

HOUSE BILL 185

Introduced by Whalen

1/14	Introduced
1/14	Referred to Local Government
1/14	First Reading
1/14	Fiscal Note Requested
1/19	Fiscal Note Received
1/19	Fiscal Note Printed
1/28	Hearing
2/02	Tabled in Committee

1 House BILL NO. 185
2 INTRODUCED BY Whalen
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE FEE FOR
5 FILING A FINANCIAL REPORT BY A LOCAL GOVERNMENT ENTITY;
6 AMENDING SECTIONS 2-7-517 AND 20-9-343, MCA; AND REPEALING
7 SECTION 2-7-514, MCA."
8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
10 NEW SECTION. Section 1. Issuance and filing of audit
11 report. (1) Within 120 days after the completion of the
12 field work, the department shall issue audit reports as
13 follows:
14 (a) county audit reports to the county commissioners,
15 the county clerk and recorder, and the county attorney;
16 (b) city or town audit reports to the city or town
17 governing body, the city or town chief financial officer,
18 the city or town chief executive, and the city or town
19 attorney;
20 (c) school district audit reports to the trustees, the
21 clerk of the school district, the county superintendent of
22 schools, the county attorney, and the state superintendent
23 of public instruction;
24 (d) school district extracurricular fund audit reports
25 to the fund administrator, the trustees, the county

1 superintendent of schools, the county attorney, and the
2 state superintendent of public instruction;
3 (e) fire district or volunteer fire department audit
4 reports to the trustees, the county attorney, and the clerk
5 and recorder of the county in which the fire district or
6 fire department is located;
7 (f) conservancy district audit reports to the board of
8 directors, the county attorney, the district court, and the
9 department of natural resources and conservation;
10 (g) fire department relief association audit reports to
11 the trustees, the city or town attorney, and the city or
12 town clerk; and
13 (h) irrigation district audit reports to the board of
14 commissioners, the county attorney, and the district court.
15 (2) Completed audit reports must be filed with the
16 department. The state superintendent of public instruction
17 shall file with the department a list of school districts
18 subject to audit under 2-7-503(3). The list must be filed
19 with the department within 6 months after the close of the
20 fiscal year.
21 (3) Audit reports issued by the department must be
22 maintained on file at an appropriate location and must be
23 open to public inspection.
24 **Section 2.** Section 2-7-517, MCA, is amended to read:
25 "2-7-517. Penalty. (1) When a local government entity

has failed to file a report as required by 2-7-503(1), unless an extension has been granted by the department for good cause shown, ~~or--to--make--the--payment--required--by 2-7-514(2)--within-60-days~~, the department may issue an order stopping payment of any state financial assistance to the local government entity ~~or-may-charge-a-late-payment-penalty as-adopted-by-rule~~. Upon receipt of the report ~~or-payment-of the-filing-fee~~, all financial assistance that was withheld under this section must be released and paid to the local government entity.

(2) When a local government entity has failed to make payment as required by 2-7-516(1) within 60 days of receiving a bill for an audit, the department may issue an order stopping payment of any state financial aid to the local government entity. Upon payment for the audit, all financial aid that was withheld because of failure to make payment must be released and paid to the local government entity."

Section 3. Section 20-9-343, MCA, is amended to read:

"20-9-343. (Temporary) Definition of and revenue for state equalization aid. (1) As used in this title, the term "state equalization aid" means the money deposited in the state special revenue fund as required in this section plus any legislative appropriation of money from other sources for:

(a) distribution to the public schools for the payment of guaranteed tax base aid and for equalization of the foundation program; and

(b) the Montana educational telecommunications network as provided in 20-32-101; ~~and~~

~~(c) --filing--fees-for-school-district-audits-as-required by-2-7-514(2).~~

(2) The superintendent of public instruction may spend funds appropriated for state equalization aid, as required by subsections (1)(a) and (1)(b), throughout the biennium.

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

(a) money received from the collection of income taxes under chapter 30 of Title 15, as provided by 15-1-501;

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

(c) money allocated to state equalization from the collection of the severance tax on coal;

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

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

20-9-342;

(f) money received from the state equalization aid levy under 20-9-360;

(g) income from the lottery, as provided in 23-7-402;

(h) the surplus revenues collected by the counties for foundation program support according to 20-9-331 and 20-9-333;

(i) investment income earned by investing money in the state equalization aid account in the state special revenue fund; and

(j) 15% of the income and earnings of all coal severance tax funds as provided in 17-5-704.

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

(5) Any surplus revenue in the state equalization aid account in the second year of a biennium may be used to reduce any appropriation required for the next succeeding biennium. (Terminates June 30, 1993--sec. 5, Ch. 729, L. 1991.)

20-9-343. (Effective July 1, 1993) Definition of and revenue for state equalization aid. (1) As used in this title, the term "state equalization aid" means the money deposited in the state special revenue fund as required in

this section plus any legislative appropriation of money from other sources for distribution to the public schools for the purposes of payment of guaranteed tax base aid and equalization of the foundation program and for the Montana educational telecommunications network as provided in 20-32-101.

(2) The superintendent of public instruction may spend funds appropriated for state equalization aid as required for the purposes of guaranteed tax base aid, the foundation program, and the Montana educational telecommunications network, throughout the biennium.

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

(a) money received from the collection of income taxes under chapter 30 of Title 15, as provided by 15-1-501;

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

(c) money allocated to state equalization from the collection of the severance tax on coal;

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

1 (e) interest and income money described in 20-9-341 and
2 20-9-342;

3 (f) money received from the state equalization aid levy
4 under 20-9-360;

5 (g) income from the lottery, as provided in 23-7-402;

6 (h) the surplus revenues collected by the counties for
7 foundation program support according to 20-9-331 and
8 20-9-333;

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

12 (j) 15% of the income and earnings of all coal
13 severance tax funds as provided in 17-5-704.

