

HOUSE BILL NO. 707

INTRODUCED BY J. ETCHART, T. MCGILLVRAY, B. USHER, K. ZOLNIKOV, K. SEEKINS-CROWE, C.
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A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE REQUIREMENTS FOR CREATION
OF A NEW HIGH SCHOOL DISTRICT; AUTHORIZING MULTIPLE ADJACENT ELEMENTARY DISTRICTS
WITH AT LEAST 1,000 COMBINED ANB TO CONTRACT FOR THE FORMATION OF A NEW HIGH SCHOOL
DISTRICT ON APPROVAL OF THE ELECTORS OF EACH OF THE ELEMENTARY DISTRICTS; PROVIDING
FOR THE PASSAGE OF A BOND TO BUILD OR OUTFIT A HIGH SCHOOL BUILDING; PROVIDING
PROCEDURES TO ESTABLISH A BUDGET AND PROVIDE THE FUNDING OF THE NEW HIGH SCHOOL
DISTRICT; DELAYING THE CONSTRUCTION OF APPROVED HIGH SCHOOL FACILITIES UNTIL JULY 1,
2025; REQUIRING THE FORMER HIGH SCHOOL DISTRICT TO PROVIDE INSTRUCTION FOR A
TRANSITION PERIOD; CLARIFYING RESPONSIBILITIES AND REQUIREMENTS THROUGH THE
PROCESS OF ESTABLISHING A NEW HIGH SCHOOL DISTRICT; AMENDING SECTIONS 20-6-104, 20-9-
366, 20-9-439, AND 20-9-502, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Procedure for two or more elementary school districts to create new
high school district -- trustee resolution.** (1) Two or more existing elementary districts that are adjacent to
each other and that are not part of a unified school system or governed by a joint board with a high school
district may contract to create a new high school district under the procedures outlined in [section 2] and this
section only if the combined total of the ANB in the elementary districts, as calculated under the provisions of
20-9-311, is at least 1,000.

(2) The creation of a new high school district may be requested by the trustees of each existing
elementary district through passage of a resolution that includes the information outlined in 20-6-105(3) and
requests the county superintendent to order an election to allow the electors of each elementary district to
consider the proposition of creating a new high school district. The trustees of the existing elementary districts

proposing a contract under this section may not pass a resolution for expansion more than one time within a 5-year period.

(3) (a) If the proposition for the expansion is approved by the electors of each of the elementary districts and the trustees issue a certificate of election as provided in 20-20-416, for a period of 2 years from the date of the certification of the election the elementary trustees have the authority to propose to the electors of each of the elementary districts:

(i) a transition costs levy pursuant to 20-9-502; and

(ii) a general obligation bond pursuant to Title 20, chapter 9, part 4, for the purpose of building, altering, repairing, buying, furnishing, equipping, purchasing lands for, or obtaining a water supply for a school to accommodate high school students.

(b) The bond limitations pursuant to 20-9-406 imposed on a district proposing a bond under subsection (3)(a) must be calculated on the limits for a high school district with the high school ANB calculated by dividing the ANB of the elementary district by 9 and multiplying the result by 4.

(c) The electors of each elementary school district shall vote on the total amount of the general obligation bond required for the purposes of subsection (3)(a). A bond approved under subsection (3)(a) becomes a bond of, and may not be issued until the creation of, the new high school district formed pursuant to subsection (4).

(d) A new high school district that issues a bond under this subsection (3) is eligible for facility reimbursements and advances pursuant to 20-9-366 through 20-9-371 that, until the new high school has enrolled students in all grades and has established an actual ANB for budgeting purposes, must be based on an estimated high school ANB calculated by dividing the ANB of the elementary district by 9 and multiplying the result by 4.

(4) If elementary electors in each of the elementary districts approve a bond pursuant to subsection (3), on July 1 following the approval of the bond the county superintendent shall order the creation of a new high school district with identical boundaries to the contracting elementary districts and the immediate attachment of the contracting elementary districts to form a new high school district. The county superintendent shall send a copy of the order to the board of county commissioners and to the trustees of the districts affected by the creation of the new high school district. The trustees of the contracting elementary district in which the

new high school will be operated must be designated as the trustees of the new high school district pursuant to 20-3-351 and 20-3-352. The trustees shall appoint a district superintendent pursuant to 20-4-401.

