

HOUSE BILL NO. 62

INTRODUCED BY SCHYE
BY REQUEST OF THE HOUSE EDUCATION
AND CULTURAL RESOURCES COMMITTEE

IN THE HOUSE

JULY 14, 1992 INTRODUCED AND REFERRED TO COMMITTEE
ON EDUCATION & CULTURAL RESOURCES.

FIRST READING.

JULY 15, 1992 COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

JULY 16, 1992 PRINTING REPORT.

SECOND READING, DO PASS AS AMENDED.

ENGROSSING REPORT.

THIRD READING, PASSED.
AYES, 92; NOES, 5.

TRANSMITTED TO SENATE.

IN THE SENATE

JULY 16, 1992 INTRODUCED AND REFERRED TO COMMITTEE
ON EDUCATION & CULTURAL RESOURCES.

FIRST READING.

JULY 17, 1992 COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT
ADOPTED.

JULY 18, 1992 SECOND READING, CONCURRED IN AS
AMENDED.

THIRD READING, CONCURRED IN.
AYES, 31; NOES, 19.

RETURNED TO HOUSE.

IN THE HOUSE

JULY 18, 1992 RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS

CONCURRED IN.

THIRD READING, AMENDMENTS
CONCURRED IN.
AYES, 55; NOES, 41

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 602
 2 INTRODUCED BY Schye
 3 BY REQUEST OF THE HOUSE EDUCATION
 4 AND CULTURAL RESOURCES COMMITTEE
 5

6 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A
 7 RELIABLE CASH FLOW TO SCHOOL DISTRICTS BY ALLOWING STATE
 8 ADVANCES FOR COUNTY EQUALIZATION COLLECTIONS; REQUIRING THE
 9 STATE TREASURER TO ASSESS COUNTIES AN INTEREST CHARGE OF 10
 10 PERCENT A YEAR ON ALL MONEY NOT REMITTED TO THE STATE BY THE
 11 20TH DAY OF EACH MONTH; REDUCING THE LEVEL OF ALLOWABLE
 12 SCHOOL DISTRICT GENERAL FUND OPERATING RESERVES TO 10
 13 PERCENT; AMENDING SECTIONS 15-1-504, 20-9-104, 20-9-212,
 14 20-9-331, 20-9-333, 20-9-334, 20-9-335, 20-9-344, 20-9-346,
 15 AND 20-9-347, MCA; AND PROVIDING EFFECTIVE DATES AND
 16 RETROACTIVE APPLICABILITY DATES."
 17

18 STATEMENT OF INTENT

19 A statement of intent is required for this bill because
 20 the superintendent of public instruction is granted
 21 rulemaking authority in 20-9-347(2) to adopt rules with
 22 regard to state advances to support the county equalization
 23 collections for foundation program funding under 20-9-331
 24 and 20-9-333. The procedure is intended to ensure that the
 25 county equalization revenue is fully realized by school

1 districts in a timely manner, regardless of delinquent or
 2 protested taxes. It is anticipated that the county
 3 superintendent of schools will continue to calculate and
 4 report to the school districts the revenue generated in
 5 support of elementary and high school county equalization
 6 for foundation program funding.
 7

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

9 **Section 1.** Section 15-1-504, MCA, is amended to read:

10 "15-1-504. Settlement of county treasurer with state
 11 treasurer. (1) The county treasurer, between the 1st and
 12 20th days of each month, shall remit to the state treasurer
 13 all money belonging to the state that was collected by the
 14 county treasurer during the preceding month. The remittance
 15 must be accompanied by a detailed report upon a form that
 16 the state treasurer prescribes. The state treasurer may
 17 shall assess counties an interest charge of 10% a year on
 18 all money not remitted ~~within--5--days--from~~ by the time
 19 required by this section. Any interest collected under this
 20 subsection must be deposited in the state general fund.

21 (2) The remittance required by June 20 of each fiscal
 22 year under the provisions of 20-9-212(14) and subsection (1)
 23 of this section must include an estimated payment of all
 24 money belonging to the state, plus accumulated interest,
 25 that is anticipated to be collected in June."



1 **Section 2.** Section 20-9-104, MCA, is amended to read:
 2 ***20-9-104. General fund operating reserve.** (1) At the
 3 end of each school fiscal year, the trustees of each
 4 district shall designate the portion of the general fund
 5 end-of-the-year fund balance that is to be earmarked as
 6 operating reserve for the purpose of paying general fund
 7 warrants issued by the district from July 1 to November 30
 8 of the ensuing school fiscal year. Except as provided in
 9 subsections (5) and (6), the amount of the general fund
 10 balance that is earmarked as operating reserve may not
 11 exceed ~~the following percentages~~ 10% of the final general
 12 fund budget for the ensuing school fiscal year:
 13 ~~(a) 35% for a district that did not receive state~~
 14 ~~equalization aid during the current school fiscal year;~~
 15 ~~(b) 30% for a district that received state equalization~~
 16 ~~aid equal to 25% or less of its foundation program schedule~~
 17 ~~entitlement in the current school fiscal year; and~~
 18 ~~(c) 20% for a district that received state equalization~~
 19 ~~aid equal to more than 25% of its foundation program~~
 20 ~~schedule entitlement in the current school fiscal year.~~
 21 (2) The amount held as operating reserve may not be
 22 used for property tax reduction in the manner permitted by
 23 20-9-141(1)(b) for other receipts.
 24 (3) Any unreserved fund balance that is equal to or
 25 less than the prior year's excess reserves as provided in

1 subsection (5) may be used to reduce the permissive levy
 2 provided by 20-9-145 or to reduce the voted levy provided by
 3 20-9-353.
 4 (4) Any portion of the general fund end-of-the-year
 5 fund balance that is not reserved under subsection (2) or
 6 reappropriated under subsection (3) is fund balance
 7 reappropriated and must be used for property tax reduction
 8 as provided in 20-9-141(1)(b)(iii).
 9 (5) The limitation of subsection (1) does not apply
 10 when the amount in excess of the limitation is equal to or
 11 less than one or more of the following:
 12 (a) any amount received under Public Law 81-874 in the
 13 current school fiscal year in excess of the amount
 14 anticipated in the general fund budget for the current
 15 school fiscal year;
 16 (b) the unused balance of any amount received in the
 17 current school fiscal year:
 18 (i) in settlement of tax payments protested in a prior
 19 school fiscal year;
 20 (ii) in taxes from a prior school fiscal year as a
 21 result of a tax audit by the department of revenue or its
 22 agents; and
 23 (iii) in delinquent taxes from a prior school fiscal
 24 year; or
 25 (c) any amount received in the current school fiscal

1 year as a general bonus payment under 20-6-401.

2 (6) The limitation of subsection (1) does not apply
3 when the amount earmarked as operating reserve is \$10,000 or
4 less."

5 **Section 3.** 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 the money according to the apportionments
12 ordered by the county superintendent. A separate accounting
13 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 transportation
21 schedules;

22 (d) the county tax in support of the elementary and
23 high school district retirement obligations; and

24 (e) any other county tax for schools, including the
25 community colleges, which may be authorized by law and

1 levied by the county commissioners.

2 (2) whenever requested, notify the county
3 superintendent and the superintendent of public instruction
4 of the amount of county school money on deposit in each of
5 the funds enumerated in subsection (1) of this section and
6 the amount of any other school money subject to
7 apportionment and apportion the county and other school
8 money to the districts in accordance with the apportionment
9 ordered by the county superintendent;

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

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

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

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

1 (7) send all revenue received for a joint district,
2 part of which is situated in his county, to the county
3 treasurer designated as the custodian of the revenue, no
4 later than December 15 of each year and every 3 months
5 thereafter until the end of the school fiscal year;

6 (8) at the direction of the trustees of a district,
7 assist the district in the issuance and sale of tax and
8 revenue anticipation notes as provided in Title 7, chapter
9 6, part 11;

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

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

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

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

1 20-16-202; and

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

13 (14) remit on a monthly basis to the state treasurer, in
14 accordance with the provisions of 15-1-504, all county
15 equalization revenue received under the provisions of
16 20-9-331 and 20-9-333 for elementary and high school
17 district foundation program support, including all interest
18 earned and excluding any amount required for high school
19 out-of-county tuition under the provisions of 20-9-334, in
20 repayment of the state advance for county equalization
21 prescribed in 20-9-347. Any funds in excess of a state
22 advance must be used as required in 20-9-331(1)(b) and
23 20-9-333(1)(b)."

24 **Section 4.** Section 20-9-331, MCA, is amended to read:

25 "20-9-331. Basic county tax and other revenues for

1 county equalization of the elementary district foundation
 2 program. (1) The county commissioners of each county shall
 3 levy an annual basic tax of 33 mills on the dollar of the
 4 taxable value of all taxable property within the county,
 5 except for property subject to a tax or fee under 23-2-517,
 6 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204, for
 7 the purposes of local and state foundation program support.
 8 The revenue collected from this levy must be apportioned to
 9 the support of the elementary foundation programs of the
 10 elementary school districts in the county and to the state
 11 special revenue fund, state equalization aid account, in the
 12 following manner:

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

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

16 (2) The revenue realized from the county's portion of
 17 the levy prescribed by this section and the revenue from the
 18 following sources must be used for the equalization of the
 19 elementary district foundation programs program entitlement
 20 of the county as prescribed in ~~20-9-334~~ 20-9-335, and a
 21 separate accounting must be kept of the revenue by the
 22 county treasurer in accordance with 20-9-212(1):

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

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

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

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

13 (e) any federal or state money distributed to the
14 county as payment in lieu of property taxation, including
15 federal forest reserve funds allocated under the provisions
16 of 17-3-213;

17 (f) gross proceeds taxes from coal under 15-23-703;

18 (g) net proceeds taxes for new production, as defined
19 in 15-23-601, and local government severance taxes on any
20 other production occurring after December 31, 1988; and

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

24 **Section 5.** Section 20-9-333, MCA, is amended to read:

25 **"20-9-333. Basic special levy and other revenues for**

1 **county equalization of high school district foundation**
2 **program.** (1) The county commissioners of each county shall
3 levy an annual basic special tax for high schools of 22
4 mills on the dollar of the taxable value of all taxable
5 property within the county, except for property subject to a
6 tax or fee under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521,
7 61-3-537, and 67-3-204, for the purposes of local and state
8 foundation program support. The revenue collected from this
9 levy must be apportioned to the support of the foundation
10 programs of high school districts in the county and to the
11 state special revenue fund, state equalization aid account,
12 in the following manner:

13 (a) In order to determine the amount of revenue raised
14 by this levy which is retained by the county, the sum of the
15 estimated revenue identified in subsection (2) must be
16 subtracted from the sum of the county's high school tuition
17 obligation and the total of the foundation programs of all
18 high school districts of the county.

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

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

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

17 (2) The revenue realized from the county's portion of
18 the levy prescribed in this section and the revenue from the
19 following sources must be used for the equalization of the
20 high school district foundation programs program entitlement
21 of the county as prescribed in 20-9-334 ~~20-9-335~~, and a
22 separate accounting must be kept of the revenue by the
23 county treasurer in accordance with 20-9-212(1):

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

1 accounts for the various sources of revenue established in
2 this section;

3 (b) any federal or state money distributed to the
4 county as payment in lieu of property taxation, including
5 federal forest reserve funds allocated under the provisions
6 of 17-3-213;

7 (c) gross proceeds taxes from coal under 15-23-703;

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

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

14 **Section 6.** Section 20-9-334, MCA, is amended to read:

15 "20-9-334. Apportionment of county equalization moneys
16 by county superintendent -- high school out-of-county
17 tuition obligations. (1) The county superintendent shall
18 separately apportion the calculate the apportionment of
19 revenues deposited in the basic county tax account and the
20 revenues deposited in the basic special tax for high schools
21 account to the several districts of the county on a monthly
22 basis. The apportionments shall be known as "county
23 equalization moneys". Before the

24 (2) The county superintendent makes the monthly
25 apportionments, he shall direct the county treasurer to

1 percentage determined in subsection (1)(a) above to
2 determine the portion of the county equalization moneys
3 available to each public elementary school district.

4 (2) The above procedure shall also be applied for
5 public---secondary--districts the high school foundation
6 program entitlement after the deduction of the county's
7 obligation for high school out-of-county tuition.

8 (3) ~~No--territory~~ Territory situated within a county
9 shall may not be excluded from the apportionment
10 calculations of the county equalization moneys under this
11 section solely because such the territory lies within the
12 boundaries of a joint district. Cash balances to the credit
13 of any district at the end of a school fiscal year shall may
14 not be considered in the apportionment procedure prescribed
15 in this section.

16 (4) The county equalization moneys apportioned reported
17 under these procedures shall constitute are the first source
18 of revenue in--calculating-the for financing of the public
19 elementary and secondary--district high school foundation
20 program entitlements. The--county-superintendent-shall-use
21 the-apportionment-procedure-prescribed-in--this--section--in
22 computing--the--estimated--revenues-for-the-financing-of-the
23 ensuing-year's-foundation-program-for-budgeting-purposes."

24 **Section 8.** Section 20-9-344, MCA, is amended to read:

25 "20-9-344. Purpose of state equalization aid and duties

1 deduct from the revenues available in the basic special tax
2 for high schools account, prior to remittance of the funds
3 to the state treasurer under the provisions of 15-1-504 and
4 20-9-212, the amount required for the month to pay the
5 county's obligation for high school out-of-county tuition."

