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INTRODUCED BY House BILL NO. 312  
SONNEN HOUWER

A BILL FOR AN ACT ENTITLED: "AN ACT TRANSFERRING TO THE STATE TREASURER CERTAIN FUNCTIONS OF THE STATE AUDITOR CONCERNING FEDERAL LAND PAYMENTS; REVISING THE ALLOCATION OF CERTAIN FEDERAL LAND PAYMENTS BETWEEN COUNTY ROAD FUNDS AND SCHOOL FUNDS; PRIORITIZING THE ALLOCATION TO SCHOOL FUNDS; AMENDING SECTIONS 2-7-505, 17-3-211, 17-3-212, 17-3-213, 17-3-214, 17-3-222, AND 17-3-305, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

**NEW SECTION. Section 1. Resolution of audit findings.** (1) Whenever a county audit report discloses a lack of compliance with state statutes, rules, or regulations governing the distribution of revenue to state and county levies in support of public school districts, the department of revenue shall, in cooperation with the county, resolve the audit finding.

(2) If the county fails to make a payment due the state, the department of revenue shall suspend all state payments to the county until the audit finding is resolved. If the audit finding remains unresolved after 60 days from the original notice to the department of revenue, the department of revenue shall assess interest consistent with the interest charged in 15-16-101 and offset the principal and interest due the state against amounts due the county before resuming state distributions to the county. The amount to be offset must be deposited by the department of revenue in the state general fund.

**Section 2.** Section 2-7-505, MCA, is amended to read:  
**"2-7-505. Audit scope and standards.** (1) Each audit must be a comprehensive audit of the affairs of the local government entity and must be made in accordance with auditing standards and in accordance with federal regulations adopted by the department by rule.

(2) The department, with cooperation from state agencies, shall prepare a local government compliance supplement that contains state and federal regulations applicable to local government entities.

(3) The compliance supplement for all county audits must require the auditor to review county distributions, including nonlevy revenue and interest distributions, to the following levies in support of

1 public school districts:

2 (a) the county equalization levy;

3 (b) the state equalization levy;

4 (c) the county tax levy in support of transportation schedules; and

5 (d) the county tax levy in support of district retirement obligations.

6 (4) Each report documenting the results of the audit of a county must include a conclusion as to  
7 the reasonableness of the distribution of tax and other revenue to the levies provided in subsection (3)."

8  
9 **Section 3.** Section 17-3-211, MCA, is amended to read:

10 **"17-3-211. Forest reserve money.** (1) The state treasurer, for the purpose of carrying out the  
11 provisions of 16 U.S.C. 500, and all acts subsequent ~~thereto~~ to those provisions, shall divide and distribute  
12 all forest reserve ~~moneys~~ money received by the state ~~thereunder~~, plus interest earned, to and among the  
13 several counties entitled ~~thereto~~ to receive funds and pay the ~~same~~ funds to the several county treasurers  
14 of ~~each~~ the counties within 30 days after receiving full payment of the ~~same~~ federal funds, ~~as directed by~~  
15 ~~the state auditor.~~

16 (2) The forest reserve money ~~shall~~ must be invested and all investment earnings credited to the  
17 forest reserve account."

18  
19 **Section 4.** Section 17-3-212, MCA, is amended to read:

20 **"17-3-212. Apportionment of forest reserve funds among counties.** The forest reserve funds and  
21 earned interest are statutorily appropriated, as provided in 17-7-502, to the state ~~auditor~~ treasurer, who  
22 shall apportion ~~said~~ the forest reserve funds and earned interest for allocation between the ~~several~~ eligible  
23 counties as follows:

24 (1) all funds received from each forest reserve ~~shall~~ must be apportioned between the counties in  
25 which ~~each~~ the forest reserve is situated in proportion to the acreage of ~~each~~ the forest reserve in each  
26 county; ~~and~~

27 (2) the state treasurer shall pay the ~~several~~ amounts ~~so~~ apportioned plus interest ~~thereon~~, as  
28 provided in 17-3-211, to the respective counties."

29  
30 **Section 5.** Section 17-3-213, MCA, is amended to read:

1           **"17-3-213. Allocation to general road fund and ~~countywide~~ school levies.** (1) The forest reserve  
2 funds ~~se~~ apportioned to ~~each county~~ must be apportioned, as provided in 17-3-212, by the county treasurer  
3 ~~in each county~~ as follows:

4           (a) to the general road fund, ~~66 2/3%~~ 37.5% of the total amount received;

5           (b) to the following ~~countywide~~ school levies, ~~33 1/3%~~ 62.5% of the total ~~sum~~ amount received,  
6 to be distributed in the following order:

7           (i) ~~county equalization for elementary schools provided for in 20-9-331; and~~

8           (ii) ~~county equalization for high schools provided for in 20-9-333;~~

9           (iii) ~~the county transportation fund provided for in 20-10-146; and~~

10           ~~(iv) the elementary and high school district retirement fund obligations~~ levy provided for in  
11 20-9-501;

12           (ii) the county transportation fund levy provided for in 20-10-146;

13           (iii) the school district transportation fund levy for each school district within the county;

14           (iv) the BASE budget levy of each school district within the county, to be distributed on a prorated  
15 basis among the school districts according to the amount of revenue in district mills and guaranteed tax  
16 base aid, excluding all nonlevy revenue, that is required to provide funding up to the BASE budget of each  
17 school district; and

18           (v) as a final distribution, the basic county equalization levy for elementary and high school districts  
19 as provided in 20-9-331 and 20-9-333.

