authority and it shall be their duty to~~ insure any or
 14 all real and personal property of the district. The trustees
 15 shall include the cost of insurance in the general fund
 16 budget of the district."

17 **Section 19.** Section 20-7-414, MCA, is amended to read:

18 "20-7-414. Determination of children in need and type
 19 of special education needed -- approval of classes and
 20 programs by superintendent. (1) The determination of the
 21 children requiring special education and the type of special
 22 education needed by these children shall ~~be~~ is the
 23 responsibility of the trustees, and such the determination
 24 shall must be made in compliance with the procedures
 25 established in the rules of the superintendent of public

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

15 (2) Whenever the trustees of any district intend to
 16 establish a special education class or program, they shall
 17 apply for approval and funding of the class or program by
 18 the superintendent of public instruction. The superintendent
 19 of public instruction shall approve or disapprove the
 20 application for the special education class or program on
 21 the basis of its compliance with the laws of the state of
 22 Montana, the special education policies adopted by the board
 23 of public education, and the rules of the superintendent of
 24 public instruction. No special education class may be
 25 operated by the trustees without the approval of the

1 superintendent of public instruction. Each special education
 2 class or program must be approved annually to be funded as
 3 part of the maximum-budget-without-a-vote foundation program
 4 for special education."

5 **Section 20.** Section 20-7-422, MCA, is amended to read:
 6 "20-7-422. Out-of-state tuition for special education
 7 children. (1) If the trustees of any district recommend to
 8 the superintendent of public instruction the attendance of
 9 a child in need of special education in a special education
 10 program offered outside of the state of Montana, such the
 11 arrangements shall are not be subject to the out-of-state
 12 attendance provisions of the laws governing the attendance
 13 of pupils in schools outside the state of Montana.

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

24 **Section 21.** Section 20-7-431, MCA, is amended to read:
 25 "20-7-431. Allowable cost schedule for special

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

15 (a) instruction: salaries, benefits, supplies,
 16 textbooks, and other expenses including:

17 (i) salaries and benefits of special program teachers,
 18 regular program teachers, teacher aides, special education
 19 supervisors, audiologists, and speech and hearing
 20 clinicians--the entire cost if employed full time in the
 21 special program; if such 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;

25 (ii) teaching supplies and textbooks if used

1 exclusively for special programs--the actual total cost;

2 (iii) other expenses:

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

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

15 (b) supportive services, including:

16 (i) salaries and benefits of professional supportive
 17 personnel--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. Professional
 22 supportive personnel may include counselors, social workers,
 23 psychologists, psychometrists, physicians, nurses, and
 24 physical and occupational therapists.

25 (ii) salaries and benefits of clerical personnel for

1 who assist professional personnel in supportive
 2 services--the entire cost if employed full time in the
 3 special program; if such the personnel are shared between
 4 special and regular programs--a portion of the entire cost
 5 corresponding to the entire working time which each such
 6 person devotes to the special program;

7 (c) equipment:

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

9 (ii) special equipment for district-owned school buses
 10 necessary to accommodate special students--the actual total
 11 cost;

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

17 (iv) repair and maintenance of equipment--the actual
 18 total cost;

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

23 (2) The superintendent of public instruction shall
 24 prior--to--September--1,--1977,--revise--the adopt rules in
 25 accordance with the policies of the board of public

1 education for:

2 (a) keeping necessary records for supportive and
 3 administrative personnel and any personnel shared between
 4 special and regular programs;

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

10 (c) defining the kinds or types of equipment whose
 11 costs may be counted under subsection (1)(c)(i) of this
 12 section.

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

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

24 (5) Allowable costs prescribed in this section do not
 25 include the costs of the teachers' retirement system, the

1 public employees' retirement system, the federal social
2 security system, or the costs for unemployment compensation
3 insurance.

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

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

22 **Section 22.** Section 20-9-104, MCA, is amended to read:

23 "20-9-104. General fund cash reserve. (1) At the end
24 of each school fiscal year, the trustees of each district
25 shall designate what the portion of the general fund

1 end-of-the-year cash balance ~~shall~~ that is to be earmarked
2 as cash reserve for the purpose of paying general fund
3 warrants issued by the district from July 1 to November 30
4 of the ensuing school fiscal year. ~~The~~ Except as provided in
5 subsections (3) and (4), the amount of the general fund cash
6 balance that is earmarked as cash reserve shall may not
7 exceed 35% the following percentages of the final general
8 fund budget for the ensuing school fiscal year ~~and-shall~~;

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

11 (b) 30% for a district that received state
12 equalization aid equal to 25% or less of its foundation
13 program schedule entitlement in the current school fiscal
14 year; and

15 (c) 20% for a district that received state
16 equalization aid equal to more than 25% of its foundation
17 program schedule entitlement in the current school fiscal
18 year.

19 (2) The amount held as cash reserve may not be used
20 for property tax reduction in the manner permitted by
21 20-9-141(1)(b) for other receipts. Any portion of the
22 general fund end-of-the-year cash balance that is not
23 earmarked for cash reserve purposes ~~shall--be~~ is cash
24 reappropriated ~~which-shall~~ and must be used for property tax
25 reduction as provided in 20-9-141(1)(b)(iii).

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

4 (a) any amount received during the current school
 5 fiscal year under Public Law 81-874;

6 (b) the unused balance of any amount received in
 7 settlement of tax payments protested prior to [the effective
 8 date of this section]; or

9 (c) any amount received as a general bonus payment
 10 under 20-6-401.

11 (4) The limitation of subsection (1) does not apply if
 12 the amount earmarked as cash reserve is \$10,000 or less."

13 **Section 23.** Section 20-9-141, MCA, is amended to read:

14 "20-9-141. Computation of general fund net levy
 15 requirement by county superintendent. (1) The county
 16 superintendent shall compute the levy requirement for each
 17 district's general fund on the basis of the following
 18 procedure:

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

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

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

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

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

10 (i) anticipated federal ~~moneys~~ money received under
 11 the provisions of Title I of Public Law 81-874 or other
 12 anticipated federal ~~moneys~~ money received in lieu of such
 13 that federal act;

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

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

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

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

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

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

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

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

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

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

21 **Section 24.** 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 25.** 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 be
 6 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 specified
 18 in 20-9-213(4). All investment income must be deposited, and
 19 credited proportionately, in the funds established to
 20 account for the taxes received for the purposes specified in
 21 subsections (1)(a) and (1)(b)."

22 **Section 26.** 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 state
 13 unified investment program established in Title 17, chapter
 14 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 27.** 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.

4 (3) The amount of the general fund budget for each
5 school fiscal year ~~shall~~ may not exceed the financing
6 limitations established by this title but ~~shall-be-no~~ may
7 not be less than the amount established by law as the
8 foundation program. The general fund budget ~~shall~~ must be
9 financed by the foundation program revenues and may be
10 supplemented by ~~the-permissive-levy-and~~ an additional voted
11 ~~levies-in-the-manner~~ levy and other revenue, as provided by
12 law 20-9-353."

13 **Section 28.** Section 20-9-303, MCA, is amended to read:

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

25 (a) county equalization ~~moneys~~ money, as provided in

1 20-9-331 and 20-9-333; and
 2 (b) state equalization aid, as provided in 20-9-343;
 3 (c) appropriations for special education; and
 4 (d) a district levy as provided in subsection (3) for
 5 support of a school not approved as an isolated school under
 6 the provisions of 20-9-302.

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

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

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

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

1 state shall participate in the financing of the total amount
 2 of the foundation program.

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

19 **Section 29.** Section 20-9-311, MCA, is amended to read:

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

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

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

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

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

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

23 (b) a junior high school has been approved and
 24 accredited as a junior high school, all of the regularly
 25 enrolled, full-time pupils of the junior high school must be

1 considered as high school district pupils for ANB purposes;

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

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

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

19 **Section 30.** Section 20-9-312, MCA, is amended to read:

20 **"20-9-312. Maximum---general--fund--budget Foundation**
21 **program schedule for grades seven and eight. The ANB**
22 **calculated for grades 7 and 8 shall must be funded at the**
23 **high school rate, provided that the school meets the**
24 **standards for accreditation of a middle school. When such**
25 **the pupils are actually enrolled in an elementary school,**

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

6 **Section 31.** Section 20-9-315, MCA, is amended to read:

7 **"20-9-315. Maximum general fund budget and exceptions.**

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

15 (2) Notwithstanding the provisions of subsection (1),
16 a district's maximum general fund budget may not exceed 121%
17 of the foundation program amount for that district, except:

18 (a) when Public Law 81-874 funds are the source of
19 funding for the excess amount, until the state receives
20 approval of an application to equalize the funds under 20
21 U.S.C. 240(d);

22 (b) when a district had combined expenditures in
23 school fiscal year 1988 from its general fund and
24 comprehensive insurance fund in an amount greater than the
25 maximum general fund budget allowed by this section, in

1 which case the maximum general fund budget of the district
2 is limited to:

3 (i) its school fiscal year 1988 combined expenditure
4 amount until that amount does not exceed 121% of the
5 district's foundation program amount; or

6 (ii) the average of its school fiscal year 1988 and
7 1989 combined expenditure amounts until that average amount
8 does not exceed 121% of the district's foundation program
9 amount."

10 **Section 32.** Section 20-9-318, MCA, is amended to read:

11 **"20-9-318.** Elementary school maximum-budget foundation
12 program schedule for 1987-88 school fiscal year 1991 and
13 succeeding years. For 1987-88 the school fiscal year ending
14 June 30, 1991, and succeeding school years, the elementary
15 school maximum--budget foundation program schedule is as
16 follows:

17 (1) For each elementary school having an ANB of nine
18 or fewer pupils, the maximum ~~shall-be-\$20,150~~ is \$29,399 if
19 said the 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--\$20,150~~ is \$29,399 plus
22 ~~\$842-50~~ \$1,228.74 per pupil on the basis of the average
23 number belonging over nine.

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--\$33,842~~ is
2 ~~\$48,190~~ plus ~~\$842-50~~ \$1,228.74 per pupil on the basis of the
3 average number belonging over 14.

4 (4) For schools with an ANB of 18 pupils and employing
5 one teacher, the maximum ~~shall-be-\$27,741~~ is \$40,459 plus
6 ~~\$842-50~~ \$1,228.74 per pupil on the basis of the average
7 number belonging over 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-\$44,298~~ is
10 ~~\$64,595~~ plus ~~\$527-60~~ \$769.48 per pupil on the basis of the
11 average number belonging over 18, not to exceed an ANB of
12 50.

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

16 (a) For a school having an ANB of more than 40 and
17 employing a minimum of three teachers, the maximum of ~~\$1,957~~
18 ~~shall--be~~ \$2,854.18 is decreased at the rate of ~~\$1-90~~ \$2.77
19 for each additional pupil until the total number (ANB) ~~shall~~
20 ~~have-reached~~ reaches a total of 100 pupils.

21 (b) For a school having an ANB of more than 100
22 pupils, the maximum of ~~\$1,843--shall--be~~ \$2,687.92 is
23 decreased at the rate of ~~\$1-74~~ \$2.54 for each additional
24 pupil until the ANB ~~shall-have-reached~~ reaches 300 pupils.

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

1 pupils, the maximum ~~shall~~ may not exceed ~~\$1,496~~ \$2,181.84
2 for each pupil.

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

10 **Section 33.** Section 20-9-319, MCA, is amended to read:

11 ***20-9-319. High school maximum--budget foundation**
12 **program schedule for 1987-88 school fiscal year 1991 and**
13 **succeeding years. For 1987-88 the school fiscal year ending**
14 **June 30, 1991, and succeeding school years, the high school**
15 **maximum-budget foundation program schedule is as follows:**

16 (1) For each high school having an ANB of 24 or fewer
17 pupils, the maximum ~~shall-be-\$114,845~~ is \$178,762.

18 (2) For a secondary high school having an ANB of more
19 than 24 pupils, the maximum ~~\$4,785-~~shall-be~~ of~~ \$7,448.11 is
20 decreased at the rate of ~~\$26-10~~ \$40.63 for each additional
21 pupil until the ANB ~~shall-have-reached~~ reaches a total of 40
22 such pupils.

23 (3) For a school having an ANB of more than 40 pupils,
24 the maximum of ~~\$4,368-~~shall-be~~~~ \$6,799.03 is decreased at the
25 rate of ~~\$26-10~~ \$40.63 for each additional pupil until the

1 ANB ~~shall-have-reached~~ reaches 100 pupils.

2 (4) For a school having an ANB of more than 100
3 pupils, a the maximum of ~~\$2,802--~~shall--be~~~~ \$4,361.47 is
4 decreased at the rate of ~~\$4-37~~ \$6.80 for each additional
5 pupil until the ANB ~~shall-have-reached~~ reaches 200 pupils.

6 (5) For a school having an ANB of more than 200
7 pupils, the maximum of ~~\$2,365--~~shall--be~~~~ \$3,681.25 is
8 decreased by ~~\$2-40~~ \$3.74 for each additional pupil until the
9 ANB ~~shall-have-reached~~ reaches 300 pupils.

10 (6) For a school having an ANB of more than 300
11 pupils, the maximum of ~~\$2,125--~~shall--be~~~~ \$3,307.68 is
12 decreased at the rate of ~~44 68~~ cents for each additional
13 pupil until the ANB ~~shall-have-reached~~ reaches 600 pupils.

14 (7) For a school having an ANB over of more than 600
15 pupils, the maximum ~~shall~~ may not exceed ~~\$1,993~~ \$3,102.21
16 per pupil.

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

25 **Section 34.** Section 20-9-320, MCA, is amended to read:

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

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

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

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

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

25 (2) The general-fund-budget amount determined for each

1 school of a district under the schedules provided in
 2 20-9-316 through 20-9-319 shall must be totaled to determine
 3 the maximum-general-fund-budget-without-a-voted-levy
 4 foundation program schedule amount for such the district."