6 **Section 7.** Section 20-9-335, MCA, is amended to read:

7 "20-9-335. Formula for apportionment of county
8 equalization moneys. (1) ~~After--making--such--deductions~~
9 ~~prescribed--in-20-9-3347-the~~ The county superintendent shall
10 ~~apportion-the--remaining--amount--of--moneys~~ calculate the
11 apportionment of revenue available in the basic county tax
12 ~~account to-the-several-public-elementary--districts--of--the~~
13 ~~county and in the basic special tax for high schools account~~
14 ~~to--the--several-public-secondary-districts-of-the-county-in~~
15 ~~proportion-to-their-needs-under-the--foundation--program~~ in
16 accordance with the following procedure:

17 (a) determine the percentage that the county
18 equalization moneys available for the support of the
19 elementary foundation programs ~~of--the--public-elementary~~
20 program entitlement of the districts in the county is of the
21 total amount-of-the elementary foundation programs program
22 entitlement of all public--elementary districts in the
23 county;

24 (b) multiply the elementary foundation program
25 entitlement amount of each public-elementary district by the

1 of board of public education for distribution ----conditions
 2 of---first--payment. (1) The money available for state
 3 equalization aid must be distributed and apportioned to
 4 provide:

5 (a) an annual minimum operating revenue for the
 6 elementary and high schools in each county, exclusive of
 7 revenues required for debt service and for the payment of
 8 any costs and expense incurred in connection with any adult
 9 education program, recreation program, school food services
 10 program, new buildings and grounds, and transportation; and

11 (b) the Montana educational telecommunications network
 12 as provided in 20-32-101.

13 (2) The board of public education shall administer and
 14 distribute the state equalization aid and state advances for
 15 county equalization in the manner and with the powers and
 16 duties provided by law. To this end, the board of public
 17 education shall:

18 (a) adopt policies for regulating the distribution of
 19 state equalization aid and state advances for county
 20 equalization in accordance with the provisions of law and-in
 21 ~~a-manner-that-provides-for-monthly-distribution-to-each~~
 22 ~~district-of-its-foundation-program-amount-and-to-each-county~~
 23 ~~and-district-distribution-of-its-guaranteed-tax-base-aid;~~

24 (b) have the power to require reports from the county
 25 superintendents, budget boards, county treasurers, and

1 trustees as it considers necessary; and

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

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

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

19 (b) maintain accredited status.

20 (4) Prior to any proposed order by the board of public
 21 education to withhold distribution of state equalization aid
 22 or county equalization money, the district is entitled to a
 23 contested case hearing before the board of public education,
 24 as provided under the Montana Administrative Procedure Act.

25 (5) If a district or county receives more state

1 equalization aid than it is entitled to, the county
2 treasurer shall return the overpayment to the state upon the
3 request of the superintendent of public instruction in the
4 manner prescribed by the superintendent of public
5 instruction.

6 ~~(6) The first~~ Except as provided in 20-9-347(3),
7 the foundation program payment and guaranteed tax base aid
8 payment must be based on an estimate of 20% of the
9 entitlement of each district or county and distributed by
10 July 15 of the school fiscal year.

11 ~~(b) Each subsequent monthly payment must be at least 7%~~
12 ~~of the entitlement of each district or county according to~~
13 ~~the following schedule:~~

14 (a) from August to May of the school fiscal year, 8% of
15 the foundation program entitlement of each district;

16 (b) in November of the school fiscal year, one-half of
17 the guaranteed tax base aid entitlement of each district or
18 county;

19 (c) in May of the school fiscal year, the remainder of
20 the guaranteed tax base aid entitlement of each district or
21 county; and

22 (d) in June of the school fiscal year, the remaining
23 foundation program entitlement of each district.

24 (7) The distribution of foundation program payments and
25 guaranteed tax base aid provided for in subsection (6) must

1 occur by the last working day of each month."

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

3 **"20-9-346. Duties of the superintendent of public**
4 **instruction for state equalization aid distribution.** The
5 superintendent of public instruction shall administer the
6 distribution of the state equalization aid by:

7 (1) establishing the annual entitlement of each
8 district and county to state equalization aid, based on the
9 data reported in the retirement and general fund budgets for
10 each district that have been duly adopted for the current
11 school fiscal year and verified by the superintendent of
12 public instruction and by applying the verified data under
13 the provisions of the state equalization aid allocation
14 procedure prescribed in 20-9-347;

15 (2) ~~recommending to the board of public education the~~
16 ~~entitlement of all districts and counties to state~~
17 ~~equalization aid to enable the board of public education to~~
18 ~~order the distribution of state equalization aid;~~

19 ~~(3) distributing by state warrant or electronic~~
20 ~~transfer the state equalization aid and state advances for~~
21 ~~county equalization, for each district or county entitled to~~
22 ~~the aid, to the county treasurer of the respective county or~~
23 ~~county where the district is located, in accordance with the~~
24 ~~distribution ordered by the board of public education;~~

25 ~~(4)(3) keeping a record in his office of the full and~~

1 complete data concerning money available for state
2 equalization aid, state advances for county equalization,
3 and the entitlements for state equalization aid of the
4 districts of the state;

5 (5)(4) reporting to the board of public education the
6 estimated amount that will be available for state
7 equalization aid; and

8 (6)(5) reporting to the legislature as provided in
9 5-11-210:

10 (a) the figures and data available in--his--office
11 concerning distributions of state equalization aid during
12 the preceding 2 school fiscal years;

13 (b) the amount of state equalization aid then
14 available;

15 (c) the apportionment made of the available money but
16 not yet distributed; and

17 (d) the latest estimate of accruals of money available
18 for state equalization aid; and

19 (e) the amount of state advances and repayment for
20 county equalization."

21 **Section 10.** Section 20-9-347, MCA, is amended to read:

22 "20-9-347. Formula for state equalization aid
23 apportionment in support of foundation program --
24 exceptions. (1) The superintendent of public instruction
25 shall apportion the state equalization aid available for

1 support of the foundation program, individually for the
2 elementary districts of a county or the high school
3 districts of a county, in accordance with 20-9-346 and on
4 the basis of the following procedure:

5 (a) Determine the percentage that the total funds
6 available to all counties in the state in support of the
7 foundation program (including the state money available for
8 state equalization aid in support of the foundation program)
9 is of the total amount of the foundation programs of all
10 counties.

11 (b) Determine the percentage that the total funds
12 available in each county in support of the foundation
13 programs in the county (excluding state money available for
14 state equalization aid in support of the foundation program)
15 is of the total amount of the foundation programs of all
16 districts of the county.

17 (c) Counties in which the percentage determined in
18 subsection (1)(b) exceeds the percentage determined in
19 subsection (1)(a) are not entitled to an apportionment of
20 the state equalization aid in support of the foundation
21 program.

22 (d) After elimination of the counties referred to in
23 subsection (1)(c), determine the percentage that the total
24 money available to all remaining counties in support of the
25 foundation program (including the state money available for

1 state equalization aid in support of the foundation program)
 2 is of the total amount of the foundation programs of all
 3 remaining counties.

4 (e) Each district of each remaining county is entitled
 5 to an apportionment of the state equalization aid in support
 6 of the foundation program equal to the difference between
 7 the percentage determined in subsection (1)(d) and the
 8 percentage determined for the county in subsection (1)(b)
 9 multiplied by the foundation program amount for the
 10 district.

11 (2) The superintendent of public instruction shall:

12 (a) supply the county treasurer and the county
 13 superintendent with a report of the apportionments of state
 14 equalization aid in support of the foundation program of
 15 each district of the county, and the state equalization aid
 16 in support of the foundation program must be apportioned to
 17 the districts in accordance with the report;

18 (b) in the manner described in 20-9-344, provide for a
 19 state advance to each county in an amount that is no less
 20 than the amount anticipated to be raised for the basic
 21 county tax fund as provided in 20-9-331 and for the basic
 22 special tax fund as provided in 20-9-333;

23 (c) adopt rules to implement the provisions of
 24 subsection (2)(b).

25 (3) (a) The superintendent of public instruction is

1 authorized to adjust the schedule prescribed in 20-9-344 for
 2 distribution of the foundation program and guaranteed tax
 3 base aid entitlements if the distribution will cause a
 4 district to register warrants under the provisions of
 5 20-9-212(9).

6 (b) To qualify for an adjustment in the payment
 7 schedule, a district shall demonstrate to the superintendent
 8 of public instruction, in the manner required by the office,
 9 that the payment schedule prescribed in 20-9-344 will result
 10 in insufficient money available in all funds of the district
 11 to make payment of the district's warrants. The county
 12 treasurer shall confirm the anticipated deficit. Nothing in
 13 this section may be construed to authorize the
 14 superintendent of public instruction to exceed a district's
 15 annual entitlement for state and county equalization aid."

16 **NEW SECTION. Section 11. Effective dates** --
 17 **retroactive applicability.** (1) [Section 1] is effective
 18 August 1, 1992.

19 (2) [Sections 3 through 10] are effective on passage
 20 and approval and apply retroactively, within the meaning of
 21 1-2-109, to revenue collections under 20-9-331 and 20-9-333
 22 for the school fiscal year beginning July 1, 1992.

23 (3) [Section 2] is effective on passage and approval
 24 and applies retroactively, within the meaning of 1-2-109, to
 25 school district general fund end-of-the-year fund balances

LC 0106/01

1 for the school fiscal year ending June 30, 1992.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0062, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION: An act providing for a reliable cash flow to school districts by allowing state advances for county equalization collections; requiring the state treasurer to assess counties an interest charge of 10 percent a year on all money not remitted to the state by the 20th day of each month; reducing the level of allowable school district general fund operating reserves to 10 percent; amending various sections of MCA; and providing effective dates and retroactive applicability dates.

ASSUMPTIONS:

- . Funds are invested at an interest rate of 5%.
- . 35% of interest losses to districts are reflected as increased state GTB costs.
- . All funds are invested, i.e. interest gain to state = interest loss to districts.
- . Special OPI approved adjustments to payment schedule for hardship districts would be insignificant.
- . Most counties would remit amounts due on time resulting in insignificant penalties.
- . School district general fund reserves remain at June 30, 1991 level.
- . All district general fund operating reserves greater than 10 percent not currently identified as "excess" in district budgets are available to fund the permissive.

FISCAL IMPACT:

Increased general fund revenue	\$1,791,000
Reduced general fund cost	<u>7,959,000</u>
Net General fund gain	\$9,750,000

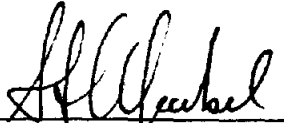
The general fund gain is composed of interest gain to the general fund of \$1,791,000, increased GTB costs of \$627,000 due to interest loss to districts due to reduced state advances, and \$8,586,000 reduced GTB costs as districts use reserves to reduce permissive mill levies.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

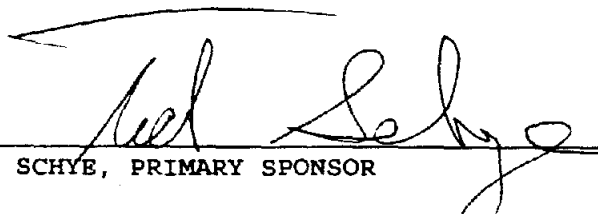
Net loss to school districts of \$1,164,000 due to reduced interest earnings on state advances (see assumption #3). School districts will reduce reserves by \$30,455,000 of which \$21,869,000 will be passed on to property taxpayers through reduced permissive mill levies.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

School district reserves would be reduced resulting in ongoing reduction in interest earnings.


 STEVE YEAKEL, BUDGET DIRECTOR
 Office of Budget and Program Planning

7/15/92
 DATE


 TED SCHYE, PRIMARY SPONSOR

5/4/8
 DATE

Fiscal Note for HB0062, as introduced

APPROVED BY COMM. ON EDUCATION
AND CULTURAL RESOURCES

1 HOUSE BILL NO. 62
2 INTRODUCED BY SCHYE
3 BY REQUEST OF THE HOUSE EDUCATION
4 AND CULTURAL RESOURCES COMMITTEE
5

6 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A
7 RELIABLE CASH FLOW TO SCHOOL DISTRICTS BY ALLOWING STATE
8 ADVANCES FOR COUNTY EQUALIZATION COLLECTIONS; REQUIRING THE
9 STATE TREASURER TO ASSESS COUNTIES AN INTEREST CHARGE OF 10
10 PERCENT A YEAR ON ALL MONEY NOT REMITTED TO THE STATE BY THE
11 20TH DAY OF EACH MONTH; REDUCING THE LEVEL OF ALLOWABLE
12 SCHOOL DISTRICT GENERAL FUND OPERATING RESERVES TO 10
13 PERCENT; PROVIDING FOR AN EMERGENCY BUDGET AMENDMENT TAX
14 LEVY; AMENDING SECTIONS 15-1-504, 20-9-104, 20-9-212,
15 20-9-331, 20-9-333, 20-9-334, 20-9-335, 20-9-344, 20-9-346,
16 AND 20-9-347, MCA; AND PROVIDING EFFECTIVE DATES AND
17 RETROACTIVE APPLICABILITY DATES."
18

19 STATEMENT OF INTENT

20 A statement of intent is required for this bill because
21 the superintendent of public instruction is granted
22 rulemaking authority in 20-9-347(2) to adopt rules with
23 regard to state advances to support the county equalization
24 collections for foundation program funding under 20-9-331
25 and 20-9-333. The procedure is intended to ensure that the

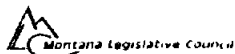
1 county equalization revenue is fully realized by school
2 districts in a timely manner, regardless of delinquent or
3 protested taxes. It is anticipated that the county
4 superintendent of schools will continue to calculate and
5 report to the school districts the revenue generated in
6 support of elementary and high school county equalization
7 for foundation program funding.
8

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

10 **Section 1.** Section 15-1-504, MCA, is amended to read:

11 "15-1-504. Settlement of county treasurer with state
12 treasurer. ~~(1)~~ The county treasurer, between the 1st and
13 20th days of each month, shall remit to the state treasurer
14 all money belonging to the state that was collected by the
15 county treasurer during the preceding month. The remittance
16 must be accompanied by a detailed report upon a form that
17 the state treasurer prescribes. The state treasurer ~~may~~
18 shall assess counties an interest charge of 10% a year on
19 all money not remitted ~~within--5--days--from~~ by the time
20 required by this section. Any interest collected under this
21 subsection must be deposited in the state general fund.