(5) Prior to the first school fiscal year in which the new high school district will enroll students in a particular high school grade, the high school trustees shall prepare operating budgets for the new high school according to the school budgeting provisions of Title 20, except that:

(a) the ANB for any inaugural grades for the high school district must be estimated by the trustees and may not exceed the number resulting from dividing the highest budgeted ANB of the combined elementary districts in the preceding 3 fiscal years by 9 and multiplying the result by the number of grades in which the high school will enroll students for the first time in the ensuing school year;

(b) the number of quality educators must be estimated by the trustees and may not exceed the number resulting from dividing the ANB estimated under subsection (5)(a) by 10;

(c) the taxable value for budgeting purposes of the new high school district must be based on the taxable value as most recently determined by the department of revenue;

(d) the general fund budget adopted by the trustees must be based on only the basic entitlement, the quality educator payment, and the budget components derived from ANB counts; and

(e) the district's BASE aid for the upcoming year must be based on the general fund budget adopted by the trustees for the upcoming school year.

(6) Until the first school year in which the new high school district enrolls students in all grades and for a period of time not to exceed 6 years following the creation of the new high school district:

(a) the former high school district with which the contracting elementary districts were previously associated shall provide high school instruction to high school students of the new high school district in any grades in which the new high school district is not enrolling students;

(b) the new high school district shall be responsible for providing transportation for its students enrolled in the former high school district pursuant to subsection (6)(a), may establish a transportation budget for this purpose, and may receive state and county reimbursements under Title 20, chapter 10; and

(c) the new high school district shall pay the former high school district 20% of the per-ANB maximum rate established in 20-9-306 for each of its students enrolled in the former high school district, with one-half of the amount due by December 31 of the year following the year of attendance and the remainder due

no later than June 15 of the year following the year of attendance. The new high school district trustees shall establish a tuition fund and levy to fund these payments.

(7) (a) Bonded indebtedness of the former high school district that is outstanding as of the date of creation of the new high school district must remain secured by and be the indebtedness of the original territory against which the bonds of the former high school district were issued and must be paid by tax levies against the original territory.

(b) Bonded indebtedness of the former high school district that is issued by the former high school district following the creation of the new high school district is secured by the territory of the former high school district as of the date of issuance of the former high school district bonds and must be paid by tax levies against the territory of the former high school district. However, if bonds of the former high school district were approved at a bond election conducted before the creation of the new high school district, all bonds of the former high school district issued by the former high school district under the bond election authority must remain secured by and be the indebtedness of the territory of the former high school district as of the date the bond authority was approved by voters and must be paid by tax levies against that territory.

(c) Bonded indebtedness of the new high school district is secured by the territory of the new high school district as of the date of issuance of the new high school district bonds and must be paid by tax levies against the territory of the new high school district.

(d) Bonded indebtedness of any of the contracting elementary districts that is outstanding as of the date of creation of the new high school district must remain the bonded indebtedness of the issuing elementary district and must remain secured by the territory of the issuing elementary district and paid by tax levies against the territory of the appropriate elementary district. The debt service on the bonds must remain allocated to the issuing elementary district.

(e) Bonded indebtedness of the former high school district or the new high school district that is subsequently affected by a later reorganization of the former high school district or the new high school district is governed by the provisions of Title 20, chapter 6, part 4.

(8) When two or more elementary districts contract to create a new high school district as provided for in this section, a principal, teacher, or other certified employee of the former high school district who has a right of tenure under Montana law must be given preference in hiring for a vacant position in the new high

school district for which the employee is qualified with the required certification endorsements.

Section 2. Section 20-6-104, MCA, is amended to read:

"20-6-104. Moratorium on creation of new district -- exceptions. (1) Except as provided in subsections (2) ~~and (3)~~ through (4), a school district may not initiate the creation of a new elementary district or a new high school district.

(2) Pursuant to the provisions of 20-6-326, the trustees or the electors of an existing elementary district may initiate the creation of a new high school district solely for the purpose of expanding into a K-12 district.

(3) Pursuant to the provisions of [section 1], the trustees or electors of two or more existing elementary districts may initiate the creation of a new high school district.