5 **Section 35.** Section 20-9-321, MCA, is amended to read:

6 "20-9-321. Maximum---general--fund--budget Foundation
 7 program and contingency funds for special education. (1) For
 8 the purpose of establishing the
 9 maximum-budget-without-a-vote foundation program amount for
 10 a current year special education program for a school
 11 district, the superintendent of public instruction will
 12 shall determine the total estimated cost of the special
 13 education program for the school district on the basis of a
 14 special education program budget submitted by the district.
 15 The budget will must be prepared on forms provided by the
 16 superintendent of public instruction and will must set out
 17 for each program:

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

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

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

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

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

1 year may be added to the ~~maximum-budget-without-a-vote~~
 2 foundation program amount for special education for the
 3 subsequent school year. Such ~~The allowable~~ costs must be
 4 recorded as previous year special education expenses in the
 5 school district budget for the subsequent school year.

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

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

18 **Section 36.** Section 20-9-322, MCA, is amended to read:
 19 "20-9-322. Elementary instructional aide funding
 20 qualification. (1) An elementary school that anticipates an
 21 ANB of at least 14 but less than 18 pupils for the ensuing
 22 school fiscal year may determine the ~~maximum--general--fund~~
 23 budget foundation program amount under the provisions of
 24 20-9-316(3) or 20-9-318(3) if eligibility is approved in
 25 accordance with the following provisions:

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

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

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

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

10 (iv) the factual information on which the estimate is
11 based; and

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

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

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

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

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

5 (b) a certified teacher."

6 **Section 37.** Section 20-9-331, MCA, is amended to read:

7 "20-9-331. Basic county tax and other revenues for
8 county equalization of the elementary district foundation
9 program. (1) ~~It shall be the duty of the~~ The county
10 commissioners of each county to shall levy an annual basic
11 tax of ~~28~~ 34 mills on the ~~dollars~~ dollar of the taxable
12 value of all taxable property within the county, except for
13 ~~vehicles subject to taxation under 61-3-504(2)~~ property
14 subject to a tax or fee under 23-2-517, 23-2-803,
15 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204, for the
16 purposes of local and state foundation program support. The
17 revenue to be collected from this levy ~~shall~~ must be
18 apportioned to the support of the foundation programs of the
19 elementary school districts in the county and to the state
20 special revenue fund, state equalization aid account, in the
21 following manner:

22 (a) In order to determine the amount of revenue raised
23 by this levy which is retained by the county, the sum of the
24 estimated revenues revenue identified in subsection (2)
25 ~~below shall~~ must be subtracted from the sum of the county

1 elementary transportation obligation and the total of the
2 foundation programs of all elementary districts of the
3 county.

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

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

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

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

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

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

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

24 (e) any federal or state money distributed to the
25 county as payment in lieu of the property taxation,

1 ~~established by the county--levy--required--by--this--section~~
 2 ~~including federal forest reserve funds allocated under the~~
 3 ~~provisions of 17-3-213;~~

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

6 (g) anticipated revenue from ~~vehicle~~ property taxes
 7 and fees imposed under 23-2-517, 23-2-803, 61-3-504(2),
 8 61-3-521, and 61-3-537, and 67-3-204."

9 **Section 38.** Section 20-9-333, MCA, is amended to read:

10 "20-9-333. Basic special levy and other revenues for
 11 county equalization of high school district foundation
 12 program. (1) ~~It--shall--be--the--duty--of--the~~ The county
 13 commissioners of each county to shall levy an annual basic
 14 special tax for high schools of ~~17~~ 21 mills on the dollar of
 15 the taxable value of all taxable property within the county,
 16 ~~except for vehicles--subject-to-taxation-under-61-3-504(2)~~
 17 ~~property subject to a tax or fee under 23-2-517, 23-2-803,~~
 18 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204, for the
 19 purposes of local and state foundation program support. The
 20 revenue to--be collected from this levy shall must be
 21 apportioned to the support of the foundation programs of
 22 high school districts in the county and to the state special
 23 revenue fund, state equalization aid account, in the
 24 following manner:

25 (a) In order to determine the amount of revenue raised

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

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

16 (c) If revenue from the basic levy prescribed by this
 17 section when combined with the other revenue from subsection
 18 (2) is insufficient to fully fund the percentage determined
 19 in 20-9-347(1)(b) and the county is eligible for an
 20 apportionment of state equalization aid under the provisions
 21 of 20-9-347(1)(c), the county superintendent shall notify
 22 the superintendent of public instruction of the deficiency.
 23 The superintendent of public instruction shall increase the
 24 state equalization aid payments to the districts in the
 25 affected county to offset the deficiency. A payment may not

1 be made under this subsection (c) that allows a district to
 2 receive foundation program funding in excess of the
 3 foundation program amount of the district.

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

12 (a) any money remaining at the end of the immediately
 13 preceding school fiscal year in the county treasurer's
 14 accounts for the various sources of revenue established in
 15 this section;

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

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

23 (d) anticipated revenue from vehicle property taxes
 24 and fees imposed under 23-2-517, 23-2-803, 61-3-504(2),
 25 61-3-521, and 61-3-537, and 67-3-204."

1 **Section 39.** Section 20-9-343, MCA, is amended to read:

2 "20-9-343. Definition of and revenue for state
 3 equalization aid. (1) As used in this title, the term "state
 4 equalization aid" means ~~those moneys~~ the money deposited in
 5 the state special revenue fund as required in this section
 6 plus any legislative appropriation of money from other
 7 sources for distribution to the public schools for the
 8 purpose purposes of equalization of the foundation program
 9 and retirement fund expenditures of the public school
 10 districts.

11 (2) ~~The legislative appropriation for state~~
 12 ~~equalization aid shall be made in a single sum for the~~
 13 ~~biennium. The superintendent of public instruction has~~
 14 ~~authority to may spend such appropriation, together with the~~
 15 ~~earmarked revenues provided in subsection (3), funds~~
 16 appropriated for state equalization aid as required for
 17 equalization of the foundation program purposes and
 18 retirement fund expenditures throughout the biennium.

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

22 (a) ~~31% of all~~ money received from the collection of
 23 income taxes under chapter 30 of Title 15, as provided by
 24 15-1-501;

25 (b) ~~25% of all money,~~ except as provided in 15-31-702,

1 money received from the collection of corporation license
2 and income taxes under chapter 31 of Title 15, as provided
3 by 15-1-501;

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

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

10 (e) interest and income money described in 20-9-341
11 and 20-9-342;

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

13 (g) money received from the state equalization aid
14 levy under [section 49];

15 (h) income from the lottery, as provided in 23-5-1027;

16 ~~(g)(i) in addition to these revenues,~~ the surplus
17 revenues collected by the counties for foundation program
18 support according to 20-9-331 and 20-9-333; and

19 (j) investment income earned by investing money in the
20 state equalization aid account in the state special revenue
21 fund.

22 (4) The superintendent of public instruction shall
23 request the board of investments to invest the money in the
24 state equalization aid account to maximize investment
25 earnings to the account.

1 ~~(4)~~(5) Any surplus revenue in the state equalization
2 aid account in the second year of a biennium may be used to
3 reduce the any appropriation required for the next
4 succeeding biennium."

5 **Section 40.** Section 20-9-344, MCA, is amended to read:

6 "20-9-344. Purpose of state equalization aid and
7 duties of the board of public education for distribution --
8 conditions of first payment. (1) The money available for
9 state equalization aid shall must be distributed and
10 apportioned to provide an annual minimum operating revenue
11 for the elementary and high schools in each county,
12 exclusive of revenues required for debt service and for the
13 payment of any ~~and all~~ costs and expense incurred in
14 connection with any adult education program, recreation
15 program, school food services program, new buildings, ~~new~~
16 and grounds, and transportation.

17 (2) The board of public education shall administer and
18 distribute the state equalization aid in the manner and with
19 the powers and duties provided by law. To this end, the
20 board of public education shall:

21 (a) adopt policies for regulating the distribution of
22 state equalization aid in accordance with the provisions of
23 law and in a manner that ~~would most effectively meet the~~
24 ~~financial needs of districts~~ provides for monthly
25 distribution to each district of its foundation program

1 amount;

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

5 (c) order the superintendent of public instruction to
6 distribute the state equalization aid on the basis of each
7 district's annual entitlement to such the aid as established
8 by the superintendent of public instruction. In ordering the
9 distribution of state equalization aid, the board of public
10 education ~~shall~~ may not increase or decrease the state
11 equalization aid distribution to any district on account of
12 any difference which that may occur during the school fiscal
13 year between budgeted and actual receipts from any other
14 source of school revenue.

15 (3) The board of public education may order the
16 superintendent of public instruction to withhold
17 distribution of state equalization aid or order the county
18 superintendent of schools to withhold county equalization
19 money from a district when the district fails to:

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

22 (b) maintain accredited status.

23 (4) Prior to any proposed order by the board of public
24 education to withhold distribution of state equalization aid
25 or county equalization money, the district is entitled to a

1 contested case hearing before the board of public education,
2 as provided under the Montana Administrative Procedure Act.

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

8 ~~(4)~~(6) (a) The first payment of state equalization aid
9 must be:

10 ~~(a)~~ based on an estimate of 20% of each district's
11 entitlement; and

12 ~~(b)~~ distributed by July 15 of the school fiscal year.

13 (b) Each subsequent monthly payment must be at least
14 7% of the district's amount."

15 **Section 41.** Section 20-9-346, MCA, is amended to read:

16 **"20-9-346. Duties of the superintendent of public**
17 **instruction for state equalization aid distribution. The**
18 **superintendent of public instruction shall administer the**
19 **distribution of the state equalization aid by:**

20 (1) establishing each district's annual entitlement to
21 state equalization aid in support of its retirement fund and
22 foundation program, based on the data reported in the budget
23 retirement and general fund budgets for each district that
24 has have been duly adopted for the current school fiscal
25 year and verified by the superintendent of public

1 instruction and by applying such the verified data under the
2 provisions of the state equalization aid allocation
3 procedure prescribed in 20-9-347;

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

8 (3) distributing by state warrant or electronic
9 transfer the state equalization aid, for each district
10 entitled to such the aid, to the county treasurer of the
11 county where the district is located, in accordance with the
12 distribution ordered by the board of public education;

13 (4) keeping a record in his office of the full and
14 complete data concerning moneys money available for state
15 equalization aid and the entitlements for state equalization
16 aid of the several districts of the state;

17 (5) reporting to the board of public education the
18 estimated amount which that will be available for state
19 equalization aid; and

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

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

25 (b) the amount of state equalization aid then

1 available;

2 (c) the apportionment made of such the available
3 moneys money but not yet distributed; and

4 (d) the latest estimate of accruals of moneys money
5 available for state equalization aid."

6 **Section 42.** Section 20-9-347, MCA, is amended to read:

7 **"20-9-347. Formula for state equalization aid**
8 **apportionment in support of foundation program and**
9 **retirement. (1) The superintendent of public instruction**
10 **shall apportion the state equalization aid available for**
11 **support of the foundation program, individually for the**
12 **elementary districts of a county or the high school**
13 **districts of a county, in accordance with 20-9-346 and on**
14 **the basis of the following procedure:**

15 (a) Determine the percentage that the total funds
16 available to all counties in the state in support of the
17 foundation program (including the state moneys money
18 available for state equalization aid in support of the
19 foundation program) is of the total amount of the foundation
20 programs of all counties.

21 (b) Determine the percentage that the total funds
22 available in each county in support of the foundation
23 programs in such the county (excluding state moneys money
24 available for state equalization aid in support of the
25 foundation program) is of the total amount of the foundation

1 programs of all districts of such the county.

2 (c) Counties in which the percentage determined in
3 subsection (1)(b) exceeds the percentage determined in
4 subsection (1)(a) ~~shall--not--be~~ are not entitled to an
5 apportionment of the state equalization aid in support of
6 the foundation program.

7 (d) After elimination of the counties referred to in
8 subsection (1)(c), determine the percentage that the total
9 ~~moneys~~ money available to all remaining counties in support
10 of the foundation program (including the state ~~moneys~~ money
11 available for state equalization aid in support of the
12 foundation program) is of the total amount of the foundation
13 programs of all such remaining counties.

14 (e) Each district of each remaining county ~~shall-be~~ is
15 entitled to an apportionment of the state equalization aid
16 ~~which-shall-be~~ in support of the foundation program equal to
17 the difference between the percentage determined in
18 subsection (1)(d) and the percentage determined for such the
19 county in subsection (1)(b) multiplied by the foundation
20 program amount for such the district.

21 (2) The superintendent of public instruction shall
22 also apportion state equalization aid to each district in
23 support of the district's retirement fund expenditures,
24 except as provided in 20-9-501(3), in the following manner
25 and in accordance with rules that must be adopted by the

1 superintendent of public instruction:

2 (a) For school fiscal year 1992, each county that
3 would be required to levy, in support of the retirement fund
4 budgets of the elementary and high school districts in the
5 county, more than the average number of mills levied per
6 county in taxable year 1989 for elementary or high school
7 district retirement fund budgets, respectively, shall
8 receive equalization aid equal to the amount required to be
9 raised in excess of the amount raised in that county by the
10 average levy per county.

11 (b) For school fiscal year 1993, each county shall
12 receive retirement equalization aid equal to 50% of the
13 amount required by the elementary districts and high school
14 districts in the county.

15 (c) For school fiscal years 1994 and succeeding years,
16 each district shall receive retirement equalization aid
17 equal to the full amount required by the elementary
18 districts and high school districts in the county.

19 {2}{3} The superintendent of public instruction shall
20 supply the county treasurer and the county superintendent
21 with a report of the apportionments of state equalization
22 aid to the ~~several~~-districts county and each district of the
23 county, and the state equalization aid shall must be
24 apportioned to such the county and the districts in
25 accordance with such the report."