22 ~~(2)--The--remittance--required--by--June--20--of--each--fiscal~~
23 ~~year--under--the--provisions--of--20-9-212(14)--and--subsection--(1)~~
24 ~~of--this--section--must--include--an--estimated--payment--of--all~~
25 ~~money--belonging--to--the--state,--plus--accumulated--interest;~~



~~that-is-anticipated-to-be-collected-in-june."~~

Section 2. Section 20-9-104, MCA, is amended to read:

"20-9-104. General fund operating reserve. (1) At the end of each school fiscal year, the trustees of each district shall designate the portion of the general fund end-of-the-year fund balance that is to be earmarked as operating reserve for the purpose of paying general fund warrants issued by the district from July 1 to November 30 of the ensuing school fiscal year. Except as provided in subsections (5) and (6), the amount of the general fund balance that is earmarked as operating reserve may not exceed ~~the--following--percentages~~ 10% of the final general fund budget for the ensuing school fiscal year:

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

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

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

(2) The amount held as operating reserve may not be used for property tax reduction in the manner permitted by 20-9-141(1)(b) for other receipts.

(3) Any unreserved fund balance that is equal to or

less than the prior year's excess reserves as provided in subsection (5) may be used to reduce the permissive levy provided by 20-9-145 or to reduce the voted levy provided by 20-9-353.

(4) Any portion of the general fund end-of-the-year fund balance that is not reserved under subsection (2) or reappropriated under subsection (3) is fund balance reappropriated and must be used for property tax reduction as provided in 20-9-141(1)(b)(iii).

(5) THE FOR FISCAL YEAR 1994 AND SUBSEQUENT FISCAL YEARS, THE limitation of subsection (1) does not apply when the amount in excess of the limitation is equal to or less than one or more of the following:

(a) any amount received under Public Law 81-874 in-the current--school--fiscal--year--in--excess--of--the--amount anticipated--in--the--general--fund--budget--for--the--current school--fiscal--year;

(b) the unused balance of any amount received in--the current--school--fiscal--year:

(i) in settlement of tax payments protested in a prior school fiscal year;

(ii) in taxes from a prior school fiscal year as a result of a tax audit by the department of revenue or its agents; and

(iii) in delinquent taxes from a prior school fiscal

1 year; or

2 (c) any amount received ~~in the current school fiscal~~
3 ~~year~~ as a general bonus payment under 20-6-401.

4 (6) The limitation of subsection (1) does not apply
5 when the amount earmarked as operating reserve is \$10,000 or
6 less.

7 (7) FOR FISCAL YEAR 1993, THE LIMITATION OF SUBSECTION
8 (1) DOES NOT APPLY WHEN THE AMOUNT IN EXCESS OF THE
9 LIMITATION IS EQUAL TO OR LESS THAN THE AMOUNTS IDENTIFIED
10 BY A SCHOOL DISTRICT AS ONE OR MORE OF THE FOLLOWING:

11 (A) ANY AMOUNT RECEIVED UNDER PUBLIC LAW 81-874;

12 (B) THE UNUSED BALANCE OF ANY AMOUNT RECEIVED:

13 (I) IN SETTLEMENT OF TAX PAYMENTS PROTESTED IN A PRIOR
14 SCHOOL FISCAL YEAR;

15 (II) IN TAXES FROM A PRIOR SCHOOL FISCAL YEAR AS A
16 RESULT OF A TAX AUDIT BY THE DEPARTMENT OF REVENUE OR ITS
17 AGENTS; AND

18 (III) IN DELINQUENT TAXES FROM A PRIOR SCHOOL FISCAL
19 YEAR; OR

20 (C) ANY AMOUNT RECEIVED AS A GENERAL BONUS PAYMENT
21 UNDER 20-6-401."

22 **Section 3.** Section 20-9-212, MCA, is amended to read:

23 "20-9-212. Duties of county treasurer. The county
24 treasurer of each county shall:

25 (1) receive and hold all school money subject to

1 apportionment and keep a separate accounting of its
2 apportionment to the several districts which are entitled to
3 a portion of the money according to the apportionments
4 ordered by the county superintendent. A separate accounting
5 must be maintained for each county fund supported by a
6 countywide levy for a specific, authorized purpose,
7 including:

8 (a) the basic county tax in support of the elementary
9 foundation programs;

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

12 (c) the county tax in support of the transportation
13 schedules;

14 (d) the county tax in support of the elementary and
15 high school district retirement obligations; and

16 (e) any other county tax for schools, including the
17 community colleges, which may be authorized by law and
18 levied by the county commissioners.

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

1 ordered by the county superintendent;

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

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

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

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

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

23 (8) at the direction of the trustees of a district,
24 assist the district in the issuance and sale of tax and
25 revenue anticipation notes as provided in Title 7, chapter

1 6, part 11;

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

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

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

15 (12) remit promptly to the state treasurer receipts for
16 the county tax for a vocational-technical center when levied
17 by the board of county commissioners under the provisions of
18 20-16-202; and

19 (13) invest the money received from the basic county tax
20 in support of the elementary foundation programs and the
21 basic special tax in support of the high school foundation
22 programs within 3 working days of receipt. The money must be
23 invested until the working day before it is required to be
24 distributed to school districts within the county or
25 remitted to the state. Permissible investments are specified

1 in 20-9-213(4). All investment income must be deposited, and
 2 credited proportionately, in the funds established to
 3 account for the taxes received for the purposes specified in
 4 subsections (1)(a) and (1)(b).

5 (14) remit on a monthly basis to the state treasurer, in
 6 accordance with the provisions of 15-1-504, all county
 7 equalization revenue received under the provisions of
 8 20-9-331 and 20-9-333 for elementary and high school
 9 district foundation program support, including all interest
 10 earned and excluding any amount required for high school
 11 out-of-county tuition under the provisions of 20-9-334, in
 12 repayment of the state advance for county equalization
 13 prescribed in 20-9-347. Any funds in excess of a state
 14 advance must be used as required in 20-9-331(1)(b) and
 15 20-9-333(1)(b)."

16 **Section 4.** Section 20-9-331, MCA, is amended to read:
 17 "20-9-331. Basic county tax and other revenues for
 18 county equalization of the elementary district foundation
 19 program. (1) The county commissioners of each county shall
 20 levy an annual basic tax of 33 mills on the dollar of the
 21 taxable value of all taxable property within the county,
 22 except for property subject to a tax or fee under 23-2-517,
 23 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204, for
 24 the purposes of local and state foundation program support.
 25 The revenue collected from this levy must be apportioned to

1 the support of the elementary foundation programs of the
 2 elementary school districts in the county and to the state
 3 special revenue fund, state equalization aid account, in the
 4 following manner:

5 (a) In order to determine the amount of revenue raised
 6 by this levy which is retained by the county, the sum of the
 7 estimated revenue identified in subsection (2) must be
 8 subtracted from the total of the foundation programs of all
 9 elementary districts of the county.

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

20 ~~(c) If revenue from the basic levy prescribed by this~~
 21 ~~section when combined with the other revenue from subsection~~
 22 ~~(2) is insufficient to fully fund the percentage determined~~
 23 ~~in 20-9-347(1)(b) and the county is eligible for an~~
 24 ~~apportionment of state equalization aid under the provisions~~
 25 ~~of 20-9-347(1)(c), the county superintendent shall notify~~

~~1 the superintendent of public instruction of the deficiency.~~
~~2 The superintendent of public instruction shall increase the~~
~~3 state equalization aid payments to the districts in the~~
~~4 affected county to offset the deficiency. A payment may not~~
~~5 be made under this subsection (c) that allows a district to~~
~~6 receive foundation program funding in excess of the~~
~~7 foundation program amount of the district.~~

(2) The revenue realized from the county's portion of the levy prescribed by this section and the revenue from the following sources must be used for the equalization of the elementary district foundation programs program entitlement of the county as prescribed in ~~20-9-334~~ 20-9-335, and a separate accounting must be kept of the revenue by the county treasurer in accordance with 20-9-212(1):

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

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

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

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

(e) any federal or state money distributed to the county as payment in lieu of property taxation, including federal forest reserve funds allocated under the provisions of 17-3-213;

(f) gross proceeds taxes from coal under 15-23-703;

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

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

Section 5. Section 20-9-333, MCA, is amended to read:

"20-9-333. Basic special levy and other revenues for county equalization of high school district foundation program. (1) The county commissioners of each county shall levy an annual basic special tax for high schools of 22 mills on the dollar of the taxable value of all taxable property within the county, except for property subject to a tax or fee under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204, for the purposes of local and state foundation program support. The revenue collected from this

1 levy must be apportioned to the support of the foundation
 2 programs of high school districts in the county and to the
 3 state special revenue fund, state equalization aid account,
 4 in the following manner:

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

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

21 ~~(c) If revenue from the basic levy prescribed by this~~
 22 ~~section when combined with the other revenue from subsection~~
 23 ~~(2) is insufficient to fully fund the percentage determined~~
 24 ~~in 20-9-347(1)(b) and the county is eligible for an~~
 25 ~~apportionment of state equalization aid under the provisions~~

1 ~~of 20-9-347(1)(c), the county superintendent shall notify~~
 2 ~~the superintendent of public instruction of the deficiency.~~
 3 ~~The superintendent of public instruction shall increase the~~
 4 ~~state equalization aid payments to the districts in the~~
 5 ~~affected county to offset the deficiency. A payment may not~~
 6 ~~be made under this subsection (c) that allows a district to~~
 7 ~~receive foundation program funding in excess of the~~
 8 ~~foundation program amount of the district.~~

9 (2) The revenue realized from the county's portion of
 10 the levy prescribed in this section and the revenue from the
 11 following sources must be used for the equalization of the
 12 high school district foundation programs program entitlement
 13 of the county as prescribed in ~~20-9-334~~ 20-9-335, and a
 14 separate accounting must be kept of the revenue by the
 15 county treasurer in accordance with 20-9-212(1):

16 (a) any money remaining at the end of the immediately
 17 preceding school fiscal year in the county treasurer's
 18 accounts for the various sources of revenue established in
 19 this section;

20 (b) any federal or state money distributed to the
 21 county as payment in lieu of property taxation, including
 22 federal forest reserve funds allocated under the provisions
 23 of 17-3-213;

24 (c) gross proceeds taxes from coal under 15-23-703;

25 (d) net proceeds taxes for new production, as defined

1 in 15-23-601, and local government severance taxes on any
 2 other production occurring after December 31, 1988; and

3 (e) anticipated revenue from property taxes and fees
 4 imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521,
 5 61-3-537, and 67-3-204."

6 **Section 6.** Section 20-9-334, MCA, is amended to read:

7 "20-9-334. Apportionment of county equalization moneys
 8 by--county--superintendent -- high school out-of-county
 9 tuition obligations. (1) The county superintendent shall
 10 separately--apportion--the calculate the apportionment of
 11 revenues deposited in the basic county tax account and the
 12 revenues deposited in the basic special tax for high schools
 13 account to the several districts of the county on-a-monthly
 14 basis. The apportionments shall be known as "county
 15 equalization moneys". Before-the

16 (2) The county superintendent makes--the--monthly
 17 apportionments, he shall direct the county treasurer to
 18 deduct from the revenues available in the basic special tax
 19 for high schools account, prior to remittance of the funds
 20 to the state treasurer under the provisions of 15-1-504 and
 21 20-9-212, the amount required for the month to pay the
 22 county's obligation for high school out-of-county tuition."

23 **Section 7.** Section 20-9-335, MCA, is amended to read:

24 "20-9-335. Formula for apportionment of county
 25 equalization moneys. (1) After--making--such--deductions

1 ~~prescribed--in-20-9-334--the~~ The county superintendent shall
 2 ~~apportion-the--remaining--amount--of--moneys~~ calculate the
 3 ~~apportionment of revenue available in the basic county tax~~
 4 ~~account to-the-several-public-elementary--districts--of--the~~
 5 ~~county and in the basic special tax for high schools account~~
 6 ~~to--the--several-public-secondary-districts-of-the-county-in~~
 7 ~~proportion-to-their-needs-under-the--foundation--program~~ in
 8 accordance with the following procedure:

9 (a) determine the percentage that the county
 10 equalization moneys available for the support of the
 11 elementary foundation programs--of--the--public-elementary
 12 program entitlement of the districts in the county is of the
 13 total amount-of-the elementary foundation programs program
 14 entitlement of all public--elementary districts in the
 15 county;

16 (b) multiply the elementary foundation program
 17 entitlement amount of each public-elementary district by the
 18 percentage determined in subsection (1)(a) above to
 19 determine the portion of the county equalization moneys
 20 available to each public elementary school district.

21 (2) The above procedure shall also be applied for
 22 public--secondary--districts the high school foundation
 23 program entitlement after the deduction of the county's
 24 obligation for high school out-of-county tuition.

25 (3) ~~No--territory~~ Territory situated within a county

1 ~~shall~~ may not be excluded from the apportionment
 2 calculations of the county equalization moneys under this
 3 section solely because ~~such~~ the territory lies within the
 4 boundaries of a joint district. Cash balances to the credit
 5 of any district at the end of a school fiscal year ~~shall~~ may
 6 not be considered in the apportionment procedure prescribed
 7 in this section.

8 (4) The county equalization moneys ~~apportioned~~ reported
 9 under these procedures ~~shall constitute~~ are the first source
 10 of revenue ~~in--calculating--the~~ for financing of the public
 11 elementary and ~~secondary--district~~ high school foundation
 12 program entitlements. ~~The--county--superintendent--shall--use~~
 13 ~~the--apportionment--procedure--prescribed--in--this--section--in~~
 14 ~~computing--the--estimated--revenues--for--the--financing--of--the~~
 15 ~~ensuing--year's--foundation--program--for--budgeting--purposes--"~~

16 **Section 8.** Section 20-9-344, MCA, is amended to read:

17 **"20-9-344.** Purpose of state equalization aid and duties
 18 of board of public education for distribution ~~---conditions~~
 19 ~~of---first--payment~~. (1) The money available for state
 20 equalization aid must be distributed and apportioned to
 21 provide:

22 (a) an annual minimum operating revenue for the
 23 elementary and high schools in each county, exclusive of
 24 revenues required for debt service and for the payment of
 25 any costs and expense incurred in connection with any adult

1 education program, recreation program, school food services
 2 program, new buildings and grounds, and transportation; and

3 (b) the Montana educational telecommunications network
 4 as provided in 20-32-101.