~~(3)(4)~~ The moratorium in subsection (1) does not apply to a district that results from the procedure for the dissolution of a K-12 school district pursuant to 20-6-704."

Section 3. Section 20-9-366, MCA, is amended to read:

"20-9-366. Definitions. As used in 20-9-366 through 20-9-371, the following definitions apply:

(1) "County retirement mill value per elementary ANB" or "county retirement mill value per high school ANB" means the sum of the taxable valuation in the previous year of all property in the county divided by 1,000, with the quotient divided by the total county elementary ANB count or the total county high school ANB count used to calculate the elementary school districts' and high school districts' prior year total per-ANB entitlement amounts.

(2) (a) "District guaranteed tax base ratio" for guaranteed tax base funding for the BASE budget of an eligible district means the taxable valuation in the previous year of all property in the district, except for property value disregarded because of protested taxes under 15-1-409(2) or property subject to the creation of a new school district under 20-6-326 or [section 1], divided by the district's prior year GTBA budget area.

(b) "District mill value per ANB", for school facility entitlement purposes, means the taxable valuation in the previous year of all property in the district, except for property subject to the creation of a new school district under 20-6-326 or [section 1], divided by 1,000, with the quotient divided by the ANB count of the

district used to calculate the district's prior year total per-ANB entitlement amount.

(3) "Facility guaranteed mill value per ANB", for school facility entitlement guaranteed tax base purposes, means the sum of the taxable valuation in the previous year of all property in the state, multiplied by 140% and divided by 1,000, with the quotient divided by the total state elementary ANB count or the total state high school ANB count used to calculate the elementary school districts' and high school districts' prior year total per-ANB entitlement amounts.

(4) "Guaranteed tax base aid budget area" or "GTBA budget area" means the portion of a district's BASE budget after the following payments are subtracted:

- (a) direct state aid;
- (b) the total data-for-achievement payment;
- (c) the total quality educator payment;
- (d) the total at-risk student payment;
- (e) the total Indian education for all payment;
- (f) the total American Indian achievement gap payment; and
- (g) the state special education allowable cost payment.

(5) (a) Except as provided in subsection (6), "Statewide elementary guaranteed tax base ratio" or "statewide high school guaranteed tax base ratio", for guaranteed tax base funding for the BASE budget of an eligible district, means the sum of the taxable valuation in the previous year of all property in the state, multiplied by 250% for fiscal year 2022 and 254% for fiscal year 2023 and each succeeding fiscal year and divided by the prior year statewide GTBA budget area for the state elementary school districts or the state high school districts. For fiscal year 2024 and subsequent fiscal years, the superintendent of public instruction shall increase the multiplier in this subsection (5)(a) as follows:

(i) for fiscal years 2024 through 2031, if the revenue transferred to the state general fund pursuant to 16-12-111 in the prior fiscal year is at least \$1 million more than the revenue transferred in the fiscal year 2 years prior, then:

(A) multiply the amount of increased revenue transferred to the state general fund pursuant to 16-12-111 in the prior fiscal year above the amount of revenue transferred in the fiscal year 2 years prior by 0.25, divide the resulting product by \$500,000, and round to the nearest whole number; and

(B) add the number derived in subsection (5)(a)(i)(A) as a percentage point increase to:

(I) if the prior year was not affected by a contingency under subsection (6), the multiplier used for the prior fiscal year; or

(II) if the prior year was affected by a contingency under subsection (6), the multiplier for the prior fiscal year had the prior fiscal year not been affected by a contingency under subsection (6);

(ii) for fiscal years 2024 through 2031, if the revenue transferred to the state general fund pursuant to 16-12-111 in the prior fiscal year is less than \$1 million more than the revenue transferred in the fiscal year 2 years prior, then the multiplier is equal to:

(A) if the prior year was not affected by a contingency under subsection (6), the multiplier used for the prior fiscal year; or

(B) if the prior year was affected by a contingency under subsection (6), the multiplier for the prior fiscal year had the prior fiscal year not been affected by a contingency under subsection (6); and

(iii) for fiscal years 2032 and subsequent fiscal years, the multiplier is equal to the multiplier used for fiscal year 2031.