1 **Section 43.** Section 20-9-351, MCA, is amended to read:

2 "20-9-351. Funding of deficiency in state equalization
3 aid. If the ~~foundation--program--level--made--under--the~~
4 ~~provisions-of-20-9-348-is-less-than-100%7-it--shall--be--the~~
5 duty--of money available for state equalization aid is not
6 sufficient to provide the foundation program schedule
7 support determined in 20-9-348 and the retirement fund
8 support required under 20-9-347, the superintendent of
9 public instruction to shall request the budget director to
10 submit a request for a supplemental appropriation in the
11 second year of the biennium that ~~would-be~~ is sufficient to
12 complete the funding of retirement and the foundation
13 programs of the elementary or secondary schools, or both,
14 for the current biennium."

15 **Section 44.** Section 20-9-353, MCA, is amended to read:

16 "20-9-353. Additional levy for general fund --
17 election for authorization to impose. (1) The Except as
18 limited by 20-9-315(2), the trustees of any district may
19 propose to adopt a general fund budget in excess of the
20 ~~general-fund-budget-amount~~ foundation program for such the
21 ~~district as-established-by-the-schedules-in-20-9-316-through~~
22 ~~20-9-321~~ for any of the following purposes:

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

25 (b) furnishing additional school facilities for the

1 district;

2 (c) acquisition of land for the district;

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

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

23 PROPOSITION

24 Shall a levy be made in addition to the levies
25 authorized by law in such the number of mills as may be

1 necessary to raise the sum of (state the amount to be raised
2 by additional tax levy), and being approximately (give
3 number) mills, for the purpose of (insert the purpose for
4 which the additional tax levy is made)?

5 FOR the levy.

6 AGAINST the levy.

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

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

24 **Section 45.** Section 20-9-501, MCA, is amended to read:

25 "20-9-501. Retirement fund. (1) The trustees of any

1 district employing personnel who are members of the
2 teachers' retirement system or the public employees'
3 retirement system or who are covered by unemployment
4 insurance or who are covered by any federal social security
5 system requiring employer contributions shall establish a
6 retirement fund for the purposes of budgeting and paying the
7 employer's contributions to such systems. The district's
8 contribution for each employee who is a member of the
9 teachers' retirement system shall must be calculated in
10 accordance with Title 19, chapter 4, part 6. The district's
11 contribution for each employee who is a member of the public
12 employees' retirement system shall must be calculated in
13 accordance with 19-3-801. ~~The-district-may-levy-a-special~~
14 ~~tax--to--pay--its--contribution--to--the--public--employees'~~
15 ~~retirement---system---under--the--conditions--prescribed--in~~
16 ~~19-3-204.~~ The district's contributions for each employee
17 covered by any federal social security system shall must be
18 paid in accordance with federal law and regulation. The
19 district's contribution for each employee who is covered by
20 unemployment insurance shall must be paid in accordance with
21 Title 39, chapter 51, part 11.

22 (2) The trustees of any district required to make a
23 contribution to any such system referred to in subsection
24 (1) shall include in the retirement fund of the preliminary
25 budget the estimated amount of the employer's contribution

1 and such additional moneys, within legal limitations, as
 2 they may wish to provide for the retirement fund cash
 3 reserve. After the final retirement fund budget has been
 4 adopted, the trustees shall pay the employer contributions
 5 to such systems in accordance with the financial
 6 administration provisions of this title.

7 (3) When the final retirement fund budget has been
 8 adopted, the county superintendent shall establish the levy
 9 requirement by:

10 (a) determining the sum of the moneys available to
 11 reduce the retirement fund levy requirement by adding:

12 (i) any anticipated moneys that may be realized in the
 13 retirement fund during the ensuing school fiscal year,
 14 including anticipated revenue from vehicle property taxes
 15 imposed under 61-3-504(2) and 61-3-537;

16 (ii) net proceeds taxes for interim production and new
 17 production, as defined in 15-23-601, and

18 (iii) any cash available for reappropriation as
 19 determined by subtracting the amount of the end of the year
 20 cash balance earmarked as the retirement fund cash reserve
 21 for the ensuing school fiscal year by the trustees from the
 22 end of the year cash balance in the retirement fund. The
 23 retirement fund cash reserve shall not be more than 35% of
 24 the final retirement fund budget for the ensuing school
 25 fiscal year and shall be used for the purpose of paying

1 retirement fund warrants issued by the district under the
 2 final retirement fund budget:

3 (b) subtracting the total of the moneys available for
 4 reduction of the levy requirement as determined in
 5 subsection (3)(a) from the budgeted amount for expenditures
 6 in the final retirement fund budget:

7 (4) The county superintendent shall:

8 (a) total the net retirement fund levy requirements
 9 separately for all elementary school districts, all high
 10 school districts, and all community college districts of the
 11 county, including any prorated joint district or special
 12 education cooperative agreement levy requirements;

13 (b) reduce the total retirement fund levy requirements
 14 of elementary school districts and high school districts by
 15 the amount available in state retirement equalization aid as
 16 calculated and distributed under the provisions of 20-9-532,
 17 and

18 (c) report each such levy requirement to the county
 19 commissioners on the second Monday of August as the
 20 respective county levy requirements for elementary district,
 21 high school district, and community college district
 22 retirement funds:

23 (5) The county commissioners shall fix and set such
 24 county levy in accordance with 20-9-142:

25 (6) The net retirement fund levy requirement for a

1 ~~joint elementary district or a joint high school district~~
 2 ~~shall be prorated to each county in which a part of such~~
 3 ~~district is located in the same proportion as the district~~
 4 ~~ANB of the joint district is distributed by pupil residence~~
 5 ~~in each such county. The county superintendents of the~~
 6 ~~counties affected shall jointly determine the net retirement~~
 7 ~~fund levy requirement for each county as provided in~~
 8 ~~20-9-151.~~

9 ~~{7} The net retirement fund levy requirement for~~
 10 ~~districts that are members of special education cooperative~~
 11 ~~agreements shall be prorated to each county in which such~~
 12 ~~district is located in the same proportion as the budget for~~
 13 ~~the special education cooperative agreement of the district~~
 14 ~~bears to the total budget of the cooperative. The county~~
 15 ~~superintendents of the counties affected shall jointly~~
 16 ~~determine the net retirement fund levy requirement for each~~
 17 ~~county in the same manner as provided in 20-9-151 and fix~~
 18 ~~and levy the net retirement fund levy for each county in the~~
 19 ~~same manner as provided in 20-9-152. {Subsection {4}{b}~~
 20 ~~effective July 1, 1988 sec. 8, Ch. 6357-B, 1987.}~~

21 {3} Retirement equalization aid may not be paid in
 22 support of discretionary retirement costs incurred by a
 23 district that provides termination pay or lump-sum deferred
 24 compensation for an employee. The trustees may levy a
 25 special tax to pay the district's contribution to the

1 appropriate retirement system for these discretionary
 2 obligations in accordance with 20-9-142."

3 **Section 46.** Section 23-5-1027, MCA, is amended to
 4 read:

5 "23-5-1027. Disposition of revenue. (1) A minimum of
 6 45% of the money paid for tickets or chances must be paid
 7 out as prize money. The prize money is statutorily
 8 appropriated, as provided in 17-7-502, to the lottery.

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

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

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

1 **Section 47.** Section 90-6-309, MCA, is amended to read:

2 **"90-6-309. Tax prepayment -- large-scale mineral**
 3 **development.** (1) After permission to commence operation is
 4 granted by the appropriate governmental agency, and upon
 5 request of the governing body of a county in which a
 6 facility is to be located, a person intending to construct
 7 or locate a large-scale mineral development in this state
 8 shall prepay property taxes as specified in the impact plan.
 9 This prepayment shall exclude the 6-mill university levy
 10 established under 20-25-423 and may exclude the mandatory
 11 county levy levies for the school foundation program ~~of-45~~
 12 mills established in 20-9-331 and 20-9-333.

13 (2) The person who is to prepay under this section
 14 ~~shall~~ is not be obligated to prepay the entire amount
 15 established in subsection (1) at one time. Upon request of
 16 the governing body of an affected local government unit, the
 17 person shall prepay the amount shown to be needed from time
 18 to time as determined by the board.

19 (3) The person who is to prepay shall guarantee to the
 20 hard-rock mining impact board, through an appropriate
 21 financial institution, as may be required by the board, that
 22 property tax prepayments will be paid as needed for
 23 expenditures created by the impacts of the large-scale
 24 mineral development.

25 (4) When the mineral development facilities are

1 completed and assessed by the department of revenue, they
 2 ~~shall be~~ are subject during the first 3 years and thereafter
 3 to taxation as all other property similarly situated, except
 4 that in each year after the start of production, the local
 5 government unit that received a property tax prepayment
 6 shall provide for repayment of prepaid property taxes in
 7 accordance with subsection (5).

8 (5) A local government unit that received all or a
 9 portion of the property tax prepayment under this section
 10 shall provide for tax crediting as specified in the impact
 11 plan. The tax credit allowed in any year may not, however,
 12 exceed the tax obligation of the developer for that year,
 13 and the time period for tax crediting is limited to the
 14 productive life of the mining operation."

15 NEW SECTION. **Section 48. Comprehensive insurance fund**
 16 **balance -- transfer.** A district that has a balance remaining
 17 on [the effective date of this section] in the district
 18 comprehensive insurance fund shall transfer the balance to
 19 the district general fund.

20 NEW SECTION. **Section 49. State equalization aid levy.**
 21 There is a levy of 45 mills imposed on all taxable property
 22 within the state, except property for which a tax or fee is
 23 required under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521,
 24 61-3-537, and 67-3-204. Proceeds of the levy must be
 25 remitted to the state treasurer and must be deposited to the

1 credit of the state special revenue fund for state
2 equalization aid for the public schools of Montana.

3 NEW SECTION. Section 50. State and county
4 equalization revenue -- statutory appropriation. Revenue
5 received in support of state and county equalization under
6 the provisions of 20-9-331, 20-9-333, and 20-9-343 is
7 statutorily appropriated, as provided in 17-7-502, to the
8 superintendent of public instruction to be used for county
9 equalization and state equalization aid for the public
10 schools, as provided by law, and must be accounted for in
11 accordance with generally accepted accounting principles.

12 NEW SECTION. Section 51. Purpose --
13 telecommunications network -- implementation -- consultant.

14 (1) The purpose of this section is to promote the use of
15 telecommunications technology for the purposes of enhancing
16 educational opportunities provided to students in the
17 Montana public school system and promoting equal access by
18 students to those opportunities.

19 (2) To provide for the training and education needs of
20 public schools, the department of administration shall
21 retain a telecommunications engineering consultant to
22 support the development of design criteria and
23 specifications for statewide video networking and
24 improvements in the use of existing voice and data networks
25 in the state.

1 (3) The telecommunications engineering consultant
2 shall:

3 (a) seek advice and recommendations on improvements in
4 telecommunications within Montana from the following
5 entities:

6 (i) the office of the superintendent of public
7 instruction;

8 (ii) the university system;

9 (iii) local government and school district officials;

10 (iv) agencies involved in economic development;

11 (v) the executive, judicial, and legislative branches
12 of state government; and

13 (vi) local exchange carriers providing service within
14 the state; and

15 (b) recommend and initiate network improvements during
16 the biennium through shared use and enhancements of existing
17 telecommunications systems, with emphasis on limiting
18 financial commitments to the extent possible.

19 NEW SECTION. Section 52. Definition. As used in
20 [sections 52 through 58], "committee" means the legislative
21 oversight committee on school funding implementation created
22 in [section 53].

23 NEW SECTION. Section 53. Legislative oversight
24 committee on school funding implementation -- composition
25 and appointment. (1) There is a legislative oversight

1 committee on school funding implementation.

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

3 (a) four members of the house of representatives
4 appointed by the speaker of the house;

5 (b) four members of the senate appointed by the
6 committee on committees of the senate;

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

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

11 (e) the governor or his designee as an ex officio
12 nonvoting member.

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

15 NEW SECTION. Section 54. Term of office -- vacancies.

16 (1) A committee member shall serve until the committee
17 terminates as provided in [section 58].

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

20 NEW SECTION. Section 55. Officers -- meetings --

21 quorum -- compensation. (1) The committee shall choose from
22 its membership a chairman and vice chairman.

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

25 (3) Six members constitute a quorum to transact

1 business.

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

4 NEW SECTION. Section 56. Duties of committee. The
5 duties of the committee include but are not limited to:

6 (1) monitoring the implementation of school funding
7 equalization, including:

8 (a) identification of any problems of implementation
9 and options for resolving these problems;

10 (b) continued analysis of school district budget and
11 expenditure data and of improvements in school district
12 accounting and reporting procedures; and

13 (c) examination of other issues related to
14 implementation;

15 (2) directing the following studies of issues related
16 to school funding equalization:

17 (a) school transportation equalization, including but
18 not limited to:

19 (i) mechanisms to equalize transportation funding; and

20 (ii) analysis of issues related to the costs and
21 efficiencies of school transportation, including
22 reimbursement schedules, load requirements, 3-mile limit,
23 transporting ineligible transportees, functions of the
24 county transportation committee, and school district
25 reporting and budgeting duties;

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

3 (i) analysis of school district funds and budgets for
4 various school district capital outlay and debt service
5 obligations; and

6 (ii) options for equalizing school district capital
7 outlay and debt service obligations; and

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

14 (3) ongoing analysis of revenue sources related to
15 school funding;

16 (4) holding discussions with any party contemplating
17 litigation regarding compliance with the supreme court and
18 district court rulings on school funding equalization; and

19 (5) reporting its findings, options for legislative
20 consideration, and any proposed legislation to the governor
21 and the 52nd legislature.

22 **NEW SECTION. Section 57. Staff assistance.** The
23 committee may request the following governmental entities to
24 provide staff assistance to the committee:

25 (1) the office of public instruction;

1 (2) the governor's office of budget and program
2 planning;

3 (3) the board of public education;

4 (4) the legislative council;

5 (5) the office of the legislative fiscal analyst; and

6 (6) the office of the legislative auditor.

7 **NEW SECTION. Section 58. Termination.** [Sections 52
8 through 58] terminate December 31, 1990.