20           (2) The apportionment of money to the funds provided for under subsection (1)(b), except for  
21 subsection (1)(b)(iv), must be made by the county ~~superintendent~~ treasurer by allocating money to each  
22 of the funds in the order provided so that the levy requirements of each fund are eliminated prior to the  
23 allocation to the next fund that is listed. Allocations among school districts must be based on the  
24 proportion that the mill levy of each specified fund bears to the total number of mills for all the funds of  
25 that type within the county. Whenever the total amount of money available for apportionment under this  
26 section is greater than the total requirements of a levy, the excess money and any interest income must  
27 be retained in a separate reserve fund, to be reapportioned in the ensuing school fiscal year to the levies  
28 designated in subsection (1)(b).

29           (3) In counties in which special road districts have been created according to law, the board of  
30 county commissioners shall distribute a proportionate share of the ~~66 2/3%~~ 37.5% of the total amount

1 received for the general road fund to the special road districts within the county based upon the percentage  
2 that the total area of the road district bears to the total area of the entire county.

3 (4) Notwithstanding the provisions of subsection (3), the county commissioners may allocate a  
4 portion of the share of the 37.5% received from the general road fund to the county treasurer to be  
5 distributed to the school districts of the county based on the proportion that the mill levy of each school  
6 district bears to the total number of mills for all school district funds within the county."

7  
8 **Section 6.** Section 17-3-214, MCA, is amended to read:

9 "17-3-214. **Correction of errors in apportionment.** In the event of any error ~~or errors~~ made in the  
10 apportionment or distribution of ~~said~~ the forest reserve funds, ~~such~~ the error ~~or errors shall~~ must be  
11 corrected by the ~~state auditor and~~ state treasurer, equalizing future payments to the ~~several~~ eligible counties  
12 so that the total proportionate sum received by each eligible county ~~shall be~~ is as ~~fixed~~ provided in  
13 17-3-212."

14  
15 **Section 7.** Section 17-3-222, MCA, is amended to read:

16 "17-3-222. **Apportionment of moneys to counties money.** ~~It shall be the duty of the~~ The state  
17 treasurer ~~to shall~~ properly apportion and allocate ~~these moneys~~ federal Taylor Grazing Act money to the  
18 county treasurers, ~~who will allocate and pay all such moneys as follows: 50% to the county general fund~~  
19 ~~and 50% to the common school fund of the county~~ basic county equalization levy for elementary and high  
20 school districts as provided in 20-9-331 and 20-9-333."

21  
22 **Section 8.** Section 17-3-305, MCA, is amended to read:

23 "17-3-305. **Disposal of moneys money.** ~~All~~ (1) Except as provided in Title 17, chapter 3, part 3,  
24 for payments received by school districts or counties, payments ~~of sums~~ in lieu of taxes received by this  
25 state ~~shall~~ must be deposited in funds according to the state levies.

26 (2) A county receiving money pursuant to 7 U.S.C. 1012 or 16 U.S.C. 715s shall allocate the  
27 money as follows:

28 (a) to the county road fund, 37.5% of the total amount received;

29 (b) to the following school levies, 62.5% of the total amount received, to be distributed in the  
30 following order:

1 (i) the county transportation fund levy provided for in 20-10-146;

2 (ii) the elementary and high school retirement fund levy provided for in 20-9-501;

3 (iii) the school district transportation fund levy for each school district within the county;

4 (iv) the BASE budget levy of each school district within the county, to be distributed on a prorated  
 5 basis among the school districts according to the amount of revenue in district mills and guaranteed tax  
 6 base aid, excluding all nonlevy revenue, that is required to provide funding up to the BASE budget of each  
 7 school district; and

8 (v) as a final distribution, the basic county equalization levy for elementary and high school districts  
 9 as provided in 20-9-331 and 20-9-333.

10 (3) The apportionment of money to the funds provided for under subsection (2)(b), except for  
 11 subsection (2)(b)(iv), must be made by the county treasurer by allocating money to each of the funds in  
 12 the order provided so that the levy requirements of each fund are eliminated prior to the allocation to the  
 13 next fund that is listed. Allocations among school districts must be based on the proportion that the mill  
 14 levy of each specified fund bears to the total number of mills for all the funds of that type within the  
 15 county."