(b) "statewide mill value per elementary ANB" or "statewide mill value per high school ANB", for school retirement guaranteed tax base purposes, means the sum of the taxable valuation in the previous year of all property in the state, multiplied by 121% and divided by 1,000, with the quotient divided by the total state elementary ANB count or the total state high school ANB amount used to calculate the elementary school districts' and high school districts' prior year total per-ANB entitlement amounts.

(6) The guaranteed tax base multiplier under subsection (5)(a) must be reduced by 4 percentage points following certification by the budget director of a contingency pursuant to Chapter 506, Laws of 2021:

(a) for fiscal year 2023 if the certification is made during calendar year 2021;

(b) for fiscal year 2024 if the certification is made during calendar year 2022;

(c) for fiscal year 2025 if the certification is made during calendar year 2023; and

(d) for fiscal year 2026 if the certification is made during calendar year 2024."

Section 4. Section 20-9-439, MCA, is amended to read:

"20-9-439. Computation of net levy requirement for general obligation bonds -- procedure

when levy inadequate. Subject to 20-6-326 and [section 1], the following provisions apply:

(1) The county superintendent shall compute the levy requirement for each school district's general obligation debt service fund on the basis of the following procedure:

(a) Determine the total money available in the debt service fund for the reduction of the property tax on the district by totaling:

(i) the end-of-the-year fund balance in the debt service fund, less any limited operating reserve as provided in 20-9-438;

(ii) anticipated interest to be earned by the investment of debt service cash in accordance with the provisions of 20-9-213(4) or by the investment of bond proceeds under the provisions of 20-9-435;

(iii) any state advance for school facilities distributed to a qualified district under the provisions of 20-9-346, 20-9-370, and 20-9-371;

(iv) funds transferred from the impact aid fund established pursuant to 20-9-514 that are authorized by 20-9-437(2) to be used to repay the district's bonds; and

(v) any other money, including money from federal sources, anticipated by the trustees to be available in the debt service fund during the ensuing school fiscal year from sources such as legally authorized money transfers into the debt service fund or from rental income, excluding any guaranteed tax base aid.

(b) Subtract the total amount available to reduce the property tax, determined in subsection (1)(a), from the final budget for the debt service fund as established in 20-9-438.

(2) The net debt service fund levy requirement determined in subsection (1)(b) must be reported to the county commissioners by the later of the first Tuesday in September or within 30 calendar days after receiving certified taxable values by the county superintendent as the net debt service fund levy requirement for the district, and a levy must be made by the county commissioners in accordance with 20-9-142.

(3) If the board of county commissioners fails in any school fiscal year to make a levy for any issue or series of bonds of a school district sufficient to raise the money necessary for payment of interest and principal becoming due during the next ensuing school fiscal year, in any amounts established under the provisions of this section, the holder of any bond of the issue or series or any taxpayer of the district may apply to the district court of the county in which the school district is located for a writ of mandate to compel the board of county commissioners of the county to make a sufficient levy for payment purposes. If, upon the hearing of

1 the application, it appears to the satisfaction of the court that the board of county commissioners of the county
2 has failed to make a levy or has made a levy that is insufficient to raise the amount required to be raised as
3 established in the manner provided in this section, the court shall determine the amount of the deficiency and
4 shall issue a writ of mandate directed to and requiring the board of county commissioners, at the next meeting
5 for the purpose of fixing tax levies for county purposes, to fix and make a levy against all taxable property in the
6 school district that is sufficient to raise the amount of the deficiency. The levy is in addition to any levy required
7 to be made at that time for the ensuing school fiscal year. Any costs that may be allowed or awarded the
8 petitioner in the proceeding must be paid by the members of the board of county commissioners and may not
9 be a charge against the school district or the county."

10
11 **Section 5.** Section 20-9-502, MCA, is amended to read:

12 **"20-9-502. Purpose and authorization of building reserve fund -- subfund structure.** (1) The
13 trustees of any district may establish a building reserve fund to budget for and expend funds for any of the
14 purposes set forth in this section. Appropriate subfunds must be created to ensure separate tracking of the
15 expenditure of funds from voted and nonvoted levies and transfers for school safety pursuant to 20-9-236.