9 **Section 59.** Section 7-1-2111, MCA, is amended to read:

10 *7-1-2111. **Classification of counties.** (1) For the
11 purpose of regulating the compensation and salaries of all
12 county officers, not otherwise provided for, and for fixing
13 the penalties of officers' bonds, the several counties of
14 this state shall must be classified according to that
15 percentage of the true and full valuation of the property
16 therein in the counties upon which the tax levy is made,
17 except for vehicles subject to taxation under 61-3-504(2),
18 as follows:

19 (a) first class--all counties having such a taxable
20 valuation of \$50 million or over;

21 (b) second class--all counties having such a taxable
22 valuation of more than \$30 million and less than \$50
23 million;

24 (c) third class--all counties having such a taxable
25 valuation of more than \$20 million and less than \$30

1 million;

2 (d) fourth class--all counties having such a taxable
3 valuation of more than \$15 million and less than \$20
4 million;

5 (e) fifth class--all counties having such a taxable
6 valuation of more than \$10 million and less than \$15
7 million;

8 (f) sixth class--all counties having such a taxable
9 valuation of more than \$5 million and less than \$10 million;

10 (g) seventh class--all counties having such a taxable
11 valuation of less than \$5 million.

12 (2) As used in this section, taxable valuation means
13 the taxable value of taxable property in the county as of
14 the time of determination plus:

15 (a) that portion of the taxable value of the county on
16 December 31, 1981, attributable to automobiles and trucks
17 having a rated capacity of three-quarters of a ton or less;

18 (b) that portion of the taxable value of the county on
19 December 31, 1989, attributable to automobiles and trucks
20 having a rated capacity of more than three-quarters of a ton
21 but less than or equal to 1 ton;

22 (c) the amount of interim production and new
23 production taxes levied, as provided in 15-23-607, divided
24 by the appropriate tax rates described in 15-23-607(2)(a) or
25 (2)(b) and multiplied by 60%; and

1 (d) the amount of value represented by new production
2 exempted from tax as provided in 15-23-612 multiplied by
3 60%, plus the value of any other production occurring after
4 December 31, 1988, multiplied by 60%."

5 **Section 60.** Section 7-7-2101, MCA, is amended to read:

6 "7-7-2101. Limitation on amount of county
7 indebtedness. (1) No county may become indebted in any
8 manner or for any purpose to an amount, including existing
9 indebtedness, in the aggregate exceeding 23% of the total of
10 the taxable value of the property therein subject to
11 taxation, plus the amount of interim production and new
12 production taxes levied divided by the appropriate tax rates
13 described in 15-23-607(2)(a) or (2)(b) and multiplied by
14 60%, plus the amount of value represented by new production
15 exempted from tax as provided in 15-23-612 multiplied by
16 60%, plus the value of any other production occurring after
17 December 31, 1988, multiplied by 60%, as ascertained by the
18 last assessment for state and county taxes previous to the
19 incurring of such the indebtedness.

20 (2) No county may incur indebtedness or liability for
21 any single purpose to an amount exceeding \$500,000 without
22 the approval of a majority of the electors thereof voting at
23 an election to be provided by law, except as provided in
24 7-21-3413 and 7-21-3414.

25 (3) Nothing in this section shall apply to the

1 acquisition of conservation easements as set forth in Title
2 76, chapter 6."

3 **Section 61.** Section 7-7-2203, MCA, is amended to read:

4 "7-7-2203. Limitation on amount of bonded
5 indebtedness. (1) Except as provided in subsections (2)
6 through (4), no county may issue general obligation bonds
7 for any purpose which, with all outstanding bonds and
8 warrants except county high school bonds and emergency
9 bonds, will exceed 11.25% of the total of the taxable value
10 of the property therein, plus the amount of interim
11 production and new production taxes levied divided by the
12 appropriate tax rates described in 15-23-607(2)(a) or (2)(b)
13 and multiplied by 60%, plus the amount of value represented
14 by new production exempted from tax as provided in 15-23-612
15 multiplied by 60%, plus the value of any other production
16 occurring after December 31, 1988, multiplied by 60%, to be
17 ascertained by the last assessment for state and county
18 taxes prior to the proposed issuance of bonds.

19 (2) In addition to the bonds allowed by subsection
20 (1), a county may issue bonds which, with all outstanding
21 bonds and warrants, will not exceed 27.75% of the total of
22 the taxable value of the property in the county subject to
23 taxation, plus the amount of interim production and new
24 production taxes levied divided by the appropriate tax rates
25 described in 15-23-607(2)(a) or (2)(b) and multiplied by

1 60%, plus the amount of value represented by new production
2 exempted from tax as provided in 15-23-612 multiplied by
3 60%, when necessary to do so, plus the value of any other
4 production occurring after December 31, 1988, multiplied by
5 60% for the purpose of acquiring land for a site for county
6 high school buildings and for erecting or acquiring
7 buildings thereon and furnishing and equipping the same for
8 county high school purposes.

9 (3) In addition to the bonds allowed by subsections
10 (1) and (2), a county may issue bonds for the construction
11 or improvement of a jail which will not exceed 12.5% of the
12 taxable value of the property in the county subject to
13 taxation.

14 (4) The limitation in subsection (1) does not apply to
15 refunding bonds issued for the purpose of paying or retiring
16 county bonds lawfully issued prior to January 1, 1932, or to
17 bonds issued for the repayment of tax protests lost by the
18 county."

19 **Section 62.** Section 7-14-2524, MCA, is amended to
20 read:

21 "7-14-2524. Limitation on amount of bonds issued --
22 excess void. (1) Except as otherwise provided hereafter and
23 in 7-7-2203 and 7-7-2204, no a county shall may not issue
24 bonds which, with all outstanding bonds and warrants except
25 county high school bonds and emergency bonds, will exceed

1 11.25% of the total of the taxable value of the property
 2 therein, plus the amount of interim production and new
 3 production taxes levied divided by the appropriate tax rates
 4 described in 15-23-607(2)(a) or (2)(b) and multiplied by
 5 60%, plus the amount of value represented by new production
 6 exempted from tax as provided in 15-23-612 multiplied by
 7 60%, plus the value of any other production occurring after
 8 December 31, 1988, multiplied by 60%. The taxable property
 9 and the amount of interim production and new production
 10 taxes levied shall must be ascertained by the last
 11 assessment for state and county taxes prior to the issuance
 12 of such the bonds.

13 (2) A county may issue bonds which, with all
 14 outstanding bonds and warrants except county high school
 15 bonds, will exceed 11.25% but will not exceed 22.5% of the
 16 total of the taxable value of such property, plus the amount
 17 of interim production and new production taxes levied
 18 divided by the appropriate tax rates described in
 19 15-23-607(2)(a) or (2)(b) and multiplied by 60%, plus the
 20 amount of value represented by new production exempted from
 21 tax as provided in 15-23-612, plus the value of any other
 22 production occurring after December 31, 1988, multiplied by
 23 60% when necessary for the purpose of replacing, rebuilding,
 24 or repairing county buildings, bridges, or highways which
 25 have been destroyed or damaged by an act of God, disaster,

1 catastrophe, or accident.

2 (3) The value of the bonds issued and all other
 3 outstanding indebtedness of the county, except county high
 4 school bonds, shall not exceed 22.5% of the total of the
 5 taxable value of the property within the county, plus the
 6 amount of interim production and new production taxes levied
 7 divided by the appropriate tax rates described in
 8 15-23-607(2)(a) or (2)(b) and multiplied by 60%, plus the
 9 amount of value represented by new production exempted from
 10 tax as provided in 15-23-612, plus the value of any other
 11 production occurring after December 31, 1988, multiplied by
 12 60%, as ascertained by the last preceding general
 13 assessment."

14 **Section 63.** Section 7-14-2525, MCA, is amended to
 15 read:

16 "7-14-2525. Refunding agreements and refunding bonds
 17 authorized. (1) Whenever the total indebtedness of a county
 18 exceeds 22.5% of the total of the taxable value of the
 19 property therein, plus the amount of interim production and
 20 new production taxes levied divided by the appropriate tax
 21 rates described in 15-23-607(2)(a) or (2)(b) and multiplied
 22 by 60%, plus the amount of value represented by new
 23 production exempted from tax as provided in 15-23-612
 24 multiplied by 60%, plus the value of any other production
 25 occurring after December 31, 1988, multiplied by 60%, and

1 the board determines that the county is unable to pay such
2 the indebtedness in full, the board may:

3 (a) negotiate with the bondholders for an agreement
4 whereby the bondholders agree to accept less than the full
5 amount of the bonds and the accrued unpaid interest thereon
6 in satisfaction thereof;

7 (b) enter into such agreement;

8 (c) issue refunding bonds for the amount agreed upon.

9 (2) These bonds may be issued in more than one series,
10 and each series may be either amortization or serial bonds.

11 (3) The plan agreed upon between the board and the
12 bondholders shall be embodied in full in the resolution
13 providing for the issue of the bonds."

14 **Section 64.** Section 7-16-2327, MCA, is amended to
15 read:

16 "7-16-2327. Indebtedness for park purposes. (1)
17 Subject to the provisions of subsection (2), a county park
18 board, in addition to powers and duties now given under law,
19 ~~shall---have~~ has the power and duty to contract an
20 indebtedness in behalf of a county, upon the credit thereof,
21 for the purposes of 7-16-2321(1) and (2).

22 (2) (a) The total amount of indebtedness authorized to
23 be contracted in any form, including the then-existing
24 indebtedness, must not at any time exceed 13% of the total
25 of the taxable value of the taxable property in the county,

1 plus the amount of interim production and new production
2 taxes levied divided by the appropriate tax rates described
3 in 15-23-607(2)(a) or (2)(b) and multiplied by 60%, plus the
4 amount of value represented by new production exempted from
5 tax as provided in 15-23-612, plus the value of any other
6 production occurring after December 31, 1988, multiplied by
7 60%, ascertained by the last assessment for state and county
8 taxes previous to the incurring of such the indebtedness.

9 (b) No money may be borrowed on bonds issued for the
10 purchase of lands and improving same for any such purpose
11 until the proposition has been submitted to the vote of
12 those qualified under the provisions of the state
13 constitution to vote at such election in the county affected
14 thereby and a majority vote is cast in favor thereof."

15 **Section 65.** Section 15-6-132, MCA, is amended to read:

16 "15-6-132. Class two property -- description --
17 taxable percentage. (1) Class two property includes:

18 (a) the annual gross proceeds of metal mines;

19 (b) ~~the annual gross proceeds of underground coal~~
20 ~~mines; and~~

21 (c) ~~the annual gross proceeds of coal mines using the~~
22 ~~strip-mining method.~~

23 (2) Class two property is taxed as follows:

24 (a) ~~Property described in subsection (1)(a) is taxed~~
25 at 3% of its annual gross proceeds, as defined in 15-23-801.

~~(b) Property described in subsection (1)(b) is taxed at 33 1/3% of its annual gross proceeds.~~

~~(c) Property described in subsection (1)(c) is taxed at 45% of its annual gross proceeds."~~

Section 66. Section 15-23-602, MCA, is amended to read:

"15-23-602. Statement of sales proceeds on interim production and new production. (1) Except as As provided in subsection (2), each operator or producer of interim production or new production of natural gas, petroleum, or other crude or mineral oil ~~must on or before April 15 in each year~~ shall make out and deliver to the department of revenue a statement of the gross sales proceeds of such interim production or new production of natural gas, petroleum, or other crude or mineral oil from each well owned or worked by such the person during the next preceding calendar year. The gross sales proceeds shall must be determined by multiplying the units of production sold from the well times the royalty unit value of that production at the well. Such The statement shall must be in the form prescribed by the department and must be verified by the oath of the operator or producer or the manager, superintendent, agent, president, or vice-president of such the corporation, association, or partnership. Such The statement shall must show the following:

(a) the name and address of the operator, together with a list in duplicate of the names and addresses of any ~~and all~~ persons owning or claiming any royalty interest in the production from the well or the proceeds derived from the sale thereof of the production, and the amount or amounts paid or yielded as royalty to each of such those persons during the period covered by the statement;

(b) the description and location of the well;

(c) the number of cubic feet of natural gas, barrels of petroleum or other crude or mineral oil sold from the well during the period covered by the statement; and

(d) the gross sales proceeds in dollars and cents or, in the case of sales between parties not acting at arm's length, the greater of the gross sales proceeds from or the fair market value of the products sold;

~~(e) except for interim production and new production as defined in 15-23-601:~~

~~(i) actual cost of extracting product from well;~~

~~(ii) cost of construction, repairs, and betterments;~~

~~(iii) actual cost of fire insurance and workers' compensation insurance;~~

~~(iv) the amount paid or withheld in satisfaction of liability for excise taxes imposed by the U.S. government on the production, sale, or removal of the natural gas, petroleum, or other crude or mineral oil reported pursuant~~

1 ~~to subsection (1)(c), including a separate statement of the~~
 2 ~~amount of such taxes paid or withheld from each royalty~~
 3 ~~owner.~~

4 (2) Each operator having interim production or new
 5 production as defined in 15-23-601 shall, on or before the
 6 last day of the months of October, January, April, and July,
 7 make out and deliver to the department of revenue a
 8 statement of the gross sales proceeds of such the interim
 9 production or new production from each well owned or worked
 10 by such the person during the preceding calendar quarter.
 11 The statement must be in the form prescribed by the
 12 department and verified as provided in subsection (1). The
 13 statement shall must show the information required in
 14 subsections (1)(a) through (1)(d)."