16  
 17 **NEW SECTION. Section 9. Codification instruction.** [Section 1] is intended to be codified as an  
 18 integral part of Title 2, chapter 7, part 5, and the provisions of Title 2, chapter 7, part 5, apply to [section  
 19 1].

20  
 21 **NEW SECTION. Section 10. Effective date.** [This act] is effective July 1, 1997.

22 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0312, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

A bill transferring to the state treasurer certain functions of the state auditor concerning federal land payments, and revising the allocation of certain federal land payments between county road funds and school funds.

ASSUMPTIONS:

1. The Federal Government pays counties for Federal land ownership in two ways: revenue sharing, where the county receives a portion of the revenue generated from the land, and payment in lieu of taxes (PILT). PILT is determined by a Federal formula based on number of Federal acres and population. In determining a county's PILT payment the Federal revenue sharing retained by the county is subtracted from its maximum allowable award. Revenue passed on to schools does not get subtracted from the PILT payment. This bill reduces the amount of revenue sharing that is subtracted from the calculated Federal PILT payment and thereby increases the PILT revenue to the combined state and local governments. There is a two year delay between federal revenue sharing receipts and their use in calculating PILT allocations.
2. Over the last four years, distribution of Forest Reserve funds averaged \$11.6 million; and Taylor Grazing distribution averaged \$284,000. These average amounts are used for FY98 thru FY00. Actual amounts for FY96 and FY97 are used to determine PILT revenue in FY98 and FY99. Bankhead-Jones revenues are assumed to be the same revenue, \$403,000, received in FY95 and FWS Refuge (16 USC 715s) revenues, \$18,000 the amount received in FY93.
3. Payment in lieu of taxes (PILT) is fully funded by the Federal Government. Congress does not always fully fund PILT payments. This bill will not affect the Congressional decision to fully fund, but will affect how much PILT Montana receives
4. High school county retirement levies are replaced before elementary county retirement levies receive any revenue.
5. The Bankhead-Jones and FWS Refuge (16 USC 715s) revenues currently are deposited in the county road fund.
6. The effect of the redistribution of income and the initial effect of the redistribution on county and school revenues is included in this analysis. The indirect effect on non-levy revenues is not included in this analysis.

FISCAL IMPACT:

<u>Expenditures:</u>	<u>FY98</u>	<u>FY99</u>
	<u>Difference</u>	<u>Difference</u>
Retirement GTB	(1,192,000)	(1,192,000)
General Fund GTB	<u>(660,000)</u>	<u>(660,000)</u>
Total	(1,852,000)	(1,852,000)
<u>Funding:</u>		
General Fund (01)	(1,852,000)	(1,852,000)
<u>Revenues:</u>		
General Fund (01) - 55 Mills	(2,449,000)	(2,449,000)
<u>Net Impact on Fund Balance (revenues minus expenditures)</u>		
General Fund (01)	(597,000)	(597,000)

The net effect on the state general fund is a loss of approximately \$597,000 in each year of the biennium.

Dave Lewis 2-4-97  
 DAVE LEWIS, BUDGET DIRECTOR DATE  
 Office of Budget and Program Planning

HS Hanson 2/4/97  
 SONNY HANSON, PRIMARY SPONSOR DATE

Fiscal Note for HB0312, as introduced

**HB 312**

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

The estimated statewide annual impact on local governments of HB0312 on the re-distribution of Federal funds. Impacts vary significantly by county.

	<u>FY98</u>	<u>FY99</u>	<u>FY00</u>
County road funds	(\$3,643,000)	(\$3,643,000)	(\$3,643,000)
County general funds	(142,000)	(142,000)	1,295,000
County School Equalization	(2,449,000)	(2,449,000)	(2,449,000)
County School Retirement	4,394,000	4,394,000	4,394,000
County School Transportation	<u>191,000</u>	<u>191,000</u>	<u>191,000</u>
Total county funds	(1,649,000)	(1,649,000)	(212,000)
School Districts	\$ 1,649,000	\$1,649,000	\$1,649,000

Because the reduction in county school equalization is offset with state general fund taxpayers will generally experience reduced tax rates. In FY2000 when federal PILT payments increase as a result of the reallocation in this bill county taxpayers will experience further tax reductions. Some counties may experience increased taxes.

Section 2 of the bill will increase the workload of independent auditors performing audits of counties. This may have the impact of increasing the fee paid to auditors.

LONG RANGE IMPACTS:

Revenues will fluctuate, but the net gain when all local taxing jurisdictions are taken together resulting from the federal payment-in-lieu-of-taxes formula will continue.

TECHNICAL NOTES:

HB0312 will reduce current federal shared revenues received by counties which are allocated for roads possibly resulting in ongoing costs for which the county would lack authority to raise additional funds.

The legislation should clarify whether the elementary or the high school retirement levies are to be replaced first.

The section 8 distribution schedule of this revenue is different than the distribution of the other revenue sharing funds and may complicate the process more than necessary.