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

10 (a) adopt policies for regulating the distribution of
 11 state equalization aid and state advances for county
 12 equalization in accordance with the provisions of law ~~and in~~
 13 ~~a--manner--that--provides--for--monthly--distribution--to--each~~
 14 ~~district--of--its--foundation--program--amount--and--to--each--county~~
 15 ~~and--district--distribution--of--its--guaranteed--tax--base--aid;~~

16 (b) have the power to require reports from the county
 17 superintendents, budget boards, county treasurers, and
 18 trustees as it 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 the aid as established by
 22 the superintendent of public instruction. In ordering the
 23 distribution of state equalization aid, the board of public
 24 education may not increase or decrease the state
 25 equalization aid distribution to any district on account of

1 any difference that may occur during the school fiscal year
2 between budgeted and actual receipts from any other source
3 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 (5) If a district or county receives more state
18 equalization aid than it is entitled to, the county
19 treasurer shall return the overpayment to the state upon the
20 request of the superintendent of public instruction in the
21 manner prescribed by the superintendent of public
22 instruction.

23 (6) ~~(a) The first~~ Except as provided in 20-9-347(3),
24 the foundation program payment and guaranteed tax base aid
25 payment must be based on an estimate of 20% of the

1 entitlement of each district or county and distributed by
2 July 15 of the school fiscal year.

3 (b) Each subsequent monthly payment must be at least 7%
4 of the entitlement of each district or county according to
5 the following schedule:

6 (a) from August to May of the school fiscal year, 8% of
7 the foundation program entitlement of each district;

8 (b) in November of the school fiscal year, one-half of
9 the guaranteed tax base aid entitlement of each district or
10 county;

11 (c) in May of the school fiscal year, the remainder of
12 the guaranteed tax base aid entitlement of each district or
13 county; and

14 (d) in June of the school fiscal year, the remaining
15 foundation program entitlement of each district.

16 (7) The distribution of foundation program payments and
17 guaranteed tax base aid provided for in subsection (6) must
18 occur by the last working day of each month."

19 Section 9. Section 20-9-346, MCA, is amended to read:

20 "20-9-346. Duties of the superintendent of public
21 instruction for state equalization aid distribution. The
22 superintendent of public instruction shall administer the
23 distribution of the state equalization aid by:

24 (1) establishing the annual entitlement of each
25 district and county to state equalization aid, based on the

1 data reported in the retirement and general fund budgets for
 2 each district that have been duly adopted for the current
 3 school fiscal year and verified by the superintendent of
 4 public instruction and by applying the verified data under
 5 the provisions of the state equalization aid allocation
 6 procedure prescribed in 20-9-347;

7 ~~(2) recommending to the board of public education the~~
 8 ~~entitlement of all districts and counties to state~~
 9 ~~equalization aid to enable the board of public education to~~
 10 ~~order the distribution of state equalization aid;~~

11 ~~(3)~~ distributing by state warrant or electronic
 12 transfer the state equalization aid and state advances for
 13 county equalization, for each district or county entitled to
 14 the aid, to the county treasurer of the respective county or
 15 county where the district is located, in accordance with the
 16 distribution ordered by the board of public education;

17 ~~(4)~~ keeping a record ~~in his office~~ of the full and
 18 complete data concerning money available for state
 19 equalization aid, state advances for county equalization,
 20 and the entitlements for state equalization aid of the
 21 districts of the state;

22 ~~(5)~~ reporting to the board of public education the
 23 estimated amount that will be available for state
 24 equalization aid; and

25 ~~(6)~~ reporting to the legislature as provided in

1 5-11-210:

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

5 (b) the amount of state equalization aid then
 6 available;

7 (c) the apportionment made of the available money but
 8 not yet distributed; and

9 (d) the latest estimate of accruals of money available
 10 for state equalization aid; and

11 (e) the amount of state advances and repayment for
 12 county equalization."

13 **Section 10.** Section 20-9-347, MCA, is amended to read:

14 "20-9-347. Formula for state equalization aid
 15 apportionment in support of foundation program --
 16 exceptions. (1) The superintendent of public instruction
 17 shall apportion the state equalization aid available for
 18 support of the foundation program, individually for the
 19 elementary districts of a county or the high school
 20 districts of a county, in accordance with 20-9-346 and on
 21 the basis of the following procedure:

22 (a) Determine the percentage that the total funds
 23 available to all counties in the state in support of the
 24 foundation program (including the state money available for
 25 state equalization aid in support of the foundation program)

1 is of the total amount of the foundation programs of all
2 counties.

3 (b) Determine the percentage that the total funds
4 available in each county in support of the foundation
5 programs in the county (excluding state money available for
6 state equalization aid in support of the foundation program)
7 is of the total amount of the foundation programs of all
8 districts of the county.

9 (c) Counties in which the percentage determined in
10 subsection (1)(b) exceeds the percentage determined in
11 subsection (1)(a) are not entitled to an apportionment of
12 the state equalization aid in support of the foundation
13 program.

14 (d) After elimination of the counties referred to in
15 subsection (1)(c), determine the percentage that the total
16 money available to all remaining counties in support of the
17 foundation program (including the state money available for
18 state equalization aid in support of the foundation program)
19 is of the total amount of the foundation programs of all
20 remaining counties.

21 (e) Each district of each remaining county is entitled
22 to an apportionment of the state equalization aid in support
23 of the foundation program equal to the difference between
24 the percentage determined in subsection (1)(d) and the
25 percentage determined for the county in subsection (1)(b)

1 multiplied by the foundation program amount for the
2 district.

3 (2) The superintendent of public instruction shall:

4 (a) supply the county treasurer and the county
5 superintendent with a report of the apportionments of state
6 equalization aid in support of the foundation program of
7 each district of the county, and the state equalization aid
8 in support of the foundation program must be apportioned to
9 the districts in accordance with the report;

10 (b) in the manner described in 20-9-344, provide for a
11 state advance to each county in an amount that is no less
12 than the amount anticipated to be raised for the basic
13 county tax fund as provided in 20-9-331 and for the basic
14 special tax fund as provided in 20-9-333;

15 (c) adopt rules to implement the provisions of
16 subsection (2)(b).

17 (3) (a) The superintendent of public instruction is
18 authorized to adjust the schedule prescribed in 20-9-344 for
19 distribution of the foundation program and guaranteed tax
20 base aid entitlements if the distribution will cause a
21 district to register warrants under the provisions of
22 20-9-212(9).

23 (b) To qualify for an adjustment in the payment
24 schedule, a district shall demonstrate to the superintendent
25 of public instruction, in the manner required by the office,

1 that the payment schedule prescribed in 20-9-344 will result
 2 in insufficient money available in all funds of the district
 3 to make payment of the district's warrants. The county
 4 treasurer shall confirm the anticipated deficit. Nothing in
 5 this section may be construed to authorize the
 6 superintendent of public instruction to exceed a district's
 7 annual entitlement for state and county equalization aid."

8 NEW SECTION. SECTION 11. EMERGENCY BUDGET AMENDMENT
 9 TAX LEVY. WHEN A BUDGET AMENDMENT HAS BEEN APPROVED BY THE
 10 SUPERINTENDENT OF PUBLIC INSTRUCTION UNDER 20-9-161(2) AND A
 11 DISTRICT DOES NOT HAVE SUFFICIENT FUNDS, INCLUDING INSURANCE
 12 PROCEEDS, TO FINANCE THE BUDGET AMENDMENT, THE DISTRICT MAY
 13 LEVY A TAX IN THE ENSUING SCHOOL YEAR TO FUND THE
 14 EXPENDITURES AUTHORIZED BY THE BUDGET AMENDMENT. THE AMOUNT
 15 LEVIED MAY NOT EXCEED THE UNFUNDED AMOUNT OF THE BUDGET
 16 AMENDMENT.

17 NEW SECTION. Section 12. Effective dates --
 18 retroactive applicability. (1) [Section 1] is effective
 19 August 1, 1992.

20 (2) [Sections 3 through 10] are effective on passage
 21 and approval and apply retroactively, within the meaning of
 22 1-2-109, to revenue collections under 20-9-331 and 20-9-333
 23 for the school fiscal year beginning July 1, 1992.

24 (3) [Section 2] is effective on passage and approval
 25 and applies retroactively, within the meaning of 1-2-109, to

1 school district general fund end-of-the-year fund balances
 2 for the school fiscal year ending June 30, 1992.

3 (4) [SECTION 11 AND THIS SECTION] ARE EFFECTIVE ON
 4 PASSAGE AND APPROVAL.

-End-

1 HOUSE BILL NO. 62

2 INTRODUCED BY SCHYE

3 BY REQUEST OF THE HOUSE EDUCATION

4 AND CULTURAL RESOURCES COMMITTEE

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A
7 RELIABLE CASH FLOW TO SCHOOL DISTRICTS BY ALLOWING STATE
8 ADVANCES FOR COUNTY EQUALIZATION COLLECTIONS; REQUIRING THE
9 STATE TREASURER TO ASSESS COUNTIES AN INTEREST CHARGE OF 10
10 PERCENT A YEAR ON ALL MONEY NOT REMITTED TO THE STATE BY THE
11 20TH DAY OF EACH MONTH; REDUCING THE LEVEL OF ALLOWABLE
12 SCHOOL DISTRICT GENERAL FUND OPERATING RESERVES TO 10
13 PERCENT; PROVIDING FOR AN EMERGENCY BUDGET AMENDMENT TAX
14 LEVY; REQUIRING THE SUPERINTENDENT OF PUBLIC INSTRUCTION TO
15 REQUEST AN OPINION FROM THE U.S. DEPARTMENT OF EDUCATION;
16 AMENDING SECTIONS 15-1-504, 20-9-104, 20-9-212, 20-9-331,
17 20-9-333, 20-9-334, 20-9-335, 20-9-344, 20-9-346, AND
18 20-9-347, MCA; AND PROVIDING EFFECTIVE DATES AND RETROACTIVE
19 APPLICABILITY DATES."
20

21 STATEMENT OF INTENT

22 A statement of intent is required for this bill because
23 the superintendent of public instruction is granted
24 rulemaking authority in 20-9-347(2) to adopt rules with
25 regard to state advances to support the county equalization

1 collections for foundation program funding under 20-9-331
2 and 20-9-333. The procedure is intended to ensure that the
3 county equalization revenue is fully realized by school
4 districts in a timely manner, regardless of delinquent or
5 protested taxes. It is anticipated that the county
6 superintendent of schools will continue to calculate and
7 report to the school districts the revenue generated in
8 support of elementary and high school county equalization
9 for foundation program funding.
10

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

12 **Section 1.** Section 15-1-504, MCA, is amended to read:

13 "15-1-504. Settlement of county treasurer with state
14 treasurer. ~~{1}~~ The county treasurer, between the 1st and
15 20th days of each month, shall remit to the state treasurer
16 all money belonging to the state that was collected by the
17 county treasurer during the preceding month. The remittance
18 must be accompanied by a detailed report upon a form that
19 the state treasurer prescribes. The state treasurer may
20 shall assess counties an interest charge of 10% a year on
21 all money not remitted ~~within-5-days-from~~ by WITHIN 5 DAYS
22 FROM the time required by this section. Any interest
23 collected under this subsection must be deposited in the
24 state general fund.

25 ~~{2}--The-remittance-required-by-June-20-of--each--fiscal~~

~~year under the provisions of 20-9-212(14) and subsection (1) of this section must include an estimated payment of all money belonging to the state, plus accumulated interest that is anticipated to be collected in June.~~

Section 2. Section 20-9-104, MCA, is amended to read:

"20-9-104. General fund operating reserve. (1) At the end of each school fiscal year, the trustees of each district shall designate the portion of the general fund end-of-the-year fund balance that is to be earmarked as operating reserve for the purpose of paying general fund warrants issued by the district from July 1 to November 30 of the ensuing school fiscal year. Except as provided in subsections (5) and ~~(6)~~ THROUGH (7), the amount of the general fund balance that is earmarked as operating reserve may not exceed the following percentages 10% of the final general fund budget for the ensuing school fiscal year:

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

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

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

(2) The amount held as operating reserve may not be

used for property tax reduction in the manner permitted by 20-9-141(1)(b) for other receipts.

(3) Any unreserved fund balance that is equal to or less than the prior year's excess EXCESS reserves as provided in subsection (5) may be used APPROPRIATED to reduce the permissive levy provided by 20-9-145 or to reduce the voted levy provided by 20-9-353.

(4) Any portion of the general fund end-of-the-year fund balance that is not reserved under subsection (2) or reappropriated under subsection (3) is fund balance reappropriated and must be used for property tax reduction as provided in 20-9-141(1)(b)(iii).

(5) FOR FISCAL YEAR 1994 AND SUBSEQUENT FISCAL YEARS, THE limitation of subsection (1) does not apply when the amount in excess of the limitation is equal to or less than one or more of the following:

(a) any amount received under Public Law 81-874 in the current school fiscal year in excess of the amount anticipated in the general fund budget for the current school fiscal year;

(b) the unused balance of any amount received in the current school fiscal year:

(i) in settlement of tax payments protested in a prior school fiscal year;

(ii) in taxes from a prior school fiscal year as a

1 result of a tax audit by the department of revenue or its
2 agents; and

3 (iii) in delinquent taxes from a prior school fiscal
4 year; or

5 (c) any amount received in-the-current-school-fiscal
6 year as a general bonus payment under 20-6-401.

7 (6) The limitation of subsection (1) does not apply
8 when the amount earmarked as operating reserve is \$10,000 or
9 less.

10 (7) FOR FISCAL YEAR 1993, THE LIMITATION OF SUBSECTION
11 (1) DOES NOT APPLY WHEN THE AMOUNT IN EXCESS OF THE
12 LIMITATION IS EQUAL TO OR LESS THAN THE AMOUNTS IDENTIFIED
13 BY A SCHOOL DISTRICT AS ONE OR MORE OF THE FOLLOWING:

14 (A) ANY AMOUNT RECEIVED UNDER PUBLIC LAW 81-874;

15 (B) THE UNUSED BALANCE OF ANY AMOUNT RECEIVED;

16 (I) IN SETTLEMENT OF TAX PAYMENTS PROTESTED IN A PRIOR
17 SCHOOL FISCAL YEAR;

18 (II) IN TAXES FROM A PRIOR SCHOOL FISCAL YEAR AS A
19 RESULT OF A TAX AUDIT BY THE DEPARTMENT OF REVENUE OR ITS
20 AGENTS; AND

21 (III) IN DELINQUENT TAXES FROM A PRIOR SCHOOL FISCAL
22 YEAR; OR

23 (C) ANY AMOUNT RECEIVED AS A GENERAL BONUS PAYMENT
24 UNDER 20-6-401."