15 **Section 67.** Section 15-23-603, MCA, is amended to
 16 read:

17 "15-23-603. Net proceeds -- how computed. (1) Except
 18 as As provided in subsection (3) (2), the department of
 19 revenue shall calculate and compute from the returns the
 20 gross sales proceeds of the product yielded from such the
 21 well for the year covered by the statement and shall
 22 calculate the net proceeds of the well yielded to the
 23 producer, which net proceeds shall ~~be~~ are determined by
 24 subtracting from the gross sales proceeds thereof ~~the~~
 25 following: of the well

1 (a) all royalty paid in cash by the operator or
 2 producer and the gross value of all royalty apportioned in
 3 kind by the operator or producer ~~that shall be determined by~~
 4 using as the value of a barrel of oil or a cubic foot of gas
 5 the average selling price for the calendar year of a barrel
 6 of oil or a cubic foot of gas from the well out of which the
 7 royalty was paid;_

8 (b) ~~all money expended for necessary labor and~~
 9 ~~machinery needed and used in the operation and development;~~

10 (c) ~~except as provided in subsection (5), all money~~
 11 ~~expended for necessary supplies needed and used in the~~
 12 ~~operation and development;~~

13 (d) ~~all money expended for improvements, repairs, and~~
 14 ~~betterments necessary in and about the working of the well;~~

15 (e) ~~that portion of all money, including costs of~~
 16 ~~insurance, expended for the acquisition and operation of any~~
 17 ~~vehicle used in the operation and development of the well~~
 18 ~~which bears the same ratio to all money expended for the~~
 19 ~~acquisition and use of the vehicle during the year covered~~
 20 ~~by the statement as the number of miles the vehicle is used~~
 21 ~~in operation and development of the well during the year~~
 22 ~~covered by the statement bears to the total miles the~~
 23 ~~vehicle is used during the year covered by the statement;~~

24 (f) ~~all money expended for fire insurance, workers'~~
 25 ~~compensation insurance, liability insurance, and casualty~~

1 insurance--directly--attributable--to--the---operation---and
 2 development--of--the--well--and--for--payments--by--operators--to
 3 welfare--and--retirement--funds--when--provided--for--in--wage
 4 contracts--between--operators--and--employees;

5 (g)--all--money---expended---for--any--performance--or
 6 indemnity--bonds--required--by--the--laws--of--this--state--or--the
 7 rules--of--any--state--agency,--with--respect--to--the--well--for
 8 which--the--net--proceeds--are--being--calculated;

9 (h)--70%--of--the--amount--paid--or--withheld--in--satisfaction
 10 of--liability--for--excise--taxes--imposed--by--the--U.S.--government
 11 on--the--production,--sale,--or--removal--of--the--natural--gas,
 12 petroleum,--or--other--crude--or--mineral--oil--yielded--from--such
 13 well,--other--than--the--amount--of--such--taxes--paid--by--or
 14 withheld--from--each--royalty--owner;--and

15 (i)--net--proceeds--determined--under--subsection--(3);

16 (2)--No--money--invested--in--the--well--and--improvements
 17 during--any--year--except--the--year--for--which--such--statement--is
 18 made--may--be--included--in--such--expenditures,--except--as
 19 provided--in--15-23-604,--and--such--expenditures--may--not--include
 20 the--salaries--or--any--portion--thereof--of--any--person--or--officer
 21 not--actually--engaged--in--the--working--of--the--well---or
 22 superintending--the--management--thereof;

23 (3)(2) For interim production or new production, net
 24 proceeds are the equivalent of the gross sales proceeds,
 25 without deduction for excise taxes, of the product yielded

1 from such the well for the year quarter covered by the
 2 statement, except that in computing the total number of
 3 barrels of petroleum and other mineral or crude oil or cubic
 4 feet of natural gas produced, there shall must be deducted
 5 therefrom so much thereof of the product as is used in the
 6 operation of the well from which the petroleum or other
 7 mineral or crude oil or natural gas is produced for pumping
 8 the petroleum or other mineral or crude oil or natural gas
 9 from the well to a tank or pipeline.

10 (4)(3) To--determine--net--proceeds--under--subsection--(1)
 11 In the statement of sales proceeds required under 15-23-602
 12 for lease or unitized areas from which interim or new
 13 production and other production have been sold, the
 14 deductions--allowed--in--subsections--(1)(b)--through--(1)(h)--must
 15 be--prorated--on--the--basis--of--the number of barrels of interim
 16 and new production of oil or cubic feet of interim or new
 17 production of gas to must be segregated from and stated
 18 separately from the number of barrels of other production of
 19 oil or cubic feet of other production of gas.

20 (5)(4) In calculating the deduction for money expended
 21 for necessary chemical supplies needed and used in a
 22 tertiary recovery project approved by the department of
 23 revenue, as provided in 15-36-101, the department shall
 24 require that the necessary chemical supplies, which include
 25 but are not limited to carbon dioxide supplies, be amortized

1 over a 10-year period beginning with the year in which the
2 money was expended."

3 **Section 68.** Section 15-23-605, MCA, is amended to
4 read:

5 "15-23-605. Assessment of royalties on interim
6 production and new production. ~~{1}~~---The For interim
7 production and new production, the amount of royalty
8 received-valued-as-provided-in-15-23-603{1}{a}, less 70% of
9 the-amount-of-excise-taxes-paid-by--or--withheld--from--the
10 royalty--owner--as-reported-pursuant-to-15-23-602{1}{e}{iv},
11 shall in cash paid by the operator or producer and the gross
12 value of all royalty apportioned in kind by the operator or
13 producer determined by using as the value of a barrel of oil
14 or a cubic foot of gas the average selling price for the
15 calendar year of a barrel of oil or a cubic foot of gas from
16 the well out of which the royalty was paid must be
17 considered net proceeds to the recipient and shall must be
18 assessed as follows: upon receipt of the lists or schedules
19 setting forth the names and addresses of any and-all persons
20 owning or claiming royalty and the amount paid or yielded as
21 royalty to such the royalty owners or claimants during the
22 year for which such the return is made, the department of
23 revenue shall proceed to assess and tax the same as net
24 proceeds of mines.

25 ~~{2}~~---Net--proceeds--for--interim--production--and--new

1 ~~production,--as--defined--in--15-23-601,--includes-royalties~~
2 ~~received-without-deduction-for-excise-taxes."~~

3 **Section 69.** Section 15-23-607, MCA, is amended to
4 read:

5 "15-23-607. County assessors to compute taxes. (1)
6 Immediately after the board of county commissioners has
7 fixed tax levies on the second Monday in August, the county
8 assessor shall, subject to the provisions of 15-23-612,
9 compute the taxes on such net proceeds, except as provided
10 in-15-23-612-and in subsection (2) of this section, and
11 royalty assessments and shall deliver the book to the county
12 treasurer on or before September 15. The county treasurer
13 shall proceed to give full notice thereof of the assessments
14 to such the operator and to shall collect the same-in-manner
15 taxes as provided by law.

16 (2) For interim production or new production, as
17 defined in 15-23-601, the county assessor may not levy or
18 assess any mills against the value of such the interim
19 production or new production, but shall instead levy a tax
20 as follows:

21 (a) for interim production or new production of
22 petroleum or other mineral or crude oil, 7% of net proceeds,
23 as described in 15-23-603{3}{2}; or

24 (b) for interim production or new production of
25 natural gas, 12% of net proceeds, as described in

1 15-23-603(3)(2).

2 (3) The amount of tax levied in subsections (2)(a) and
3 (2)(b), divided by the appropriate tax rate and multiplied
4 by 60%, shall must be treated as taxable value for county
5 bonding purposes.

6 (4) The operator or producer shall-be is liable for
7 the payment of said the taxes and-same-shall that, except as
8 provided in 15-16-121, be are payable by and shall must be
9 collected from such the operators in the same manner and
10 under the same penalties as provided for the collection of
11 taxes upon net proceeds of mines;-provided;-however;-that.
12 However, the operator may at his option withhold from the
13 proceeds of royalty interest, either in kind or in money, an
14 estimated amount of the tax to be paid by him upon such the
15 royalty or royalty interest. After such the withholding, any
16 deviation between the estimated tax and the actual tax may
17 be accounted for by adjusting subsequent withholdings from
18 the proceeds of royalty interests."

19 **Section 70.** Section 15-23-703, MCA, is amended to
20 read:

21 "15-23-703. Taxation of gross proceeds -- taxable
22 value for bonding. (1) The county assessor shall prepare
23 compute from the reported gross proceeds from coal a tax
24 roll which that he shall transmit to the county treasurer on
25 or before September 15 each year. The county assessor may

1 not levy or assess any mills against the reported gross
2 proceeds of coal but shall levy a tax of 5% against the
3 value of the reported gross proceeds AS PROVIDED IN
4 15-23-701(1)(D). The county treasurer shall proceed to give
5 full notice thereof to each coal producer of the taxes due
6 and to collect the taxes due-within-60-days-after-mailing as
7 provided in 15-16-101.

8 ~~(2) --The amount of tax levied in subsection (1) divided~~
9 ~~by the tax rate is the taxable value of the gross proceeds~~
10 ~~of coal for bonding purposes.~~

11 (2) FOR BONDING, COUNTY CLASSIFICATION, AND ALL NONTAX
12 PURPOSES, THE TAXABLE VALUE FOR GROSS PROCEEDS IS 45% OF
13 CONTRACT SALES PRICE AS DEFINED IN 15-35-102(5)."

14 NEW SECTION. Section 71. Disposition of taxes. The
15 county treasurer shall credit all taxes collected under
16 15-23-703 in the relative proportions required by the levies
17 for state, county, school district, and municipal purposes
18 in the same manner as property taxes were distributed in the
19 year preceding the budget year.

20 **Section 72.** Section 15-36-101, MCA, is amended to
21 read:

22 "15-36-101. Definitions and rate of tax -- local
23 government severance tax. (1) Every person engaging in or
24 carrying on the business of producing petroleum, other
25 mineral or crude oil, or natural gas within this state or

1 engaging in or carrying on the business of owning,
 2 controlling, managing, leasing, or operating within this
 3 state any well or wells from which any merchantable or
 4 marketable petroleum, other mineral or crude oil, or natural
 5 gas is extracted or produced sufficient in quantity to
 6 justify the marketing of the same must, except as provided
 7 in 15-36-121, each year when engaged in or carrying on any
 8 such the business in this state pay to the department of
 9 revenue a severance tax for the exclusive use and benefit of
 10 the state of Montana a severance tax plus a local government
 11 severance tax in lieu of a tax on net proceeds for the
 12 exclusive use and benefit of local government. The severance
 13 tax and the local government severance tax are computed at
 14 the following rates:

15 (a) except as provided in subsections (1)(b), (1)(c),
 16 and (1)(d), 5% of the total gross value of all the petroleum
 17 and other mineral or crude oil produced by the person, plus
 18 the local government severance tax of 8.4% on production
 19 other than interim production and new production, from each
 20 lease or unit; but in determining the amount of severance
 21 tax, there shall must be excluded from consideration all
 22 petroleum or other crude or mineral oil produced and used by
 23 the person during the year in connection with his operations
 24 in prospecting for, developing, and producing the petroleum
 25 or crude or mineral oil;

1 (b) 2.65% of the total gross value of all natural gas
 2 produced, plus the local government severance tax of 15.25%
 3 on natural gas production other than interim production or
 4 new production, from each lease or unit; but in determining
 5 the amount of severance tax, there shall must be excluded
 6 from consideration all gas produced and used by the person
 7 during the year in connection with his operations in
 8 prospecting for, developing, and producing the gas or
 9 petroleum or crude or mineral oil; and there shall must also
 10 be excluded from consideration all gas, including carbon
 11 dioxide gas, recycled or reinjected into the ground;

12 (c) 2.5% of the total gross value of the incremental
 13 petroleum and other mineral or crude oil produced, plus the
 14 local government severance tax of 4.2% on production other
 15 than interim production and new production, from each lease
 16 or unit in a tertiary recovery project after July 1, 1985.
 17 For purposes of this section, a tertiary recovery project
 18 must meet the following requirements:

19 (i) the project must be approved as a tertiary
 20 recovery project by the department of revenue. The approval
 21 may be extended only after notice and hearing in accordance
 22 with Title 2, chapter 4.

23 (ii) the property to be affected by the project must be
 24 adequately delineated according to the specifications
 25 required by the department; and

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

- (A) miscible fluid displacement;
- (B) steam drive injection;
- (C) micellar/emulsion flooding;
- (D) in situ combustion;
- (E) polymer augmented water flooding;
- (F) cyclic steam injection;
- (G) alkaline or caustic flooding;
- (H) carbon dioxide water flooding;
- (I) immiscible carbon dioxide displacement; or
- (J) any other method approved by the department as a tertiary recovery method.

(d) ~~Except EXCEPT as provided in 15-36-121(2), 3% of the total gross value of all the petroleum and other mineral or crude oil, plus--the-local-government-severance-tax-of 4.2% on production other than--interim--production--and--new production,~~ after the first 5 barrels, produced by PLUS THE LOCAL GOVERNMENT SEVERANCE TAX OF 4.2% OF ALL PRODUCTION, OTHER THAN INTERIM PRODUCTION AND NEW PRODUCTION, FROM A

stripper well, as defined in 15-36-121, that produces more than 5 barrels a day during the period beginning April 1, 1989, and ending March 31, 1991.

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

(3) Nothing in this part may be construed as requiring laborers or employees hired or employed by any person to drill any oil well or to work in or about any oil well or prospect or explore for or do any work for the purpose of developing any petroleum or other mineral or crude oil to pay the severance tax, nor may work done or the drilling of a well or wells for the purpose of prospecting or exploring for petroleum or other mineral or crude oils or for the purpose of developing them be considered to be the engaging in or carrying on of the business. If, in the doing of any work, in the drilling of any oil well, or in prospecting,

1 exploring, or development work, any merchantable or
 2 marketable petroleum or other mineral or crude oil in excess
 3 of the quantity required by the person for carrying on the
 4 operation is produced sufficient in quantity to justify the
 5 marketing of the petroleum or other mineral or crude oil,
 6 the work, drilling, prospecting, exploring, or development
 7 work is considered to be the engaging in and carrying on of
 8 the business of producing petroleum or other mineral or
 9 crude oil within this state within the meaning of this
 10 section.