16 (2) (a) A voted levy may be imposed and a subfund must be created with the approval of the
17 qualified electors of the district for the purpose of raising money for the future construction, equipping, or
18 enlarging of school buildings or for the purpose of purchasing land needed for school purposes in the district. In
19 order to submit to the qualified electors of the district a building reserve proposition for the establishment of or
20 addition to a building reserve, the trustees shall pass a resolution that specifies:

- 21 (i) the purpose or purposes for which the new or addition to the building reserve will be used;
22 (ii) the duration of time over which the new or addition to the building reserve will be raised in
23 annual, equal installments;
24 (iii) the total amount of money that will be raised during the duration of time specified for the levy;
25 and
26 (iv) any other requirements under 15-10-425 and 20-20-201 for the calling of an election.
27 (b) Except as provided in subsection (4)(b), a building reserve tax authorization may not be for
28 more than 20 years.

(c) The election must be conducted in accordance with the school election laws of this title, and the electors qualified to vote in the election must be qualified under the provisions of 20-20-301. The ballot for a building reserve proposition must be substantially in compliance with 15-10-425.

(d) The building reserve proposition is approved if a majority of those electors voting at the election approve the establishment of or addition to the building reserve. The annual budgeting and taxation authority of the trustees for a building reserve is computed by dividing the total authorized amount by the specified number of years. The authority of the trustees to budget and impose the taxation for the annual amount to be raised for the building reserve lapses when, at a later time, a bond issue is approved by the qualified electors of the district for the same purpose or purposes for which the building reserve fund of the district was established. Whenever a subsequent bond issue is made for the same purpose or purposes of a building reserve, the money in the building reserve must be used for the purpose or purposes before any money realized by the bond issue is used.

(3) (a) A subfund must be created to account for revenue and expenditures for school major maintenance and repairs authorized under this subsection (3). The trustees of a district may authorize and impose a levy of no more than 10 mills on the taxable value of all taxable property within the district for that school fiscal year for the purposes of raising revenue for identified improvements or projects meeting the requirements of 20-9-525(2). The 10-mill limit under this subsection (3) must be calculated using the district's total taxable valuation most recently certified by the department of revenue under 15-10-202. The amount of money raised by the levy, the deposits and transfers authorized under subsection (3)(f) of this section, and anticipated state aid pursuant to 20-9-525(3) may not exceed the district's school major maintenance amount. For the purposes of this section, the term "school major maintenance amount" means the sum of \$15,000 and the product of \$110 multiplied by the district's budgeted ANB for the prior fiscal year. To authorize and impose a levy under this subsection (3), the trustees shall:

(i) following public notice requirements pursuant to 20-9-116, adopt no later than March 31 of each fiscal year a resolution:

(A) identifying the anticipated improvements or projects for which the proceeds of the levy, the deposits and transfers authorized under subsection (3)(f) of this section, and anticipated state aid pursuant to 20-9-525(3) will be used; and

1 (B) estimating a total dollar amount of money to be raised by the levy, the deposits and transfers
2 authorized under subsection (3)(f) of this section, anticipated state aid pursuant to 20-9-525(3), and the
3 resulting estimated number of mills to be levied using the district's taxable valuation most recently certified by
4 the department of revenue under 15-10-202; and

5 (ii) include the amount of any final levy to be imposed as part of its final budget meeting noticed in
6 compliance with 20-9-131.

7 (b) Proceeds from the levy may be expended only for the purposes under 20-9-525(2), and the
8 expenditure of the money must be reported in the annual trustees' report as required by 20-9-213.

9 (c) Whenever the trustees of a district impose a levy pursuant to this subsection (3) during the
10 current school fiscal year, they shall budget for the proceeds of the levy, the deposits and transfers authorized
11 under subsection (3)(f) of this section, and anticipated state aid pursuant to 20-9-525(3) in the district's building
12 reserve fund budget. Any expenditures of the funds must be made in accordance with the financial
13 administration provisions of this title for a budgeted fund.

14 (d) When a tax levy pursuant to this subsection (3) is included as a revenue item on the final
15 building reserve fund budget, the county superintendent shall report the levy requirement to the county
16 commissioners by the later of the first Tuesday in September or within 30 calendar days after receiving certified
17 taxable values and a levy on the district must be made by the county commissioners in accordance with 20-9-
18 142.