25 **Section 3.** Section 20-9-212, MCA, is amended to read:

1 "20-9-212. Duties of county treasurer. The county
2 treasurer of each county shall:

3 (1) receive and hold all school money subject to
4 apportionment and keep a separate accounting of its
5 apportionment to the several districts which are entitled to
6 a portion of the money according to the apportionments
7 ordered by the county superintendent. A separate accounting
8 must be maintained for each county fund supported by a
9 countywide levy for a specific, authorized purpose,
10 including:

11 (a) the basic county tax in support of the elementary
12 foundation programs;

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

15 (c) the county tax in support of the transportation
16 schedules;

17 (d) the county tax in support of the elementary and
18 high school district retirement obligations; and

19 (e) any other county tax for schools, including the
20 community colleges, which may be authorized by law and
21 levied by the county commissioners.

22 (2) whenever requested, notify the county
23 superintendent and the superintendent of public instruction
24 of the amount of county school money on deposit in each of
25 the funds enumerated in subsection (1) of this section and

1 the amount of any other school money subject to
 2 apportionment and apportion the county and other school
 3 money to the districts in accordance with the apportionment
 4 ordered by the county superintendent;

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

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

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

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

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

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

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

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

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

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

22 (13) invest the money received from the basic county tax
 23 in support of the elementary foundation programs and the
 24 basic special tax in support of the high school foundation
 25 programs within 3 working days of receipt. The money must be

1 invested until the working day before it is required to be
 2 distributed to school districts within the county or
 3 remitted to the state. Permissible investments are specified
 4 in 20-9-213(4). All investment income must be deposited, and
 5 credited proportionately, in the funds established to
 6 account for the taxes received for the purposes specified in
 7 subsections (1)(a) and (1)(b).

8 (14) remit on a monthly basis to the state treasurer, in
 9 accordance with the provisions of 15-1-504, all county
 10 equalization revenue received under the provisions of
 11 20-9-331 and 20-9-333 for elementary and high school
 12 district foundation program support, including all interest
 13 earned and excluding any amount required for high school
 14 out-of-county tuition under the provisions of 20-9-334, in
 15 repayment of the state advance for county equalization
 16 prescribed in 20-9-347. Any funds in excess of a state
 17 advance must be used as required in 20-9-331(1)(b) and
 18 20-9-333(1)(b)."

19 **Section 4.** Section 20-9-331, MCA, is amended to read:

20 "20-9-331. Basic county tax and other revenues for
 21 county equalization of the elementary district foundation
 22 program. (1) The county commissioners of each county shall
 23 levy an annual basic tax of 33 mills on the dollar of the
 24 taxable value of all taxable property within the county,
 25 except for property subject to a tax or fee under 23-2-517,

1 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204, for
 2 the purposes of local and state foundation program support.
 3 The revenue collected from this levy must be apportioned to
 4 the support of the elementary foundation programs of the
 5 elementary school districts in the county and to the state
 6 special revenue fund, state equalization aid account, in the
 7 following manner:

8 (a) In order to determine the amount of revenue raised
 9 by this levy which is retained by the county, the sum of the
 10 estimated revenue identified in subsection (2) must be
 11 subtracted from the total of the foundation programs of all
 12 elementary districts of the county.

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

23 ~~(c) If revenue from the basic levy prescribed by this~~
 24 ~~section when combined with the other revenue from subsection~~
 25 ~~(2) is insufficient to fully fund the percentage determined~~

~~in 20-9-347(1)(b) and the county is eligible for an apportionment of state equalization aid under the provisions of 20-9-347(1)(c); the county superintendent shall notify the superintendent of public instruction of the deficiency. The superintendent of public instruction shall increase the state equalization aid payments to the districts in the affected county to offset the deficiency. A payment may not be made under this subsection (c) that allows a district to receive foundation program funding in excess of the foundation program amount of the district.~~

(2) The revenue realized from the county's portion of the levy prescribed by this section and the revenue from the following sources must be used for the equalization of the elementary district foundation programs program entitlement of the county as prescribed in ~~20-9-334~~ 20-9-335, and a separate accounting must be kept of the revenue by the county treasurer in accordance with 20-9-212(1):

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

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

(c) all money paid into the county treasury as a result

of fines for violations of law, except money paid to a justice's court, and the use of which is not otherwise specified by law;

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

(e) any federal or state money distributed to the county as payment in lieu of property taxation, including federal forest reserve funds allocated under the provisions of 17-3-213;

(f) gross proceeds taxes from coal under 15-23-703;

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

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

Section 5. Section 20-9-333, MCA, is amended to read:

"20-9-333. **Basic special levy and other revenues for county equalization of high school district foundation program.** (1) The county commissioners of each county shall levy an annual basic special tax for high schools of 22 mills on the dollar of the taxable value of all taxable property within the county, except for property subject to a

1 tax or fee under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521,
 2 61-3-537, and 67-3-204, for the purposes of local and state
 3 foundation program support. The revenue collected from this
 4 levy must be apportioned to the support of the foundation
 5 programs of high school districts in the county and to the
 6 state special revenue fund, state equalization aid account,
 7 in the following manner:

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

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

24 ~~(c) If revenue from the basic levy prescribed by this~~
 25 ~~section when combined with the other revenue from subsection~~

1 ~~(2) is insufficient to fully fund the percentage determined~~
 2 ~~in 20-9-347(1)(b) and the county is eligible for an~~
 3 ~~apportionment of state equalization aid under the provisions~~
 4 ~~of 20-9-347(1)(c); the county superintendent shall notify~~
 5 ~~the superintendent of public instruction of the deficiency.~~
 6 ~~The superintendent of public instruction shall increase the~~
 7 ~~state equalization aid payments to the districts in the~~
 8 ~~affected county to offset the deficiency. A payment may not~~
 9 ~~be made under this subsection (c) that allows a district to~~
 10 ~~receive foundation program funding in excess of the~~
 11 ~~foundation program amount of the district.~~

12 (2) The revenue realized from the county's portion of
 13 the levy prescribed in this section and the revenue from the
 14 following sources must be used for the equalization of the
 15 high school ~~district~~ district foundation programs program entitlement
 16 of the county as prescribed in ~~20-9-334~~ 20-9-335, and a
 17 separate accounting must be kept of the revenue by the
 18 county treasurer in accordance with 20-9-212(1):

19 (a) any money remaining at the end of the immediately
 20 preceding school fiscal year in the county treasurer's
 21 accounts for the various sources of revenue established in
 22 this section;

23 (b) any federal or state money distributed to the
 24 county as payment in lieu of property taxation, including
 25 federal forest reserve funds allocated under the provisions

1 of 17-3-213;

2 (c) gross proceeds taxes from coal under 15-23-703;

3 (d) net proceeds taxes for new production, as defined
4 in 15-23-601, and local government severance taxes on any
5 other production occurring after December 31, 1988; and

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

9 **Section 6.** Section 20-9-334, MCA, is amended to read:

10 "20-9-334. Apportionment of county equalization moneys
11 by--county--superintendent -- high school out-of-county
12 tuition obligations. (1) The county superintendent shall
13 separately--apportion--the calculate the apportionment of
14 revenues deposited in the basic county tax account and the
15 revenues deposited in the basic special tax for high schools
16 account to the several districts of the county on-a-monthly
17 basis. The apportionments shall be known as "county
18 equalization moneys". Before-the

19 (2) The county superintendent makes--the--monthly
20 apportionments--he shall direct the county treasurer to
21 deduct from the revenues available in the basic special tax
22 for high schools account, prior to remittance of the funds
23 to the state treasurer under the provisions of 15-1-504 and
24 20-9-212, the amount required for the month to pay the
25 county's obligation for high school out-of-county tuition."

1 **Section 7.** Section 20-9-335, MCA, is amended to read:

2 "20-9-335. Formula for apportionment of county
3 equalization moneys. (1) ~~After--making--such---deductions~~
4 ~~prescribed--in-20-9-334,--the~~ The county superintendent shall
5 ~~apportion-the--remaining--amount--of--moneys~~ calculate the
6 apportionment of revenue available in the basic county tax
7 account ~~to-the-several-public-elementary--districts--of--the~~
8 ~~county and in the basic special tax for high schools account~~
9 ~~to--the--several-public-secondary-districts-of-the-county-in~~
10 ~~proportion-to-their-needs-under-the--foundation--program~~ in
11 accordance with the following procedure:

12 (a) determine the percentage that the county
13 equalization moneys available for the support of the
14 elementary foundation programs ~~of--the--public-elementary~~
15 program entitlement of the districts in the county is of the
16 ~~total amount-of-the elementary foundation programs~~ program
17 entitlement of all ~~public--elementary~~ districts in the
18 county;

19 (b) multiply the elementary foundation program
20 entitlement amount of each ~~public-elementary~~ district by the
21 percentage determined in subsection (1)(a) above to
22 determine the portion of the county equalization moneys
23 available to each public elementary school district.

24 (2) The above procedure shall also be applied for
25 ~~public---secondary--districts~~ the high school foundation

1 program entitlement after the deduction of the county's
2 obligation for high school out-of-county tuition.

3 (3) ~~No--territory~~ Territory situated within a county
4 ~~shall may not~~ be excluded from the apportionment
5 calculations of the county equalization moneys under this
6 section solely because ~~such the~~ territory lies within the
7 boundaries of a joint district. Cash balances to the credit
8 of any district at the end of a school fiscal year ~~shall may~~
9 not be considered in the apportionment procedure prescribed
10 in this section.

11 (4) The county equalization moneys apportioned reported
12 under these procedures shall-constitute are the first source
13 of revenue ~~in--calculating-the~~ for financing of the public
14 elementary and ~~secondary--district~~ high school foundation
15 program entitlements. ~~The--county-superintendent-shall-use~~
16 ~~the-apportionment-procedure-prescribed-in--this--section--in~~
17 ~~computing--the--estimated--revenues-for-the-financing-of-the~~
18 ~~ensuing-year's-foundation-program-for-budgeting-purposes."~~

19 **Section 8.** Section 20-9-344, MCA, is amended to read:

20 "20-9-344. Purpose of state equalization aid and duties
21 of board of public education for distribution ----conditions
22 of---first--payment. (1) The money available for state
23 equalization aid must be distributed and apportioned to
24 provide:

25 (a) an annual minimum operating revenue for the

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

6 (b) the Montana educational telecommunications network
7 as provided in 20-32-101.

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

13 (a) adopt policies for regulating the distribution of
14 state equalization aid and state advances for county
15 equalization in accordance with the provisions of law ~~and-in~~
16 ~~a-manner-that-provides--for--monthly--distribution--to--each~~
17 ~~district-of-its-foundation-program-amount-and-to-each-county~~
18 ~~and-district-distribution-of-its-guaranteed-tax-base-aid;~~

19 (b) have the power to require reports from the county
20 superintendents, budget boards, county treasurers, and
21 trustees as it considers necessary; and

22 (c) order the superintendent of public instruction to
23 distribute the state equalization aid on the basis of each
24 district's annual entitlement to the aid as established by
25 the superintendent of public instruction. In ordering the

1 distribution of state equalization aid, the board of public
 2 education may not increase or decrease the state
 3 equalization aid distribution to any district on account of
 4 any difference that may occur during the school fiscal year
 5 between budgeted and actual receipts from any other source
 6 of school revenue.

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

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

14 (b) maintain accredited status.

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

20 (5) If a district or county receives more state
 21 equalization aid than it is entitled to, the county
 22 treasurer shall return the overpayment to the state upon the
 23 request of the superintendent of public instruction in the
 24 manner prescribed by the superintendent of public
 25 instruction.

1 (6) ~~(a) The first~~ Except as provided in 20-9-347(3),
 2 the foundation program payment and guaranteed tax base aid
 3 payment must be based--on--an--estimate--of--20%--of--the
 4 entitlement--of--each--district--or--county--and distributed by
 5 July 15 of the school fiscal year;

6 ~~(b) Each subsequent monthly payment must be at least 7%~~
 7 ~~of the entitlement of each district or county~~ according to
 8 the following schedule:

9 (a) from August to May of the school fiscal year, 8% of
 10 the foundation program entitlement of each district;

11 (b) in November of the school fiscal year, one-half of
 12 the guaranteed tax base aid entitlement of each district or
 13 county;

14 (c) in May of the school fiscal year, the remainder of
 15 the guaranteed tax base aid entitlement of each district or
 16 county; and

17 (d) in June of the school fiscal year, the remaining
 18 foundation program entitlement of each district.

19 (7) The distribution of foundation program payments and
 20 guaranteed tax base aid provided for in subsection (6) must
 21 occur by the last working day of each month."

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

23 **"20-9-346.** Duties of the superintendent of public
 24 instruction for state equalization aid distribution. The
 25 superintendent of public instruction shall administer the

1 distribution of the state equalization aid by:

2 (1) establishing the annual entitlement of each

3 district and county to state equalization aid, based on the

4 data reported in the retirement and general fund budgets for

5 each district that have been duly adopted for the current

6 school fiscal year and verified by the superintendent of

7 public instruction and by applying the verified data under

8 the provisions of the state equalization aid allocation

9 procedure prescribed in 20-9-347;

10 (2) ~~recommending to the board of public education the~~

11 ~~entitlement of all districts and counties to state~~

12 ~~equalization aid to enable the board of public education to~~

13 ~~order the distribution of state equalization aid;~~

14 {3} distributing by state warrant or electronic

15 transfer the state equalization aid and state advances for

16 county equalization, for each district or county entitled to

17 the aid, to the county treasurer of the respective county or

18 county where the district is located, in accordance with the

19 distribution ordered by the board of public education;

20 {4}{3} keeping a record ~~in his office~~ of the full and

21 complete data concerning money available for state

22 equalization aid, state advances for county equalization,

23 and the entitlements for state equalization aid of the

24 districts of the state;

25 {5}{4} reporting to the board of public education the

1 estimated amount that will be available for state

2 equalization aid; and

3 {6}{5} reporting to the legislature as provided in

4 5-11-210:

5 (a) the figures and data available ~~in his office~~

6 concerning distributions of state equalization aid during

7 the preceding 2 school fiscal years;

8 (b) the amount of state equalization aid then

9 available;

10 (c) the apportionment made of the available money but

11 not yet distributed; and

12 (d) the latest estimate of accruals of money available

13 for state equalization aid; and

14 (e) the amount of state advances and repayment for

15 county equalization."