11 (4) Every person required to pay the severance tax
 12 under this section shall pay the tax in full for his own
 13 account and for the account of each of the other owner or
 14 owners of the gross proceeds in value or in kind of all the
 15 marketable petroleum or other mineral or crude oil or
 16 natural gas extracted and produced, including owner or
 17 owners of working interest, royalty interest, overriding
 18 royalty interest, carried working interest, net proceeds
 19 interest, production payments, and all other interest or
 20 interests owned or carved out of the total gross proceeds in
 21 value or in kind of the extracted marketable petroleum or
 22 other mineral or crude oil or natural gas, except that any
 23 of the interests that are owned by the federal, state,
 24 county, or municipal governments shall be are exempt from
 25 taxation under this chapter. Unless otherwise provided in a

1 contract or lease, the pro rata share of any royalty owner
 2 or owners will be deducted from any settlements under the
 3 lease or leases or division of proceeds orders or other
 4 contracts. (Subsection (1)(d) terminates on occurrence of
 5 contingency--sec. 7, Ch. 656, L. 1987.)"

6 **Section 73.** Section 15-36-102, MCA, is amended to
 7 read:

8 "15-36-102. Quarterly payment of tax -- delayed
 9 payment of local government severance tax. Such (1) Except
 10 as provided in subsection (2), severance tax shall must be
 11 paid in quarterly installments for the quarterly periods
 12 ending, respectively, March 31, June 30, September 30, and
 13 December 31 of each year, and the amount of the tax for each
 14 quarterly period shall must be paid to the department of
 15 revenue within 60 days after the end of each quarterly
 16 period.

17 (2) Local government severance tax must be paid in
 18 quarterly installments 1 year after the end of each quarter
 19 for which a statement is completed as required by
 20 15-36-105."

21 **Section 74.** Section 15-36-105, MCA, is amended to
 22 read:

23 "15-36-105. Statement to accompany payment -- records
 24 -- collection of tax -- refunds. (1) Each and every person
 25 must shall, within 60 days after the end of each following

1 quarter, ~~make--out~~ complete on forms prescribed by the
 2 department of revenue a statement showing the total number
 3 of barrels of merchantable or marketable petroleum and other
 4 mineral or crude oil or cubic feet of natural gas produced
 5 or extracted by such the person in the state during each
 6 month of such the quarter and during the whole quarter, the
 7 average value thereof of the production during each month,
 8 and the total value thereof of the production for the whole
 9 quarter, together with the total amount due to the state as
 10 severance taxes and local government severance taxes for
 11 such the quarter, and must shall within such 60 days deliver
 12 such the statement and, except as provided in 15-36-102(2)
 13 and 15-36-121, pay to the department the amount of the taxes
 14 shown by such the statement to be due to the state for the
 15 quarter for which such the statement is made. Such The
 16 statement must be signed by the individual or the president,
 17 vice-president, treasurer, assistant treasurer, or managing
 18 agent in this state of the association, corporation,
 19 joint-stock company, or syndicate making the statement. Any
 20 such person engaged in carrying on such business at more
 21 than one place in this state or owning, leasing,
 22 controlling, or operating more than one oil or gas well in
 23 this state may include all thereof operations in one
 24 statement. The department shall receive and file all such
 25 statements and collect and receive from such the person

1 making and filing a statement the amount of tax payable by
 2 such the person, if any, as ~~the same shall appear from the~~
 3 ~~face-of~~ appears in the statement.

4 (2) It ~~shall-be~~ is the duty of the department to
 5 examine each of such the statements and compute the taxes
 6 thereon, and the amount so computed by the department ~~shall~~
 7 be is the taxes tax imposed, assessed against, and payable
 8 by the taxpayer making the statement for the quarter for
 9 which the statement is filed. If the tax found to be due
 10 ~~shall-be~~ is greater than the amount paid, the excess ~~shall~~
 11 must be paid by the taxpayer to the department within 10
 12 days after written notice of the amount of the deficiency
 13 ~~shall--be~~ is mailed by the department to such the taxpayer.
 14 If the tax imposed ~~shall-be~~ is less than the amount paid,
 15 the difference must be applied as a credit against tax
 16 liability for subsequent quarters or refunded if there is no
 17 subsequent tax liability.

18 (3) If the tax is not paid on or before the due date,
 19 there ~~shall~~ must be assessed a penalty of 10% of the amount
 20 of the tax, unless it is shown that the failure was due to
 21 reasonable cause and not due to neglect. If any tax under
 22 this chapter is not paid when due, interest ~~shall~~ must be
 23 added thereto to the tax at the rate of 1% a month or
 24 fraction thereof, computed on the total amount of severance
 25 tax and penalty from the due date until paid."

1 **Section 75.** Section 15-36-112, MCA, is amended to
2 read:

3 "15-36-112. Disposition of oil and gas severance taxes
4 -- calculation of unit value for local government severance
5 tax. (1) Each year the department of revenue shall determine
6 the amount of tax collected under this chapter from within
7 each county SCHOOL DISTRICT.

8 (2) For purposes of the distribution of local
9 government severance taxes collected under 15-36-101, the
10 department shall determine the unit value of oil and gas for
11 each county SCHOOL DISTRICT as follows:

12 (a) The unit value for petroleum and other mineral or
13 crude oil for each county SCHOOL DISTRICT is the quotient
14 obtained by dividing the local--government--severance NET
15 PROCEEDS taxes calculated on petroleum or mineral or crude
16 oil produced in that county SCHOOL DISTRICT in the--current
17 calendar year 1988 by the number of barrels of petroleum or
18 other mineral or crude oil subject--to--local--government
19 severance-tax produced in that county SCHOOL DISTRICT during
20 the-year 1988.

21 (b) The unit value for natural gas is the quotient
22 obtained by dividing the local--government--severance NET
23 PROCEEDS taxes calculated on natural gas produced in that
24 county SCHOOL DISTRICT in the-current calendar year 1988 by
25 the number of cubic feet of natural gas subject-to-local

1 government-severance-tax produced in that county SCHOOL
2 DISTRICT during the-year 1988.

3 (2)(3) The severance taxes collected under this
4 chapter are allocated as follows:

5 (a) the-amount,-if-any,-by--which--the--tax--collected
6 from--within--a-county-for-any-fiscal-year-exceeds-the-total
7 amount-collected-from-within-that-county--for--the--previous
8 fiscal--year,-by--reason--of--increased--production-and-not
9 because-of-increase--in--or--elimination--of--federal--price
10 ceilings--on-oil-and-gas, The local government severance tax
11 is statutorily appropriated, as provided in 17-7-502, for
12 allocation to the general---fund--of--the county for
13 distribution as provided in subsection (3) (4)(b);

14 (b) any Any amount not allocated to the county under
15 subsection (2)(a) (3)(a) is allocated to the state general
16 fund.

17 (3)(4) (a) For the purpose of distribution of the
18 local government severance tax, the department shall adjust
19 the unit value determined under this section according to
20 the ratio that the local government severance taxes
21 collected during the quarters to be distributed plus
22 accumulated interest earned by the state and penalties and
23 interest on delinquent local government severance taxes
24 bears to the total liability for local government severance
25 taxes for the quarters to be distributed. The taxes must be

1 calculated and distributed as follows:

2 (i) By November 30 of each year, the department shall
 3 calculate and distribute to each eligible county the amount
 4 of local government severance tax, determined by multiplying
 5 unit value as adjusted in this subsection (4)(a) times the
 6 units of production on which severance tax was owed during
 7 the calendar quarters ending March 31 and June 30 of the
 8 preceding calendar year.

9 (ii) By May 31 of each year, the department shall
 10 calculate and distribute to each eligible county the amount
 11 of local government severance tax, determined by multiplying
 12 unit value as adjusted in this subsection (4)(a) times the
 13 units of production on which severance tax was owed during
 14 the 2 calendar quarters immediately following those quarters
 15 referred to in subsection (4)(a)(i).

16 (B) ANY AMOUNT BY WHICH THE TOTAL TAX LIABILITY
 17 EXCEEDS OR IS LESS THAN THE TOTAL DISTRIBUTIONS DETERMINED
 18 IN SUBSECTIONS (4)(A)(I) AND (4)(A)(II) MUST BE CALCULATED
 19 AND DISTRIBUTED IN THE FOLLOWING MANNER:

20 (I) THE EXCESS AMOUNT OR SHORTAGE MUST BE DIVIDED BY
 21 THE TOTAL UNITS OF PRODUCTION TO OBTAIN THE TAX VALUE PER
 22 UNIT OF PRODUCTION.

23 (II) THE TAX VALUE PER UNIT OF PRODUCTION MUST BE
 24 MULTIPLIED BY THE UNITS OF PRODUCTION IN THAT TAXABLE PERIOD
 25 IN EACH SCHOOL DISTRICT THAT HAD PRODUCTION IN THAT PERIOD.

1 AND THIS AMOUNT MUST BE ADDED TO OR SUBTRACTED FROM THE
 2 DISTRIBUTION TO EACH RESPECTIVE DISTRICT.

3 ~~(a)(b)(C)~~ The county treasurer shall distribute the
 4 money received under subsection ~~(2)(a)~~ of this section to
 5 the county and to all the incorporated cities and towns
 6 within the county in the following manner: The county
 7 receives the available money multiplied by the ratio of the
 8 rural population to the county population. Each incorporated
 9 municipality receives the available money multiplied by the
 10 ratio of the population of the incorporated municipality to
 11 the county population. The rural population is that
 12 population of the county living outside the boundaries of an
 13 incorporated municipality. Population shall be based on the
 14 most recent figures as determined by the department of
 15 commerce.

16 ~~(b)~~ The money distributed under this subsection may be
 17 used for any purpose as determined by the governing body of
 18 the county, city, or town (3)(a) TO THE TAXING JURISDICTIONS
 19 in the same manner that all other property tax proceeds were
 20 distributed during fiscal year 1989 IN THE TAXING
 21 JURISDICTION."

22 **Section 76.** Section 15-36-121, MCA, is amended to
 23 read:

24 "15-36-121. Exemption from severance tax. (1) It is
 25 the public policy of this state to promote a sufficient

1 supply of natural gas to provide for the residents of this
 2 state, to lessen Montana's dependence on imported natural
 3 gas, and to encourage the exploration for and development
 4 and production of natural gas, petroleum, and other mineral
 5 and crude oil within the state.

6 (2) All new production, as defined in 15-23-601, from
 7 a well during the 24 months immediately following the date
 8 of notification to the department of revenue that an oil
 9 well is flowing or being pumped or that a gas well has been
 10 connected to a gathering or distribution system is exempt
 11 from all of the severance tax imposed by 15-36-101, provided
 12 the notification was made after March 31, 1987, and before
 13 July 1, 1991.

14 (3) All the natural gas produced from any well that
 15 has produced 60,000 cubic feet or less of natural gas a day
 16 for the calendar year prior to the current year shall be
 17 taxed as provided in this section. Production must be
 18 determined by dividing the amount of production from a lease
 19 or unitized area for the year prior to the current calendar
 20 year by the number of producing wells in the lease or
 21 unitized area and by dividing the resulting quotient by 365.
 22 The first 30,000 cubic feet of average daily production per
 23 well is exempt from all of the severance tax imposed by
 24 15-36-101. Everything over 30,000 cubic feet of gas produced
 25 is taxed at 1.59% plus a local government severance tax of

1 7.625%.

2 (4) The first 5 barrels of average daily production
 3 from a stripper well are exempt from all of the severance
 4 tax imposed by 15-36-101, EXCEPT THE LOCAL GOVERNMENT
 5 SEVERANCE TAX.

6 (5) For the purposes of this section, "stripper well"
 7 means a well that produces less than 10 barrels per day,
 8 determined by dividing the amount of production from a lease
 9 or unitized area for the year prior to the current calendar
 10 year by the number of producing wells in the lease or
 11 unitized area, and by dividing the resulting quotient by
 12 365.

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

17 **Section 77.** Section 20-9-141, MCA, is amended to read:

18 "20-9-141. Computation of general fund net levy
 19 requirement by county superintendent. (1) The county
 20 superintendent shall compute the levy requirement for each
 21 district's general fund on the basis of the following
 22 procedure:

23 (a) Determine the ~~total-of-the~~ funding required for
 24 the district's final general fund budget less the amount
 25 established by the schedules in 20-9-316 through 20-9-321 by

1 totaling:

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

5 (ii) the district's permissive levy amount as provided
6 in 20-9-352; and

7 (iii) any general fund budget amount adopted by the
8 trustees of the district under the provisions of 20-9-353,
9 including any additional levies authorized by the electors
10 of the district.

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

14 (i) anticipated federal moneys money received under
15 the provisions of Title I of Public Law 81-874 or other
16 anticipated federal moneys money received in lieu of such
17 that federal act;

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

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

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

25 (v) anticipated or reappropriated revenue from vehicle

1 property taxes imposed under 61-3-504(2) and 61-3-537;

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

4 (vii) anticipated revenue from local government
5 severance taxes as provided in 15-36-112;

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

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

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

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

23 **Section 78.** Section 20-9-331, MCA, is amended to read:

24 "20-9-331. Basic county tax and other revenues for
25 county equalization of the elementary district foundation

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

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

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

1 with any final remittance due no later than June 20 of the
 2 fiscal year for which the levy has been set.

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

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

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

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

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

1 (e) any federal or state money distributed to the
2 county as payment in lieu of the property taxation
3 established by the county levy required by this section;

4 (f) net proceeds taxes for interim production and new
5 production, as defined in 15-23-601, and local government
6 severance taxes on any other production occurring after
7 December 31, 1988; and

8 (g) anticipated revenue from vehicle property taxes
9 imposed under 61-3-504(2) and 61-3-537."

10 **Section 79.** Section 20-9-333, MCA, is amended to read:

11 "20-9-333. Basic special levy and other revenues for
12 county equalization of high school district foundation
13 program. (1) ~~it shall be the duty of the~~ The county
14 commissioners of each county ~~to~~ shall levy an annual basic
15 special tax for high schools of 17 mills on the dollar of
16 the taxable value of all taxable property within the county,
17 except for vehicles subject to taxation under 61-3-504(2),
18 for the purposes of local and state foundation program
19 support. The revenue ~~to be collected from this levy shall~~
20 must be apportioned to the support of the foundation
21 programs of high school districts in the county and to the
22 state special revenue fund, state equalization aid account,
23 in the following manner:

24 (a) In order to determine the amount of revenue raised
25 by this levy which is retained by the county, the sum of the

1 estimated revenues revenue identified in subsections (2)(a)
2 and (2)(b) ~~below shall~~ must be subtracted from the sum of
3 the county's high school tuition obligation and the total of
4 the foundation programs of all high school districts of the
5 county.