19 (e) A subfund in the building reserve fund must be created for the deposit of proceeds from the
20 levy, the deposits and transfers authorized under subsection (3)(f) of this section, and anticipated state aid
21 pursuant to 20-9-525(3).

22 (f) If the imposition of 10 mills pursuant to subsection (3)(a) is estimated by the trustees to
23 generate an amount less than the maximum levy revenue specified in subsection (3)(a), the trustees may
24 deposit additional funds from any lawfully available revenue source and may transfer additional funds from any
25 lawfully available fund of the district to the subfund provided for in subsection (3)(a), up to the difference
26 between the revenue estimated to be raised by the imposition of 10 mills and the maximum levy revenue
27 specified in subsection (3)(a). The district's local effort for purposes of calculating its eligibility for state school
28 major maintenance aid pursuant to 20-9-525 consists of the combined total of funds raised from the imposition

of 10 mills and additional funds raised from deposits and transfers in compliance with this subsection (3)(f).

(4) (a) A voted levy may be imposed and a subfund must be created with the approval of the qualified electors of the district to provide funding for transition costs incurred when the trustees:

(i) open a new school under the provisions of Title 20, chapter 6;

(ii) close a school;

(iii) replace a school building;

(iv) consolidate with or annex another district under the provisions of Title 20, chapter 6; ~~or~~

(v) receive approval from voters to expand an elementary district into a K-12 district pursuant to 20-6-326; or

(vi) receive approval from voters to allow two or more elementary districts to contract to create a new high school district pursuant to [section 1].

(b) Except as provided in subsection (4)(c), the total amount the trustees may submit to the electorate for transition costs may not exceed the number of years specified in the proposition times the greater of 5% of the district's maximum general fund budget for the current year or \$250 per ANB for the current year. The duration of the levy for transition costs may not exceed 6 years.

(c) If the levy for transition costs is for consolidation or annexation:

(i) the limitation on the amount levied is calculated using the ANB and the maximum general fund budget for the districts that are being combined; and

(ii) the proposition must be submitted to the qualified electors in the combined district.

(d) The levy for transition costs may not be considered as outstanding indebtedness for the purpose of calculating the limitation in 20-9-406.

(5) (a) A subfund in the building reserve fund must be created for:

(i) the funds transferred to the building reserve fund for school safety and security pursuant to 20-9-236; and

(ii) funds generated by a voter-approved levy for school and student safety and security pursuant to subsection (5)(b) of this section.

(b) A voted levy may be imposed with the approval of the qualified electors of the district to provide funding for improvements to school and student safety and security that meet any of the criteria set forth in 20-

9-236(1)(a) through (1)(e). A voted levy for school and student safety and security may not be considered as outstanding indebtedness for the purpose of calculating the limitation in 20-9-406. The election for a voted levy for school and student safety and security must be conducted in accordance with the school election laws of this title, and the electors qualified to vote in the election must be qualified under the provisions of 20-20-301. The ballot for a building reserve proposition must be substantially in compliance with 15-10-425."

NEW SECTION. SECTION 6. DELAY IN FACILITY CONSTRUCTION OR RENOVATION. IF A NEW HIGH SCHOOL DISTRICT IS CREATED PURSUANT TO [SECTION 1], THE DISTRICT MAY NOT BEGIN TO UNDERTAKE THE ACTIVITIES FOR WHICH THE GENERAL OBLIGATION BOND WAS APPROVED PURSUANT TO [SECTION 1(3)], INCLUDING BUILDING, ALTERING, REPAIRING, BUYING, FURNISHING, EQUIPPING, OR OBTAINING A WATER SUPPLY FOR A SCHOOL TO ACCOMMODATE HIGH SCHOOL STUDENTS, BEFORE JULY 1, 2025. THE REQUIREMENTS OF THIS SECTION DO NOT APPLY TO THE PURCHASE OR PROCUREMENT OF LAND.

NEW SECTION. Section 7. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 20, chapter 6, part 3, and the provisions of Title 20, chapter 6, part 3, apply to [section 1].

NEW SECTION. Section 8. Effective date. [This act] is effective on passage and approval.

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