16 **Section 10.** Section 20-9-347, MCA, is amended to read:

17 "20-9-347. Formula for state equalization aid

18 apportionment in support of foundation program --

19 exceptions. (1) The superintendent of public instruction

20 shall apportion the state equalization aid available for

21 support of the foundation program, individually for the

22 elementary districts of a county or the high school

23 districts of a county, in accordance with 20-9-346 and on

24 the basis of the following procedure:

25 (a) Determine the percentage that the total funds

1 available to all counties in the state in support of the
 2 foundation program (including the state money available for
 3 state equalization aid in support of the foundation program)
 4 is of the total amount of the foundation programs of all
 5 counties.

6 (b) Determine the percentage that the total funds
 7 available in each county in support of the foundation
 8 programs in the county (excluding state money available for
 9 state equalization aid in support of the foundation program)
 10 is of the total amount of the foundation programs of all
 11 districts of the county.

12 (c) Counties in which the percentage determined in
 13 subsection (1)(b) exceeds the percentage determined in
 14 subsection (1)(a) are not entitled to an apportionment of
 15 the state equalization aid in support of the foundation
 16 program.

17 (d) After elimination of the counties referred to in
 18 subsection (1)(c), determine the percentage that the total
 19 money available to all remaining counties in support of the
 20 foundation program (including the state money available for
 21 state equalization aid in support of the foundation program)
 22 is of the total amount of the foundation programs of all
 23 remaining counties.

24 (e) Each district of each remaining county is entitled
 25 to an apportionment of the state equalization aid in support

1 of the foundation program equal to the difference between
 2 the percentage determined in subsection (1)(d) and the
 3 percentage determined for the county in subsection (1)(b)
 4 multiplied by the foundation program amount for the
 5 district.

6 (2) The superintendent of public instruction shall:

7 (a) supply the county treasurer and the county
 8 superintendent with a report of the apportionments of state
 9 equalization aid in support of the foundation program of
 10 each district of the county, and the state equalization aid
 11 in support of the foundation program must be apportioned to
 12 the districts in accordance with the report;

13 (b) in the manner described in 20-9-344, provide for a
 14 state advance to each county in an amount that is no less
 15 than the amount anticipated to be raised for the basic
 16 county tax fund as provided in 20-9-331 and for the basic
 17 special tax fund as provided in 20-9-333;

18 (c) adopt rules to implement the provisions of
 19 subsection (2)(b).

20 (3) (a) The superintendent of public instruction is
 21 authorized to adjust the schedule prescribed in 20-9-344 for
 22 distribution of the foundation program and guaranteed tax
 23 base aid entitlements if the distribution will cause a
 24 district to register warrants under the provisions of
 25 20-9-212(9).

1 (b) To qualify for an adjustment in the payment
 2 schedule, a district shall demonstrate to the superintendent
 3 of public instruction, in the manner required by the office,
 4 that the payment schedule prescribed in 20-9-344 will result
 5 in insufficient money available in all funds of the district
 6 to make payment of the district's warrants. The county
 7 treasurer shall confirm the anticipated deficit. Nothing in
 8 this section may be construed to authorize the
 9 superintendent of public instruction to exceed a district's
 10 annual entitlement for state and county equalization aid."

11 NEW SECTION. SECTION 11. EMERGENCY BUDGET AMENDMENT

12 TAX LEVY. WHEN A BUDGET AMENDMENT HAS BEEN APPROVED BY THE
 13 SUPERINTENDENT OF PUBLIC INSTRUCTION UNDER 20-9-161(2) AND A
 14 DISTRICT DOES NOT HAVE SUFFICIENT FUNDS, INCLUDING INSURANCE
 15 PROCEEDS, TO FINANCE THE BUDGET AMENDMENT, THE DISTRICT MAY
 16 LEVY A TAX IN THE ENSUING SCHOOL YEAR TO FUND THE
 17 EXPENDITURES AUTHORIZED BY THE BUDGET AMENDMENT. THE AMOUNT
 18 LEVIED MAY NOT EXCEED THE UNFUNDED AMOUNT OF THE BUDGET
 19 AMENDMENT.

20 SECTION 12. SECTION 20-9-104, MCA, IS AMENDED TO READ:

21 "20-9-104. General fund operating reserve. (1) At the
 22 end of each school fiscal year, the trustees of each
 23 district shall designate the portion of the general fund
 24 end-of-the-year fund balance that is to be earmarked as
 25 operating reserve for the purpose of paying general fund

1 warrants issued by the district from July 1 to November 30
 2 of the ensuing school fiscal year. Except as provided in
 3 subsections (5) and ~~(6)~~ through (7), the amount of the
 4 general fund balance that is earmarked as operating reserve
 5 may not exceed the following percentages 10% of the final
 6 general fund budget for the ensuing school fiscal year:

7 ~~(a) --35% for a district that did not receive state~~
 8 ~~equalization aid during the current school fiscal year;~~

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

12 ~~(c) --20% for a district that received state equalization~~
 13 ~~aid equal to more than 25% of its foundation program~~
 14 ~~schedule entitlement in the current school fiscal year.~~

15 (2) The amount held as operating reserve may not be
 16 used for property tax reduction in the manner permitted by
 17 20-9-141(1)(b) for other receipts.

18 (3) Any unreserved fund balance that is equal to or
 19 less than the prior year's excess reserves as provided in
 20 subsection (5) may be used to reduce the permissive levy
 21 provided by 20-9-145 or to reduce the voted levy provided by
 22 20-9-353.

23 (4) Any portion of the general fund end-of-the-year
 24 fund balance that is not reserved under subsection (2) or
 25 reappropriated under subsection (3) is fund balance

1 reappropriated and must be used for property tax reduction
2 as provided in 20-9-141(1)(b)(iii).

3 (5) The For fiscal year 1994 and subsequent fiscal
4 years, the limitation of subsection (1) does not apply when
5 the amount in excess of the limitation is equal to or less
6 than one or more of the following:

7 (a) any amount received under Public Law 81-874 in the
8 current school fiscal year;

9 (b) the unused balance of any amount received:

10 (i) in settlement of tax payments protested in a prior
11 school fiscal year;

12 (ii) in taxes from a prior school fiscal year as a
13 result of a tax audit by the department of revenue or its
14 agents; and

15 (iii) in delinquent taxes from a prior school fiscal
16 year; or

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

19 (6) The limitation of subsection (1) does not apply
20 when the amount earmarked as operating reserve is \$10,000 or
21 less.

22 (7) A district that received Public Law 81-874 money in
23 a prior year and that must reduce its operating reserve to
24 10% pursuant to this section in the next school fiscal year
25 may consider a percentage of the unreserved fund balance to

1 be an excess amount as provided in subsection (5). The
2 percentage of unreserved fund balance that may be considered
3 an excess amount is the average of the 3 previous years'
4 ratio of total district general fund revenue to Public Law
5 81-874 money received."

6 NEW SECTION. SECTION 13. SUPERINTENDENT TO REQUEST
7 OPINION. WITHIN 30 DAYS OF [THE EFFECTIVE DATE OF SECTION
8 2], THE SUPERINTENDENT OF PUBLIC INSTRUCTION SHALL REQUEST
9 AN OPINION FROM THE U.S. DEPARTMENT OF EDUCATION AS TO
10 WHETHER [SECTION 12] COMPLIES WITH FEDERAL LAW FOR THE USE
11 OF PUBLIC LAW 81-874 FUNDS.

12 NEW SECTION. Section 14. Effective dates --
13 retroactive applicability -- CONTINGENT VOIDNESS. (1)
14 [Section 1] is effective August 1, 1992.

15 (2) [Sections 3 through 10] are effective on passage
16 and approval and apply retroactively, within the meaning of
17 1-2-109, to revenue collections under 20-9-331 and 20-9-333
18 for the school fiscal year beginning July 1, 1992.

19 (3) [Section 2] is effective on passage and approval
20 and applies retroactively, within the meaning of 1-2-109, to
21 school district general fund end-of-the-year fund balances
22 for the school fiscal year ending June 30, 1992.

23 (4) [SECTION SECTIONS 11, 13, AND THIS SECTION] ARE
24 EFFECTIVE ON PASSAGE AND APPROVAL.

25 (5) (A) [SECTION 12] IS EFFECTIVE ON THE DATE THAT THE

1 SUPERINTENDENT OF PUBLIC INSTRUCTION CERTIFIES TO THE
2 GOVERNOR THAT WRITTEN APPROVAL OF [SECTION 12] HAS BEEN
3 RECEIVED FROM THE U.S. DEPARTMENT OF EDUCATION AND APPLIES
4 TO THE NEXT FISCAL YEAR.

5 (B) [SECTION 2] IS VOID ON THE DATE THAT [SECTION 12]
6 IS EFFECTIVE.

-End-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
July 17, 1992

MR. PRESIDENT:

We, your committee on Education and Cultural Resources having had under consideration House Bill No. 62 (third reading copy -- blue), respectfully report that House Bill No. 62 be amended and as so amended be concurred in:

1. Page 28, line 12.

Following: line 11

Insert: "NEW SECTION. Section 14. Coordination instruction.

(1) If House Bill No. 12 is passed and approved and if it includes a section that amends 15-1-504, then [section 1 of this act], amending 15-1-504, is void.

(2) If [this act] is passed and approved, then Senate Bill No. 1 is void August 1, 1993."

Renumber: subsequent section

2. Page 28, line 23.

Following: "13,"

Insert: "14,"

3. Page 29, line 4.

Strike: "NEXT"

Insert: "school"

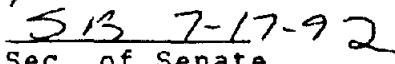
Following: "YEAR"

Insert: "beginning July 1, 1993"

Signed:


Chet Blaylock, Chairman


And. Coord.


Sec. of Senate

SENATE

SENATE COMMITTEE OF THE WHOLE AMENDMENT

July 18, 1992 10:50 am

Mr. Chairman: I move to amend House Bill No. 62 (third reading copy -- blue) as follows:

1. Title, line 13.

Following: ";"

Insert: "DELAYING THE PAYMENT OF THE FULL AMOUNT OF THE FOUNDATION PROGRAM PAYMENT TO EACH DISTRICT IN JUNE 1993;"

2. Page 11, line 14, page 14, line 15, page 16, lines 15, 17, and 20 and page 17, line 1

Strike: "entitlement"

3. Page 17, line 15.

Strike: "entitlements"

Insert: "payments"

4. Page 20, lines 10, 12, 15, and 18.

Strike: "entitlement of"

Insert: "payment to"

5. Page 20, line 17.

Following: "of"

Insert: "; (i)"

Following: "the"

Insert: "1993"

Following: "year,"

Insert: "one-half of the remaining foundation program payment of each district and on July 15, 1993, the remaining school fiscal year 1993 foundation program payment of each district; and
(ii) the school fiscal year,"

6. Page 24, line 23.

Strike: "entitlements"

Insert: "payments"

7. Page 25, line 10.

Strike: "entitlement"

Insert: "payment"

ADOPT

REJECT

Signed: _____

Senator Van Valkenburg

MA 7-18-92
Asst. Coord.

SB 7-18-92
Sec. of Senate

SENATE

HB 62

1 HOUSE BILL NO. 62

2 INTRODUCED BY SCHYE

3 BY REQUEST OF THE HOUSE EDUCATION

4 AND CULTURAL RESOURCES COMMITTEE

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A
7 RELIABLE CASH FLOW TO SCHOOL DISTRICTS BY ALLOWING STATE
8 ADVANCES FOR COUNTY EQUALIZATION COLLECTIONS; REQUIRING THE
9 STATE TREASURER TO ASSESS COUNTIES AN INTEREST CHARGE OF 10
10 PERCENT A YEAR ON ALL MONEY NOT REMITTED TO THE STATE BY THE
11 20TH DAY OF EACH MONTH; REDUCING THE LEVEL OF ALLOWABLE
12 SCHOOL DISTRICT GENERAL FUND OPERATING RESERVES TO 10
13 PERCENT; DELAYING THE PAYMENT OF THE FULL AMOUNT OF THE
14 FOUNDATION PROGRAM PAYMENT TO EACH DISTRICT IN JUNE 1993;
15 PROVIDING FOR AN EMERGENCY BUDGET AMENDMENT TAX LEVY;
16 REQUIRING THE SUPERINTENDENT OF PUBLIC INSTRUCTION TO
17 REQUEST AN OPINION FROM THE U.S. DEPARTMENT OF EDUCATION;
18 AMENDING SECTIONS 15-1-504, 20-9-104, 20-9-212, 20-9-331,
19 20-9-333, 20-9-334, 20-9-335, 20-9-344, 20-9-346, AND
20 20-9-347, MCA; AND PROVIDING EFFECTIVE DATES AND RETROACTIVE
21 APPLICABILITY DATES."

22 STATEMENT OF INTENT

23
24 A statement of intent is required for this bill because
25 the superintendent of public instruction is granted

1 rulemaking authority in 20-9-347(2) to adopt rules with
2 regard to state advances to support the county equalization
3 collections for foundation program funding under 20-9-331
4 and 20-9-333. The procedure is intended to ensure that the
5 county equalization revenue is fully realized school
6 districts in a timely manner, regardless of delinquent or
7 protested taxes. It is anticipated that the county
8 superintendent of schools will continue to calculate and
9 report to the school districts the revenue generated in
10 support of elementary and high school county equalization
11 for foundation program funding.