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

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

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

1 this section;

2 (b) any federal or state moneys money distributed to
3 the county as a payment in lieu of the property taxation
4 established by the county levy required by this section;

5 (c) net proceeds taxes for interim production and new
6 production, as defined in 15-23-601, and local government
7 severance taxes on any other production occurring after
8 December 31, 1988; and

9 (d) anticipated revenue from vehicle property taxes
10 imposed under 61-3-504(2) and 61-3-537."

11 **Section 80.** Section 20-9-352, MCA, is amended to read:

12 **"20-9-352. Permissive amount and permissive levy.** (1)
13 Whenever the trustees of any a district ~~shall-deem~~ consider
14 it necessary to adopt a general fund budget in excess of the
15 foundation program amount but not in excess of the maximum
16 general fund budget amount for such the district as
17 established by the schedules in 20-9-316 through 20-9-321,
18 the trustees shall adopt a resolution stating the reasons
19 and purposes for exceeding the foundation program amount.
20 Such The excess above the foundation program amount ~~shall-be~~
21 is known as the "permissive amount", and it ~~shall~~ must be
22 financed by a levy, as prescribed in 20-9-141, on the
23 taxable value of all taxable property within the district,
24 except for vehicles subject to taxation under 61-3-504(2),
25 supplemented with any biennial appropriation by the

1 legislature for this purpose. The proceeds of such--an the
2 appropriation ~~shall~~ must be deposited to the state special
3 revenue fund.

4 (2) The district levies to be set for the purpose of
5 funding the permissive amount are determined as follows:

6 (a) For each elementary school district, the county
7 commissioners shall annually set a levy not exceeding 6
8 mills on all the taxable property in the district, except
9 for vehicles subject to taxation under 61-3-504(2), for the
10 purpose of funding the permissive amount of the district.
11 The permissive levy in mills ~~shall--be~~ is obtained by
12 multiplying the ratio of the permissive amount to the
13 maximum permissive amount by 6 or by using the number of
14 mills which that would fund the permissive amount, whichever
15 is less. If the amount of revenue raised by this levy, plus
16 anticipated revenue from vehicle property taxes imposed
17 under 61-3-504(2) and 61-3-537, is not sufficient to fund
18 the permissive amount in full, the amount of the deficiency
19 ~~shall~~ must be paid to the district from the state special
20 revenue fund according to the provisions of subsections (3)
21 and (4) of this section.

22 (b) For each high school district, the county
23 commissioners shall annually set a levy not exceeding 4
24 mills on all taxable property in the district, except for
25 vehicles subject to taxation under 61-3-504(2), for the

1 purpose of funding the permissive amount of the district.
 2 The permissive levy in mills shall--be is obtained by
 3 multiplying the ratio of the permissive levy to the maximum
 4 permissive amount by 4 or by using the number of mills which
 5 that would fund the permissive amount, whichever is less. If
 6 the amount of revenue raised by this levy, plus anticipated
 7 revenue from vehicle property taxes imposed under
 8 61-3-504(2) and 61-3-537, and plus net proceeds taxes for
 9 interim production and new production, as defined in
 10 15-23-601, and local government severance taxes on any other
 11 production occurring after December 31, 1988, is not
 12 sufficient to fund the permissive amount in full, the amount
 13 of the deficiency shall must be paid to the district from
 14 the state special revenue fund according to the provisions
 15 of subsections (3) and (4) of this section.

16 (3) The superintendent of public instruction shall, if
 17 the appropriation by the legislature for the permissive
 18 amount for the biennium is insufficient, request the budget
 19 director to submit a request for a supplemental
 20 appropriation in the second year of the biennium. The
 21 supplemental appropriation shall must provide enough revenue
 22 to fund the permissive deficiency of the elementary and high
 23 school districts of the state. The proceeds of this
 24 appropriation shall must be deposited to the state special
 25 revenue fund and shall must be distributed to the elementary

1 and high school districts in accordance with their
 2 entitlements as determined by the superintendent of public
 3 instruction according to the provisions of subsections (1)
 4 and (2) ~~of this section.~~

5 (4) Distribution under this section from the state
 6 special revenue fund shall must be made in two payments. The
 7 first payment shall must be made at the same time as the
 8 first distribution of state equalization aid is made after
 9 January 1 of the fiscal year. The second payment shall must
 10 be made at the same time as the last payment of state
 11 equalization aid is made for the fiscal year. If the
 12 appropriation is not sufficient to finance the deficiencies
 13 of the districts as determined according to subsection (2),
 14 each district will receive the same percentage of its
 15 deficiency. Surplus revenue in the second year of the
 16 biennium may be used to reduce the appropriation required
 17 for the next succeeding biennium or may be transferred to
 18 the state equalization aid state special revenue fund if
 19 revenues in that fund are insufficient to meet foundation
 20 program requirements."

21 **Section 81.** Section 20-10-144, MCA, is amended to
 22 read:

23 "20-10-144. Computation of revenues and net tax levy
 24 requirements for the transportation fund budget. Before the
 25 fourth Monday of July and in accordance with 20-9-123, the

1 county superintendent shall compute the revenue available to
 2 finance the transportation fund budget of each district. The
 3 county superintendent shall compute the revenue for each
 4 district on the following basis:

5 (1) The "schedule amount" of the preliminary budget
 6 expenditures that is derived from the rate schedules in
 7 20-10-141 and 20-10-142 shall ~~shall~~ must be determined by adding
 8 the following amounts:

9 (a) the sum of the maximum reimbursable expenditures
 10 for all approved school bus routes maintained by the
 11 district (to determine the maximum reimbursable expenditure,
 12 multiply the applicable rate per bus mile by the total
 13 number of miles to be traveled during the ensuing school
 14 fiscal year on each bus route approved by the county
 15 transportation committee and maintained by such district);
 16 plus

17 (b) the total of all individual transportation per
 18 diem reimbursement rates for such the district as determined
 19 from the contracts submitted by the district multiplied by
 20 the number of pupil-instruction days scheduled for the
 21 ensuing school attendance year; plus

22 (c) any estimated costs for supervised home study or
 23 supervised correspondence study for the ensuing school
 24 fiscal year; plus

25 (d) the amount budgeted on the preliminary budget for

1 the contingency amount permitted in 20-10-143, except if
 2 such the amount exceeds 10% of the total of subsections
 3 (1)(a), (1)(b), and (1)(c) or \$100, whichever is larger, the
 4 contingency amount on the preliminary budget shall ~~shall~~ must be
 5 reduced to such the limitation amount and used in this
 6 determination of the schedule amount.

7 (2) The schedule amount determined in subsection (1)
 8 or the total preliminary transportation fund budget,
 9 whichever is smaller, shall-be is divided by 3 and the
 10 resulting one-third amount shall-be is used to determine the
 11 available state and county revenue to be budgeted on the
 12 following basis:

13 (a) the resulting one-third amount shall--be is the
 14 budgeted state transportation reimbursement, except that the
 15 state transportation reimbursement for the transportation of
 16 special education pupils under the provisions of 20-7-442
 17 shall must be two-thirds of the schedule amount attributed
 18 to the transportation of special education pupils;

19 (b) the resulting one-third amount, except as provided
 20 for joint elementary districts in subsection (2)(e), shall
 21 be is the budgeted county transportation reimbursement for
 22 elementary districts and shall must be financed by the basic
 23 county tax under the provisions of 20-9-334;

24 (c) the resulting one-third amount multiplied by 2
 25 shall-be is the budgeted county transportation reimbursement

1 amount for high school districts financed under the
 2 provisions of subsection (5) ~~of--this-section~~, except as
 3 provided for joint high school districts in subsection
 4 (2)(e), and except that the county transportation
 5 reimbursement for the transportation of special education
 6 pupils under the provisions of 20-7-442 shall must be
 7 one-third of the schedule amount attributed to the
 8 transportation of special education pupils;

9 (d) when the district has a sufficient amount of cash
 10 for reappropriation and other sources of district revenue,
 11 as determined in subsection (3), to reduce the total
 12 district obligation for financing to zero, any remaining
 13 amount of such district revenue and cash reappropriated
 14 shall must be used to reduce the county financing obligation
 15 in subsections subsection (2)(b) or (2)(c) and, if such the
 16 county financing obligations are reduced to zero, to reduce
 17 the state financial obligation in subsection (2)(a); and

18 (e) the county revenue requirement for a joint
 19 district, after the application of any district moneys money
 20 under subsection (2)(d) above, shall must be prorated to
 21 each county incorporated by the joint district in the same
 22 proportion as the ANB of the joint district is distributed
 23 by pupil residence in each such county.

24 (3) The total of the moneys money available for the
 25 reduction of property tax on the district for the

1 transportation fund shall must be determined by totaling:

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

6 (b) anticipated payments from other districts for
 7 providing school bus transportation services for such the
 8 district; plus

9 (c) anticipated payments from a parent or guardian for
 10 providing school bus transportation services for his child;
 11 plus

12 (d) anticipated or reappropriated interest to be
 13 earned by the investment of transportation fund cash in
 14 accordance with the provisions of 20-9-213(4); plus

15 (e) anticipated or reappropriated revenue from vehicle
 16 property taxes imposed under 61-3-504(2) and 61-3-537; plus

17 (f) net proceeds taxes for interim production and new
 18 production, as defined in 15-23-601, and local government
 19 severance taxes on any other production occurring after
 20 December 31, 1988; plus

21 (g) any other revenue anticipated by the trustees to
 22 be earned during the ensuing school fiscal year which may be
 23 used to finance the transportation fund; plus

24 (h) any cash available for reappropriation as
 25 determined by subtracting the amount of the end-of-the-year

1 cash balance earmarked as the transportation fund cash
 2 reserve for the ensuing school fiscal year by the trustees
 3 from the end-of-the-year cash balance in the transportation
 4 fund. ~~Such~~ The cash reserve ~~shall~~ may not be more than 20%
 5 of the final transportation fund budget for the ensuing
 6 school fiscal year and ~~shall-be~~ is for the purpose of paying
 7 transportation fund warrants issued by the district under
 8 the final transportation fund budget.

9 (4) The district levy requirement for each district's
 10 transportation fund ~~shall~~ must be computed by:

11 (a) subtracting the schedule amount calculated in
 12 subsection (1) from the total preliminary transportation
 13 budget amount and, for an elementary district, adding such
 14 the difference to the district obligation to finance
 15 one-third of the schedule amount as determined in subsection
 16 (2); and

17 (b) subtracting the amount of moneys money available
 18 to reduce the property tax on the district, as determined in
 19 subsection (3), from the amount determined in subsection
 20 (4)(a) above.

21 (5) The county levy requirement for the financing of
 22 the county transportation reimbursement to high school
 23 districts ~~shall--be~~ is computed by adding all such
 24 requirements for all the high school districts of the
 25 county, including the county's obligation for reimbursements

1 in joint high school districts.

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

10 **Section 82.** Section 90-6-402, MCA, is amended to read:

11 **"90-6-402. Definitions.** As used in this part, the
 12 following definitions apply:

13 (1) "Affected local government unit" means a local
 14 government unit that will experience a need to increase
 15 services or facilities as a result of the commencement of
 16 large-scale mineral development or within which a
 17 large-scale mineral development is located in accordance
 18 with an impact plan adopted pursuant to 90-6-307.

19 (2) "Board" means the hard-rock mining impact board
 20 established in 2-15-1822.

21 (3) "Mineral development employee" means a person who
 22 resides within the jurisdiction of an affected local
 23 government unit as a result of employment with a large-scale
 24 mineral development or its contractors or subcontractors.

25 (4) "Mineral development student" means a student

1 whose parent or guardian resides within the jurisdiction of
 2 an affected local government unit as a result of employment
 3 with a large-scale mineral development or its contractors or
 4 subcontractors.

5 (5) "Jurisdictional revenue disparity" means property
 6 tax revenues resulting from a large-scale hard-rock mineral
 7 development that are inequitably distributed among affected
 8 local government units as finally determined by the board in
 9 an approved impact plan.

10 (6) "Large-scale mineral development", for the
 11 purposes of this part, is defined in 90-6-302.

12 (7) "Local government unit", for the purposes of this
 13 part, means a county, municipality, or school district.

14 (8) "Taxable valuation" of a mineral development means
 15 the total of the gross proceeds taxable percentage specified
 16 in 15-6-132(2)(a) when added to the taxable percentages of
 17 real property, improvements, machinery, equipment, and other
 18 property classified under Title 15, chapter 6, part 1."

19 **Section 83.** Section 15-1-501, MCA, is amended to read:

20 "15-1-501. Disposition of moneys from certain
 21 designated license and other taxes. (1) The state treasurer
 22 shall deposit to the credit of the state general fund all
 23 moneys money received by him from the collection of:

24 (a) fees from driver's licenses, motorcycle
 25 endorsements, and duplicate driver's licenses as provided in

1 61-5-121;

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

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

6 (d) liquor license taxes under Title 16;

7 (e) telephone [company] license taxes under chapter
 8 53; and

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

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

14 (a) ~~50-2%~~ 48.1% to the credit of the state general
 15 fund;

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

19 (c) ~~31-8%~~ 41.9% to the credit of the state special
 20 revenue fund for state equalization aid to the public
 21 schools of Montana as described in 20-9-343.