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

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

22 NEW SECTION. Section 4. Repealer. Section 2-7-514,
23 MCA, is repealed.

24 NEW SECTION. Section 5. Codification instruction.
25 [Section 1] is intended to be codified as an integral part

1 of Title 2, chapter 7, part 5, and the provisions of Title
2 2, chapter 7, part 5, apply to [section 1].

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0185, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act eliminating the fee for filing a financial report by a local government entity.

ASSUMPTIONS:

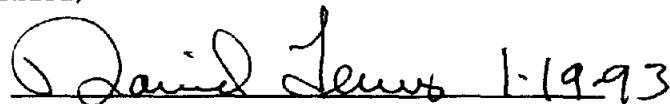
Department of Commerce:

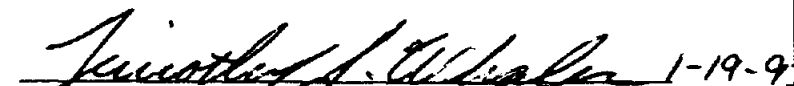
1. The Montana Single Audit Act (Chapter 489, Laws of 1991) was passed unanimously by the 1991 session of the Montana Legislature. The legislation was introduced at the request of the Legislative Audit Committee. The act placed certain additional duties on the Department of Commerce which were to be funded by fees assessed to all local government entities subject to audit under the terms of the act. HB0185 eliminates the local government fees but leaves the additional duties called for by the Single Audit Act intact.
2. The Department of Commerce's Audit Review program, which was established to carry out the duties assigned to the Department under the Single Audit Act, was funded for FY92 by a one-time state general fund loan of \$174,571. The act specified that the loan was to be repaid over a 5-year period from revenues from the filing fees provided for in the act. The first annual payment to the state general fund of \$34,915 will be made at the end of FY93 from filing fee revenues. Passage of HB0185 would leave 80% or \$139,656 of the loan unpaid, since there would no longer be a revenue source for repayment. This would reduce state general fund cash receipts by \$34,915 in each of the following fiscal years: 1994, 1995, 1996, and 1997.
3. If HB0185 were to pass, funding for the audit review program, which carries out the additional duties called for by the Montana Single Audit Act, would become the responsibility of the state general fund.
4. Fee revenue for FY93 is estimated to be approximately \$280,000, or from \$15,000 to \$20,000 higher than the budgeted expenditures plus the first state general fund loan payment. Section 2-7-514, MCA, states that the fees should be based upon the costs incurred by the Department of Commerce in the administration of the Single Audit Act. Therefore, if the proposed Governor's budget for the program were to be adopted and if HB0185 were not to pass, the local government fees would be reduced for FY94 and FY95 to match program revenues and expenditures. This would amount to an annual reduction in filing fees of from 5% to 7%.
5. Local government entities subject to audit and their annual revenues for FY94 and FY95 will remain at FY93 levels.
6. Audit Review program revenue must be at least \$34,915 above the program's budgeted expenditures in order to make the annual loan payment to the state general fund. The repayment is a year-end off-budget transaction.

Office of Public Instruction:

7. The school districts and cooperatives subject to audit and their revenues, upon which the amount of the filing fee for each is based, will not change significantly from FY93 levels.
8. The Department of Commerce's Audit Review program will continue to provide the review of districts' and cooperatives' audit reports, as required by the Federal and State Single Audit Acts and be funded from the state general fund.

(Continued)


DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 1-19-93
TIMOTHY WHALEN, PRIMARY SPONSOR DATE
Fiscal Note for HB0185, as introduced
HB 185

(continued)

FISCAL IMPACT:DEPARTMENT OF COMMERCE:

	FY94			FY95		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditures:</u>						
Personal Services	156,883	156,883	0	157,399	157,399	0
Operating Expenses	66,930	66,930	0	67,103	67,103	0
Capital Outlay	4,500	4,500	0	4,500	4,500	0
Benefits & Claims	<u>34,915</u>	<u>34,915</u>	<u>0</u>	<u>34,915</u>	<u>34,915</u>	<u>0</u>
Total	263,228	263,228	0	263,917	263,917	0

Revenues:

1109 - Annual Report Filing Fee	263,228	0	(263,228)	263,917	0	(263,917)
General Fund	0	263,228	263,228	0	263,917	263,917

Net Impact:

General Fund (01)	0	263,228	263,228	0	263,917	263,917
Proprietary Fund (06)	263,228	(263,228)	0	263,917	(263,917)	0

OFFICE OF PUBLIC INSTRUCTION:

	FY94			FY95		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditures:</u>						
State Equalization Aid	412,316,697	412,156,872	(159,825)	421,257,139	421,097,314	(159,825)

Revenues: No impact on revenues to the state equalization aid account.Net General Fund Impact:

\$298,134

\$298,832

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES: Passage of HB0185 is estimated to reduce local government expenditures for filing fees annually by the following amounts, assuming that fees would be reduced 5%:

Counties	\$ 44,675
Cities/Towns	40,160
Special Purpose Local Governments	<u>23,395</u>
Total	<u>\$108,230</u>

School districts are not paying audit fees under current law, so elimination of fees will not effect school district costs.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION: State general fund expenditures would increase by approximately \$229,000 annually so long as the Audit Review program was continued. The remaining general fund loan of \$69,826 will not be repaid.

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