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 **Section 1.** Section 15-1-504, MCA, is amended to read:

15 "15-1-504. Settlement of county treasurer with state
16 treasurer. ~~{i}~~ The county treasurer, between the 1st and
17 20th days of each month, shall remit to the state treasurer
18 all money belonging to the state that was collected by the
19 county treasurer during the preceding month. The remittance
20 must be accompanied by a detailed report upon a form that
21 the state treasurer prescribes. The state treasurer may
22 shall assess counties an interest charge of 10% a year on
23 all money not remitted ~~within-5-days-from~~ by WITHIN 5 DAYS
24 FROM the time required by this section. Any interest
25 collected under this subsection must be deposited in the

1 state general fund.

2 ~~(2) The remittance required by June 20 of each fiscal~~
3 ~~year under the provisions of 20-9-212(14) and subsection (1)~~
4 ~~of this section must include an estimated payment of all~~
5 ~~money belonging to the state, plus accumulated interest,~~
6 ~~that is anticipated to be collected in June."~~

7 **Section 2.** Section 20-9-104, MCA, is amended to read:

8 "20-9-104. General fund operating reserve. (1) At the
9 end of each school fiscal year, the trustees of each
10 district shall designate the portion of the general fund
11 end-of-the-year fund balance that is to be earmarked as
12 operating reserve for the purpose of paying general fund
13 warrants issued by the district from July 1 to November 30
14 of the ensuing school fiscal year. Except as provided in
15 subsections (5) and (6) THROUGH (7), the amount of the
16 general fund balance that is earmarked as operating reserve
17 may not exceed the following percentages 10% of the final
18 general fund budget for the ensuing school fiscal year:

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

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

24 (c) ~~20%~~ for a district that received state equalization
25 aid equal to more than 25% of its foundation program

1 ~~schedule entitlement in the current school fiscal year.~~

2 (2) The amount held as operating reserve may not be
3 used for property tax reduction in the manner permitted by
4 20-9-141(1)(b) for other receipts.

5 (3) Any unreserved fund balance that is equal to or
6 less than the prior year's excess EXCESS reserves as
7 provided in subsection (5) may be used APPROPRIATED to
8 reduce the permissive levy provided by 20-9-145 or to reduce
9 the voted levy provided by 20-9-353.

10 (4) Any portion of the general fund end-of-the-year
11 fund balance that is not reserved under subsection (2) or
12 reappropriated under subsection (3) is fund balance
13 reappropriated and must be used for property tax reduction
14 as provided in 20-9-141(1)(b)(iii).

15 (5) The FOR FISCAL YEAR 1994 AND SUBSEQUENT FISCAL
16 YEARS, THE limitation of subsection (1) does not apply when
17 the amount in excess of the limitation is equal to or less
18 than one or more of the following:

19 (a) any amount received under Public Law 81-874 in the
20 current school fiscal year in excess of the amount
21 anticipated in the general fund budget for the current
22 school fiscal year;

23 (b) the unused balance of any amount received in the
24 current school fiscal year;

25 (i) in settlement of tax payments protested in a prior

1 school fiscal year;

2 (ii) in taxes from a prior school fiscal year as a

3 result of a tax audit by the department of revenue or its

4 agents; and

5 (iii) in delinquent taxes from a prior school fiscal

6 year; or

7 (c) any amount received in the current school fiscal

8 year as a general bonus payment under 20-6-401.

9 (6) The limitation of subsection (1) does not apply

10 when the amount earmarked as operating reserve is \$10,000 or

11 less.

12 (7) FOR FISCAL YEAR 1993, THE LIMITATION OF SUBSECTION

13 (1) DOES NOT APPLY WHEN THE AMOUNT IN EXCESS OF THE

14 LIMITATION IS EQUAL TO OR LESS THAN THE AMOUNTS IDENTIFIED

15 BY A SCHOOL DISTRICT AS ONE OR MORE OF THE FOLLOWING:

16 (A) ANY AMOUNT RECEIVED UNDER PUBLIC LAW 81-874;

17 (B) THE UNUSED BALANCE OF ANY AMOUNT RECEIVED:

18 (I) IN SETTLEMENT OF TAX PAYMENTS PROTESTED IN A PRIOR

19 SCHOOL FISCAL YEAR;

20 (II) IN TAXES FROM A PRIOR SCHOOL FISCAL YEAR AS A

21 RESULT OF A TAX AUDIT BY THE DEPARTMENT OF REVENUE OR ITS

22 AGENTS; AND

23 (III) IN DELINQUENT TAXES FROM A PRIOR SCHOOL FISCAL

24 YEAR; OR

25 (C) ANY AMOUNT RECEIVED AS A GENERAL BONUS PAYMENT

1 UNDER 20-6-401."

2 **Section 3.** Section 20-9-212, MCA, is amended to read:

3 "20-9-212. Duties of county treasurer. The county

4 treasurer of each county shall:

5 (1) receive and hold all school money subject to

6 apportionment and keep a separate accounting of its

7 apportionment to the several districts which are entitled to

8 a portion of the money according to the apportionments

9 ordered by the county superintendent. A separate accounting

10 must be maintained for each county fund supported by a

11 countywide levy for a specific, authorized purpose,

12 including:

13 (a) the basic county tax in support of the elementary

14 foundation programs;

15 (b) the basic special tax for high schools in support

16 of the high school foundation programs;

17 (c) the county tax in support of the transportation

18 schedules;

19 (d) the county tax in support of the elementary and

20 high school district retirement obligations; and

21 (e) any other county tax for schools, including the

22 community colleges, which may be authorized by law and

23 levied by the county commissioners.

24 (2) whenever requested, notify the county

25 superintendent and the superintendent of public instruction

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

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

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

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

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

23 (7) send all revenue received for a joint district,
 24 part of which is situated in his county, to the county
 25 treasurer designated as the custodian of the revenue, no

1 later than December 15 of each year and every 3 months
 2 thereafter until the end of the school fiscal year;

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

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

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

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

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

24 (13) invest the money received from the basic county tax
 25 in support of the elementary foundation programs and the

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

10 (14) remit on a monthly basis to the state treasurer, in
 11 accordance with the provisions of 15-1-504, all county
 12 equalization revenue received under the provisions of
 13 20-9-331 and 20-9-333 for elementary and high school
 14 district foundation program support, including all interest
 15 earned and excluding any amount required for high school
 16 out-of-county tuition under the provisions of 20-9-334, in
 17 repayment of the state advance for county equalization
 18 prescribed in 20-9-347. Any funds in excess of a state
 19 advance must be used as required in 20-9-331(1)(b) and
 20 20-9-333(1)(b)."

21 **Section 4.** Section 20-9-331, MCA, is amended to read:
 22 **"20-9-331. Basic county tax and other revenues for**
 23 **county equalization of the elementary district foundation**
 24 **program. (1) The county commissioners of each county shall**
 25 **levy an annual basic tax of 33 mills on the dollar of the**

1 taxable value of all taxable property within the county,
 2 except for property subject to a tax or fee under 23-2-517,
 3 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204, for
 4 the purposes of local and state foundation program support.
 5 The revenue collected from this levy must be apportioned to
 6 the support of the elementary foundation programs of the
 7 elementary school districts in the county and to the state
 8 special revenue fund, state equalization aid account, in the
 9 following manner:

10 (a) In order to determine the amount of revenue raised
 11 by this levy which is retained by the county, the sum of the
 12 estimated revenue identified in subsection (2) must be
 13 subtracted from the total of the foundation programs of all
 14 elementary districts of the county.

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

25 ~~(c) --if--revenue--from--the--basic--levy--prescribed--by--this~~

~~section when combined with the other revenue from subsection (2) is insufficient to fully fund the percentage determined in 20-9-347(i)(b) and the county is eligible for an apportionment of state equalization aid under the provisions of 20-9-347(i)(c); the county superintendent shall notify the superintendent of public instruction of the deficiency. The superintendent of public instruction shall increase the state equalization aid payments to the districts in the affected county to offset the deficiency. A payment may not be made under this subsection (c) that allows a district to receive foundation program funding in excess of the foundation program amount of the district.~~

(2) The revenue realized from the county's portion of the levy prescribed by this section and the revenue from the following sources must be used for the equalization of the elementary district foundation programs program entitlement of the county as prescribed in 20-9-334 20-9-335, and a separate accounting must be kept of the revenue by the county treasurer in accordance with 20-9-212(1):

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

(b) the portion of the federal flood control act funds distributed to a county and designated for expenditure for the benefit of the county common schools under the

provisions of 17-3-232;

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

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

(e) any federal or state money distributed to the county as payment in lieu of property taxation, including federal forest reserve funds allocated under the provisions of 17-3-213;

(f) gross proceeds taxes from coal under 15-23-703;

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

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

Section 5. Section 20-9-333, MCA, is amended to read:

"20-9-333. **Basic special levy and other revenues for county equalization of high school district foundation program.** (1) The county commissioners of each county shall levy an annual basic special tax for high schools of 22

1 mills on the dollar of the taxable value of all taxable
 2 property within the county, except for property subject to a
 3 tax or fee under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521,
 4 61-3-537, and 67-3-204, for the purposes of local and state
 5 foundation program support. The revenue collected from this
 6 levy must be apportioned to the support of the foundation
 7 programs of high school districts in the county and to the
 8 state special revenue fund, state equalization aid account,
 9 in the following manner:

10 (a) In order to determine the amount of revenue raised
 11 by this levy which is retained by the county, the sum of the
 12 estimated revenue identified in subsection (2) must be
 13 subtracted from the sum of the county's high school tuition
 14 obligation and the total of the foundation programs of all
 15 high school districts of the county.

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

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

14 (2) The revenue realized from the county's portion of
 15 the levy prescribed in this section and the revenue from the
 16 following sources must be used for the equalization of the
 17 high school district foundation programs program entitlement
 18 of the county as prescribed in 20-9-334 20-9-335, and a
 19 separate accounting must be kept of the revenue by the
 20 county treasurer in accordance with 20-9-212(1):

21 (a) any money remaining at the end of the immediately
 22 preceding school fiscal year in the county treasurer's
 23 accounts for the various sources of revenue established in
 24 this section;

25 (b) any federal or state money distributed to the

1 county as payment in lieu of property taxation, including
2 federal forest reserve funds allocated under the provisions
3 of 17-3-213;

4 (c) gross proceeds taxes from coal under 15-23-703;

5 (d) net proceeds taxes for new production, as defined
6 in 15-23-601, and local government severance taxes on any
7 other production occurring after December 31, 1988; and

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

11 **Section 6.** Section 20-9-334, MCA, is amended to read:

12 "20-9-334. Apportionment of county equalization moneys
13 by--county--superintendent -- high school out-of-county
14 tuition obligations. (1) The county superintendent shall
15 separately apportion--the calculate the apportionment of
16 revenues deposited in the basic county tax account and the
17 revenues deposited in the basic special tax for high schools
18 account to the several districts of the county on-a--monthly
19 basis. The apportionments shall be known as "county
20 equalization moneys". Before-the

21 (2) The county superintendent makes---the---monthly
22 apportionments;--he shall direct the county treasurer to
23 deduct from the revenues available in the basic special tax
24 for high schools account, prior to remittance of the funds
25 to the state treasurer under the provisions of 15-1-504 and

1 20-9-212, the amount required for the month to pay the
2 county's obligation for high school out-of-county tuition."

3 **Section 7.** Section 20-9-335, MCA, is amended to read:

4 "20-9-335. Formula for apportionment of county
5 equalization moneys. (1) After--making--such--deductions
6 prescribed-in-20-9-334;--the The county superintendent shall
7 apportion--the--remaining--amount--of--moneys calculate the
8 apportionment of revenue available in the basic county tax
9 account to--the--several-public-elementary-districts-of-the
10 county and in the basic special tax for high schools account
11 to-the-several-public-secondary-districts-of-the--county--in
12 proportion--to--their--needs-under-the-foundation-program in
13 accordance with the following procedure:

14 (a) determine the percentage that the county
15 equalization moneys available for the support of the
16 elementary foundation programs--of--the--public--elementary
17 program entitlement of the districts in the county is of the
18 total amount--of--the elementary foundation programs program
19 entitlement of all public--elementary districts in the
20 county;

21 (b) multiply the elementary foundation program
22 entitlement amount of each public-elementary district by the
23 percentage determined in subsection (1)(a) above to
24 determine the portion of the county equalization moneys
25 available to each public elementary school district.

1 (2) The above procedure shall also be applied for
 2 ~~public--secondary--districts~~ the high school foundation
 3 program entitlement after the deduction of the county's
 4 obligation for high school out-of-county tuition.

5 (3) ~~No-territory~~ Territory situated within a county
 6 ~~shall~~ may not be excluded from the apportionment
 7 calculations of the county equalization moneys under this
 8 section solely because ~~such~~ the territory lies within the
 9 boundaries of a joint district. Cash balances to the credit
 10 of any district at the end of a school fiscal year ~~shall~~ may
 11 not be considered in the apportionment procedure prescribed
 12 in this section.

13 (4) The county equalization moneys apportioned reported
 14 under these procedures shall-constitute are the first source
 15 of revenue ~~in-calculating-the~~ for financing of the public
 16 elementary and ~~secondary--district~~ high school foundation
 17 program entitlements PAYMENTS. ~~The--county--superintendent~~
 18 ~~shall--use--the--apportionment--procedure--prescribed--in--this~~
 19 ~~section--in--computing--the--estimated--revenues---for---the~~
 20 ~~financing--of--the--ensuing--year's--foundation--program--for~~
 21 ~~budgeting--purposes;."~~

22 **Section 8.** Section 20-9-344, MCA, is amended to read:

23 "20-9-344. Purpose of state equalization aid and duties
 24 of board of public education for distribution ~~----conditions~~
 25 ~~of---first--payment.~~ (1) The money available for state

1 equalization aid must be distributed and apportioned to
 2 provide:

3 (a) an annual minimum operating revenue for the
 4 elementary and high schools in each county, exclusive of
 5 revenues required for debt service and for the payment of
 6 any costs and expense incurred in connection with any adult
 7 education program, recreation program, school food services
 8 program, new buildings and grounds, and transportation; and

9 (b) the Montana educational telecommunications network
 10 as provided in 20-32-101.