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

- 1 (a) 64% to the credit of the state general fund;
- 2 (b) 11% to the credit of the debt service account for
3 long-range building program bonds as described in 17-5-408;
4 and
- 5 (c) 25% to the credit of the state special revenue
6 fund for state equalization aid to the public schools of
7 Montana as described in 20-9-343.
- 8 (4) The state treasurer shall also deposit to the
9 credit of the state general fund all moneys money received
10 by him from the collection of license taxes, fees, and all
11 net revenues and receipts from all other sources under the
12 operation of the Montana Alcoholic Beverage Code.
- 13 (5) After the distribution provided for in 15-36-112,
14 the remainder of the oil severance tax collections shall
15 must be deposited in the general fund."

16 **Section 84.** Section 20-9-344, MCA, is amended to read:

17 "20-9-344. Purpose of state equalization aid and
18 duties of the board of public education for distribution --
19 conditions of first payment. (1) The money available for
20 state equalization aid shall must be distributed and
21 apportioned to provide an annual minimum operating revenue
22 for the elementary and high schools in each county,
23 exclusive of revenues required for debt service and for the
24 payment of any ~~and--all~~ costs and expense incurred in
25 connection with any adult education program, recreation

1 program, school food services program, new buildings, new
2 and grounds, and transportation.

3 (2) The board of public education shall administer and
4 distribute the state equalization aid in the manner and with
5 the powers and duties provided by law. To this end, the
6 board of public education shall:

7 (a) adopt policies for regulating the distribution of
8 state equalization aid in accordance with the provisions of
9 law and in a manner that would most effectively meet the
10 ~~financial--needs---of---districts~~ provides for monthly
11 distribution to each district of its retirement fund
12 equalization amount and foundation program amount;

13 (b) have the power to require such reports from the
14 county superintendents, budget boards, county treasurers,
15 and trustees as it may ~~deem~~ considers necessary; and

16 (c) order the superintendent of public instruction to
17 distribute the state equalization aid on the basis of each
18 district's annual entitlement to such the aid as established
19 by the superintendent of public instruction. In ordering the
20 distribution of state equalization aid, the board of public
21 education shall may not increase or decrease the state
22 equalization aid distribution to any district on account of
23 any difference which that may occur during the school fiscal
24 year between budgeted and actual receipts from any other
25 source of school revenue.

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

- 6 (a) submit reports or budgets as required by law or
- 7 rules adopted by the board of public education; or
- 8 (b) maintain accredited status.

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

14 ~~(3)~~(5) Should If a district receive receives more
 15 state equalization aid than it is entitled to, the county
 16 treasurer must shall return the overpayment to the state
 17 upon the request of the superintendent of public instruction
 18 in the manner prescribed by the department of commerce.

19 ~~(4)~~(6) (a) The first payment of state equalization aid
 20 must be:

21 ~~(a)~~ based on an estimate of 20% of each district's
 22 entitlement; and

23 ~~(b)~~ distributed by July 15 of the school fiscal year.

24 (b) Each subsequent monthly payment must be at least
 25 7% of the district's amount."

1 NEW SECTION. Section 85. Repealer. (1) Sections
 2 15-23-604, 15-23-615, and 15-23-616, MCA, and section 12,
 3 Chapter 666, Laws of 1987, are repealed on passage and
 4 approval of [this act].

5 (2) Sections 20-9-105, 20-9-352, 20-9-531, and
 6 20-9-532, MCA, are repealed July 1, 1990.

7 NEW SECTION. Section 86. Appropriation. (1) There is
 8 appropriated from the general fund \$353,950 for the biennium
 9 ending June 30, 1991, to the superintendent of public
 10 instruction to establish standard accounting and reporting
 11 practices in all Montana public school districts and to
 12 implement [this act].

13 (2) There is appropriated from the general fund
 14 \$20,000 to the legislative council for the biennium ending
 15 June 30, 1991, for use by the committee established in
 16 [section 53].

17 (3) There is appropriated from the general fund to the
 18 department of administration \$200,000 for the fiscal year
 19 ending June 30, 1990, to retain a telecommunications
 20 engineering consultant and to support development of and
 21 improvements in telecommunications networks in Montana as
 22 provided in [section 51].

23 (4) There is appropriated from the general fund to the
 24 department of administration \$300,000 for the biennium
 25 ending June 30, 1991, to be used for education network

1 implementation and improvements if a 50% match in funds or
2 equipment is available from other sources.

3 NEW SECTION. Section 87. Codification instruction.

4 (1) [Sections 49 and 50] are intended to be codified as an
5 integral part of Title 20, chapter 9, and the provisions of
6 Title 20 apply to [sections 49 and 50].

7 (2) [Section 71] is intended to be codified as an
8 integral part of Title 15, chapter 23, part 7, and the
9 provisions of Title 15, chapter 23, part 7, apply to
10 [section 71].

11 NEW SECTION. Section 88. Effective dates -- rules.

12 (1) [Sections 2, 5, 6, 39, and 51] are effective July 1,
13 1989.

14 (2) [Sections 1, 3, 4, 10 through 12, 13(1)(b) and (c)
15 and (2), 14(1)(b) and (c) and (2) through (7), 15 through
16 24, 25(13), 26 through 38, 40, 44, 46 through 49, and 83]
17 are effective July 1, 1990.

18 (3) [Sections 9, 41 through 43, and 84] are effective
19 July 1, 1991.

20 (4) [Sections 7, 13(1)(a), 14(1)(a), 25(1) through
21 (12), and 45] are effective July 1, 1993.

22 (5) [Sections 8, 50, 52 through 82, and 85 through 90]
23 are effective on passage and approval.

24 (6) The superintendent of public instruction may,
25 prior to July 1, 1990, adopt rules and conduct training

1 necessary to implement [sections 24 and 26].

2 NEW SECTION. Section 89. Applicability. (1) [Section
3 49], 20-9-331, and 20-9-333 apply retroactively, within the
4 meaning of 1-2-109, to all taxable years beginning after
5 December 31, 1989.

6 (2) [Sections 59 through 82] apply retroactively,
7 within the meaning of 1-2-109, to net proceeds taxes,
8 severance taxes, and local government taxes on oil and gas,
9 other than interim production and new production, produced
10 after December 31, 1988.

11 (3) [Sections 2 and 6] apply to all tax revenue
12 recorded on or after July 1, 1989, without regard to the
13 time the tax accrued.

14 (4) [Section 83] applies to all tax revenue recorded
15 on or after July 1, 1990, without regard to the time the tax
16 accrued.

17 NEW SECTION. Section 90. Coordination instruction. If
18 House Bill No. 16 is passed and approved, the appropriation
19 in [section 86(1)] is reduced by the amount of money
20 appropriated in House Bill No. 16.

-End-



State of Montana
Office of the Governor
Helena, Montana 59620
406-444-3111

STAN STEPHENS
GOVERNOR

June 30, 1989

The Honorable Jack Galt
President of the Senate
Capitol Station
Helena, MT 59620

The Honorable John Vincent
Speaker of the House
Capitol Station
Helena, MT 59620

Dear President Galt and Speaker Vincent:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby veto the adoption of Senate Bill 26, "AN ACT TO GENERALLY REVISE PUBLIC SCHOOL FUNDING AND RELATED TAXATION LAWS; TO ELIMINATE THE PRESENT ELEMENTARY AND HIGH SCHOOL PERMISSIVE LEVIES; TO PROVIDE FOR PHASED-IN EQUALIZATION AID FOR RETIREMENT BEGINNING IN FISCAL YEAR 1992; TO ELIMINATE THE COUNTY RETIREMENT LEVY AND PROVIDE FULL EQUALIZATION SUPPORT OF EACH DISTRICT'S RETIREMENT FUND EXPENDITURES BEGINNING IN FISCAL YEAR 1994; TO INCLUDE COMPREHENSIVE INSURANCE COSTS IN THE GENERAL FUND BUDGET OF SCHOOL DISTRICTS; TO ADJUST THE FOUNDATION PROGRAM SCHEDULES FOR SCHOOL FISCAL YEAR 1991 AND SUCCEEDING YEARS; TO LIMIT, WITH CERTAIN EXCEPTIONS, THE MAXIMUM GENERAL FUND BUDGET OF A DISTRICT TO 121 PERCENT OF THE COMBINED FOUNDATION PROGRAM AND RETIREMENT FUND AMOUNTS FOR THE DISTRICT; TO FURTHER LIMIT THE GENERAL FUND RESERVE OF CERTAIN DISTRICTS; 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 INCREASE THE GENERAL BONUS PAYMENTS FOR ENLARGED DISTRICTS; TO REQUIRE SCHOOL DISTRICTS TO USE GENERALLY ACCEPTED ACCOUNTING PRINCIPLES; TO PROVIDE FUNDING FOR A TELECOMMUNICATIONS NETWORK FOR EDUCATION; TO PROVIDE FOR A LEGISLATIVE OVERSIGHT COMMITTEE ON SCHOOL FUNDING IMPLEMENTATION TO DIRECT STUDIES ON FURTHER EQUALIZATION OF TRANSPORTATION, CAPITAL EXPENDITURES, AND RETIREMENT AND TO PERFORM OTHER DUTIES; TO REALLOCATE LOTTERY REVENUE FROM RETIREMENT EQUALIZATION TO STATE EQUALIZATION AID; TO IMPOSE A

The Honorable Jack Galt
The Honorable John Vincent
June 30, 1989
Page Two

45-MILL STATEWIDE LEVY IN SUPPORT OF STATE EQUALIZATION AID; TO INCREASE THE COUNTY ELEMENTARY LEVY FROM 28 MILLS TO 34 MILLS AND THE COUNTY HIGH SCHOOL LEVY FROM 17 MILLS TO 21 MILLS; TO EXCLUDE ALL SCHOOL LEVIES FROM THE PROPERTY TAX LIMITATIONS OF INITIATIVE MEASURE NO. 105; TO IMPOSE A FLAT TAX RATE ON COAL GROSS PROCEEDS; TO ELIMINATE TAXATION OF NET PROCEEDS OF OIL AND GAS ON OTHER THAN INTERIM PRODUCTION AND NEW PRODUCTION; TO ESTABLISH A LOCAL GOVERNMENT SEVERANCE TAX IN LIEU OF A TAX ON NET PROCEEDS ON THE PRODUCTION OF OIL AND GAS OTHER THAN INTERIM PRODUCTION AND NEW PRODUCTION; TO PROVIDE FOR A 1-YEAR DELAY IN THE PAYMENT OF LOCAL GOVERNMENT SEVERANCE TAX ON OIL AND GAS; TO ALLOCATE THE PROCEEDS OF THE LOCAL GOVERNMENT SEVERANCE TAX ON OIL AND GAS IN THE SAME MANNER AS PROPERTY TAXES ARE DISTRIBUTED; TO CONTINUE THE 10 PERCENT PERSONAL INCOME SURTAX; TO INCREASE THE ALLOCATION OF PERSONAL INCOME TAX PROCEEDS TO STATE EQUALIZATION AID; TO REALLOCATE COAL SEVERANCE TAX PROCEEDS AND INCREASE THE ALLOCATION TO STATE QUALIZATION AID; TO STATUTORILY APPROPRIATE ALL REVENUE ALLOCATED BY LAW TO COUNTY AND STATE EQUALIZATION; TO PROVIDE VARIOUS APPROPRIATIONS; AMENDING SECTIONS 2-7-504, 7-1-2111, 7-7-2101, 7-7-2203, 7-14-2524, 7-14-2525, 7-16-2327, 15-1-501, 15-6-132, 15-10-402, 15-10-412, 15-23-602, 15-23-603, 15-23-605, 15-23-607, 15-23-703, 15-30-108, 15-35-108, 15-36-101, 15-36-102, 15-36-105, 15-36-112, 15-36-121, 17-3-213, 17-7-502, 20-3-106, 20-3-205, 20-3-324, 20-3-331, 20-5-305, 20-5-312, 20-6-401, 20-6-506, 20-6-603, 20-6-608, 20-7-414, 20-7-422, 20-7-431, 20-9-104, 20-9-141, 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, 20-9-347, 20-9-351, 20-9-353 20-9-501, 20-10-144, 23-5-1027, 90-6-309, AND 90-6-402, MCA; REPEALING SECTIONS 15-23-604, 15-23-615, 15-23-616, 20-9-105, 20-9-352, 20-9-531, AND 20-9-532, MCA, AND SECTION 12, CHAPTER 666, LAWS OF 1987; AND PROVIDING EFFECTIVE DATES AND APPLICABILITY DATES." for the following reasons.

On three previous occasions I advised the legislature that a bill that does not have an ongoing permanent revenue source, and sufficient revenue to pay for the cost of the legislation would not be accepted. The legislature cannot increase taxes today and force tax increases on Montana citizens in the future by spending money the legislature does not have. Senate Bill 26, even by the admission of the sponsor, places Montana in an unbalanced fiscal position.

Senate Bill 26 is irresponsible legislation. The legislature avoided its duty by approving a funding system that punishes the Montana taxpayer and is seriously flawed because of excessive spending allowed by very liberal spending caps in the

The Honorable Jack Galt
The Honorable John Vincent
June 30, 1989
Page Three

bill.

I veto Senate Bill 26 for the reasons that include the following:

-it retroactively imposes a major 10% income tax increase on Montanans.

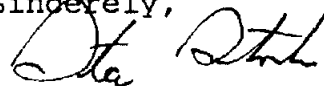
-in addition, taxes for Montanans would skyrocket with the equivalent of another 30% income tax surcharge and/or major increases in property taxes to cover the future costs mandated by this legislation.

-it irresponsibly commits the state to more spending than current ongoing revenue sources will allow. A revenue shortfall in excess of \$100 million begins to accumulate in 1991 and undeniably grows unless more massive tax increases are enacted.

If the legislature cannot define what is the present and future effect of Senate Bill 26, then I will. The bill subjects our citizens to undisputed massive tax increases, incurs unfunded future obligations and jeopardizes the future of our children's education through instability in funding. This legislation is an irresponsible attempt to meet the Montana Supreme Court decision.

I exercise this veto of SB 26 with the welfare of the entire state in mind. I direct the legislature to continue working toward an acceptable, balanced, fiscally prudent school equalization plan that addresses the court mandate.

Sincerely,



STAN STEPHENS
Governor