11 (2) The board of public education shall administer and
 12 distribute the state equalization aid and state advances for
 13 county equalization in the manner and with the powers and
 14 duties provided by law. To this end, the board of public
 15 education shall:

16 (a) adopt policies for regulating the distribution of
 17 state equalization aid and state advances for county
 18 equalization in accordance with the provisions of law ~~and-in~~
 19 ~~a-manner-that-provides--for--monthly--distribution--to--each~~
 20 ~~district-of-its-foundation-program-amount-and-to-each-county~~
 21 ~~and-district-distribution-of-its-guaranteed-tax-base-aid;~~

22 (b) have the power to require reports from the county
 23 superintendents, budget boards, county treasurers, and
 24 trustees as it considers necessary; and

25 (c) order the superintendent of public instruction to

1 distribute the state equalization aid on the basis of each
 2 district's annual entitlement to the aid as established by
 3 the superintendent of public instruction. In ordering the
 4 distribution of state equalization aid, the board of public
 5 education may not increase or decrease the state
 6 equalization aid distribution to any district on account of
 7 any difference that may occur during the school fiscal year
 8 between budgeted and actual receipts from any other source
 9 of school revenue.

10 (3) The board of public education may order the
 11 superintendent of public instruction to withhold
 12 distribution of state equalization aid or order the county
 13 superintendent of schools to withhold county equalization
 14 money from a district when the district fails to:

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

17 (b) maintain accredited status.

18 (4) Prior to any proposed order by the board of public
 19 education to withhold distribution of state equalization aid
 20 or county equalization money, the district is entitled to a
 21 contested case hearing before the board of public education,
 22 as provided under the Montana Administrative Procedure Act.

23 (5) If a district or county receives more state
 24 equalization aid than it is entitled to, the county
 25 treasurer shall return the overpayment to the state upon the

1 request of the superintendent of public instruction in the
 2 manner prescribed by the superintendent of public
 3 instruction.

4 (6) ~~(a) The first~~ Except as provided in 20-9-347(3),
 5 the foundation program payment and guaranteed tax base aid
 6 payment must be based ~~on an estimate of 20% of the~~
 7 ~~entitlement of each district or county and distributed by~~
 8 ~~July 15 of the school fiscal year.~~

9 ~~(b) Each subsequent monthly payment must be at least 7%~~
 10 ~~of the entitlement of each district or county according to~~
 11 ~~the following schedule:~~

12 (a) from August to May of the school fiscal year, 8% of
 13 the foundation program entitlement ~~of~~ PAYMENT TO each
 14 district;

15 (b) in November of the school fiscal year, one-half of
 16 the guaranteed tax base aid entitlement ~~of~~ PAYMENT TO each
 17 district or county;

18 (c) in May of the school fiscal year, the remainder of
 19 the guaranteed tax base aid entitlement ~~of~~ PAYMENT TO each
 20 district or county; and

21 (d) in June of:

22 (I) the 1993 school fiscal year, ONE-HALF OF THE
 23 REMAINING FOUNDATION PROGRAM PAYMENT OF EACH DISTRICT AND ON
 24 JULY 15, 1993, THE REMAINING SCHOOL FISCAL YEAR 1993
 25 FOUNDATION PROGRAM PAYMENT OF EACH DISTRICT; AND

1 (II) THE SCHOOL FISCAL YEAR, the remaining foundation
2 program entitlement-of PAYMENT TO each district.

3 (7) The distribution of foundation program payments and
4 guaranteed tax base aid provided for in subsection (6) must
5 occur by the last working day of each month."

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

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

11 (1) establishing the annual entitlement of each
12 district and county to state equalization aid, based on the
13 data reported in the retirement and general fund budgets for
14 each district that have been duly adopted for the current
15 school fiscal year and verified by the superintendent of
16 public instruction and by applying the verified data under
17 the provisions of the state equalization aid allocation
18 procedure prescribed in 20-9-347;

19 ~~(2) recommending to the board of public education the~~
20 ~~entitlement of all districts and counties to state~~
21 ~~equalization aid to enable the board of public education to~~
22 ~~order the distribution of state equalization aid;~~

23 {3} distributing by state warrant or electronic
24 transfer the state equalization aid and state advances for
25 county equalization, for each district or county entitled to

1 the aid, to the county treasurer of the respective county or
2 county where the district is located, in accordance with the
3 distribution ordered by the board of public education;

4 {4}{3} keeping a record ~~in his office~~ of the full and
5 complete data concerning money available state
6 equalization aid, state advances for county equalization,
7 and the entitlements for state equalization aid of the
8 districts of the state;

9 {5}{4} reporting to the board of public education the
10 estimated amount that will be available for state
11 equalization aid; and

12 {6}{5} reporting to the legislature as provided in
13 5-11-210:

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

17 (b) the amount of state equalization aid then
18 available;

19 (c) the apportionment made of the available money but
20 not yet distributed; and

21 (d) the latest estimate of accruals of money available
22 for state equalization aid; and

23 (e) the amount of state advances and repayment for
24 county equalization."

25 **Section 10.** Section 20-9-347, MCA, is amended to read:

1 "20-9-347. Formula for state equalization aid
 2 apportionment in support of foundation program --
 3 exceptions. (1) The superintendent of public instruction
 4 shall apportion the state equalization aid available for
 5 support of the foundation program, individually for the
 6 elementary districts of a county or the high school
 7 districts of a county, in accordance with 20-9-346 and on
 8 the basis of the following procedure:

9 (a) Determine the percentage that the total funds
 10 available to all counties in the state in support of the
 11 foundation program (including the state money available for
 12 state equalization aid in support of the foundation program)
 13 is of the total amount of the foundation programs of all
 14 counties.

15 (b) Determine the percentage that the total funds
 16 available in each county in support of the foundation
 17 programs in the county (excluding state money available for
 18 state equalization aid in support of the foundation program)
 19 is of the total amount of the foundation programs of all
 20 districts of the county.

21 (c) Counties in which the percentage determined in
 22 subsection (1)(b) exceeds the percentage determined in
 23 subsection (1)(a) are not entitled to an apportionment of
 24 the state equalization aid in support of the foundation
 25 program.

1 (d) After elimination of the counties referred to in
 2 subsection (1)(c), determine the percentage that the total
 3 money available to all remaining counties in support of the
 4 foundation program (including the state money available for
 5 state equalization aid in support of the foundation program)
 6 is of the total amount of the foundation programs of all
 7 remaining counties.

8 (e) Each district of each remaining county is entitled
 9 to an apportionment of the state equalization aid in support
 10 of the foundation program equal to the difference between
 11 the percentage determined in subsection (1)(d) and the
 12 percentage determined for the county in subsection (1)(b)
 13 multiplied by the foundation program amount for the
 14 district.

15 (2) The superintendent of public instruction shall:

16 (a) supply the county treasurer and the county
 17 superintendent with a report of the apportionments of state
 18 equalization aid in support of the foundation program of
 19 each district of the county, and the state equalization aid
 20 in support of the foundation program must be apportioned to
 21 the districts in accordance with the report;

22 (b) in the manner described in 20-9-344, provide for a
 23 state advance to each county in an amount that is no less
 24 than the amount anticipated to be raised for the basic
 25 county tax fund as provided in 20-9-331 and for the basic

1 special tax fund as provided in 20-9-333;
 2 (c) adopt rules to implement the provisions of
 3 subsection (2)(b).

4 (3) (a) The superintendent of public instruction is
 5 authorized to adjust the schedule prescribed in 20-9-344 for
 6 distribution of the foundation program and guaranteed tax
 7 base aid entitlements PAYMENTS if the distribution will
 8 cause a district to register warrants under the provisions
 9 of 20-9-212(9).

10 (b) To qualify for an adjustment in the payment
 11 schedule, a district shall demonstrate to the superintendent
 12 of public instruction, in the manner required by the office,
 13 that the payment schedule prescribed in 20-9-344 will result
 14 in insufficient money available in all funds of the district
 15 to make payment of the district's warrants. The county
 16 treasurer shall confirm the anticipated deficit. Nothing in
 17 this section may be construed to authorize the
 18 superintendent of public instruction to exceed a district's
 19 annual entitlement PAYMENT for state and county equalization
 20 aid."

21 NEW SECTION. SECTION 11. EMERGENCY BUDGET AMENDMENT
 22 TAX LEVY. WHEN A BUDGET AMENDMENT HAS BEEN APPROVED BY THE
 23 SUPERINTENDENT OF PUBLIC INSTRUCTION UNDER 20-9-161(2) AND A
 24 DISTRICT DOES NOT HAVE SUFFICIENT FUNDS, INCLUDING INSURANCE
 25 PROCEEDS, TO FINANCE THE BUDGET AMENDMENT, THE DISTRICT MAY

1 LEVY A TAX IN THE ENSUING SCHOOL YEAR TO FUND THE
 2 EXPENDITURES AUTHORIZED BY THE BUDGET AMENDMENT. THE AMOUNT
 3 LEVIED MAY NOT EXCEED THE UNFUNDED AMOUNT OF THE BUDGET
 4 AMENDMENT.

5 SECTION 12. SECTION 20-9-104, MCA, IS AMENDED TO READ:

6 "20-9-104. General fund operating reserve. (1) At the
 7 end of each school fiscal year, the trustees of each
 8 district shall designate the portion of the general fund
 9 end-of-the-year fund balance that is to be earmarked as
 10 operating reserve for the purpose of paying general fund
 11 warrants issued by the district from July 1 to November 30
 12 of the ensuing school fiscal year. Except as provided in
 13 subsections (5) and ~~(6)~~ through (7), the amount of the
 14 general fund balance that is earmarked as operating reserve
 15 may not exceed the following percentages 10% of the final
 16 general fund budget for the ensuing school fiscal year:

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

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

22 (c) ~~20%~~ for a district that received state equalization
 23 aid equal to more than 25% of its foundation program
 24 schedule entitlement in the current school fiscal year.

25 (2) The amount held as operating reserve may not be

1 used for property tax reduction in the manner permitted by
 2 20-9-141(1)(b) for other receipts.

3 (3) Any unreserved fund balance that is equal to or
 4 less than the prior year's excess reserves as provided in
 5 subsection (5) may be used to reduce the permissive levy
 6 provided by 20-9-145 or to reduce the voted levy provided by
 7 20-9-353.

8 (4) Any portion of the general fund end-of-the-year
 9 fund balance that is not reserved under subsection (2) or
 10 reappropriated under subsection (3) is fund balance
 11 reappropriated and must be used for property tax reduction
 12 as provided in 20-9-141(1)(b)(iii).

13 (5) The For fiscal year 1994 and subsequent fiscal
 14 years, the limitation of subsection (1) does not apply when
 15 the amount in excess of the limitation is equal to or less
 16 than one or more of the following:

17 (a) any amount received under Public Law 81-874 in the
 18 current school fiscal year;

19 (b) the unused balance of any amount received:

20 (i) in settlement of tax payments protested in a prior
 21 school fiscal year;

22 (ii) in taxes from a prior school fiscal year as a
 23 result of a tax audit by the department of revenue or its
 24 agents; and

25 (iii) in delinquent taxes from a prior school fiscal

1 year; or

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

4 (6) The limitation of subsection (1) does not apply
 5 when the amount earmarked as operating reserve is \$10,000 or
 6 less.

7 (7) A district that received Public Law 81-874 money in
 8 a prior year and that must reduce its operating reserve to
 9 10% pursuant to this section in the next school fiscal year
 10 may consider a percentage of the unreserved fund balance to
 11 be an excess amount as provided in subsection (5). The
 12 percentage of unreserved fund balance that may be considered
 13 an excess amount is the average of the 3 previous years'
 14 ratio of total district general fund revenue to Public Law
 15 81-874 money received."

16 NEW SECTION. SECTION 13. SUPERINTENDENT TO REQUEST
 17 OPINION. WITHIN 30 DAYS OF [THE EFFECTIVE DATE OF SECTION
 18 2], THE SUPERINTENDENT OF PUBLIC INSTRUCTION SHALL REQUEST
 19 AN OPINION FROM THE U.S. DEPARTMENT OF EDUCATION AS TO
 20 WHETHER [SECTION 12] COMPLIES WITH FEDERAL LAW FOR THE USE
 21 OF PUBLIC LAW 81-874 FUNDS.

22 NEW SECTION. SECTION 14. COORDINATION INSTRUCTION. (1)
 23 IF HOUSE BILL NO. 12 IS PASSED AND APPROVED AND IF IT
 24 INCLUDES A SECTION THAT AMENDS 15-1-504, THEN [SECTION 1 OF
 25 THIS ACT], AMENDING 15-1-504, IS VOID.

1 (2) IF [THIS ACT] IF PASSED AND APPROVED, THEN SENATE
2 BILL NO. 1 IS VOID AUGUST 1, 1993.

3 NEW SECTION. Section 15. Effective dates --
4 retroactive applicability -- CONTINGENT VOIDNESS. (1)
5 [Section 1] is effective August 1, 1992.

6 (2) [Sections 3 through 10] are effective on passage
7 and approval and apply retroactively, within the meaning of
8 1-2-109, to revenue collections under 20-9-331 and 20-9-333
9 for the school fiscal year beginning July 1, 1992.

10 (3) [Section 2] is effective on passage and approval
11 and applies retroactively, within the meaning of 1-2-109, to
12 school district general fund end-of-the-year fund balances
13 for the school fiscal year ending June 30, 1992.

14 (4) [SECTION SECTIONS 11, 13, 14, AND THIS SECTION] ARE
15 EFFECTIVE ON PASSAGE AND APPROVAL.

16 (5) (A) [SECTION 12] IS EFFECTIVE ON THE DATE THAT THE
17 SUPERINTENDENT OF PUBLIC INSTRUCTION CERTIFIES TO THE
18 GOVERNOR THAT WRITTEN APPROVAL OF [SECTION 12] HAS BEEN
19 RECEIVED FROM THE U.S. DEPARTMENT OF EDUCATION AND APPLIES
20 TO THE NEXT SCHOOL FISCAL YEAR BEGINNING JULY 1, 1993.

21 (B) [SECTION 2] IS VOID ON THE DATE THAT [SECTION 12]
22 IS EFFECTIVE.

-End-