

SENATE BILL NO. 108

INTRODUCED BY G. HERTZ

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING VOTER APPROVAL OF PROPERTY TAX LEVIES OR BOND ISSUANCES FOR THE PURPOSE OF SATISFYING JUDGMENTS, SETTLEMENTS, OR PROPERTY TAXES PAID UNDER PROTEST; AMENDING SECTIONS 2-9-316, 7-6-4015, 7-6-4035, 7-6-4453, 7-7-2202, 7-7-2221, 7-7-4221, 15-1-402, 15-10-420, 20-9-403, 20-9-421, AND 20-9-471, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

Section 1. Section 2-9-316, MCA, is amended to read:

"2-9-316. Judgments against governmental entities. (1) A political subdivision of the state shall satisfy a final judgment or settlement out of funds that may be available from the following sources:

(1)(a) insurance;

(2)(b) the general fund or any other funds legally available to the governing body;

(3)(c) a property tax, ~~otherwise properly authorized by law~~, collected by a special levy authorized by law and as provided in subsection (2), in an amount necessary to pay any unpaid portion of the judgment or settlement; or

(4)(d) proceeds from the sale of bonds issued by a county, city, or school district for the purpose of deriving revenue for the payment of the judgment or settlement liability. The governing body of a county, city, or school district may issue bonds pursuant to procedures established by law. Property taxes may be levied to amortize the bonds as provided in subsection (3).

(2) A property tax levy for the purpose of satisfying a final judgment or settlement IN EXCESS OF THE LIMITS PROVIDED IN 2-9-108 is subject to voter approval as provided in 15-10-425.

(3) Bonds issued for the purpose of satisfying a final judgment or settlement IN EXCESS OF THE LIMITS PROVIDED IN 2-9-108 must be submitted to the registered electors of the jurisdiction pursuant to 7-7-2223, 7-7-4221, or 20-9-421."

1

2 **Section 2.** Section 7-6-4015, MCA, is amended to read:

3 **"7-6-4015. Payments for judgments.** (1) Judgments against a local government that are not covered
4 by insurance may be paid:

5 (a) from the general fund; or

6 (b) from the fund or funds supporting the local government operation that incurred the judgment.

7 (2) Judgments that are to be paid from the general fund:

8 (a) must be paid in the current fiscal year if there is sufficient money in the general fund to pay
9 both the judgment and the general fund appropriations for the current fiscal year; or

10 (b) subject to subsection (3), must be paid from additional tax levies made in each of the next 3
11 years if general fund money is insufficient to pay the judgment in the current fiscal year.

12 (3) A property tax levy for the purpose of satisfying a judgment IN EXCESS OF THE LIMITS PROVIDED IN
13 2-9-108 is subject to voter approval pursuant to 15-10-425."

14

15 **Section 3.** Section 7-6-4035, MCA, is amended to read:

16 **"7-6-4035. Tax levies for boards and commissions -- bond exemption.** (1) The proposed budget
17 and mill levy for each board, commission, or other governing entity are subject to approval by the governing
18 body.

19 (2) Except for a port authority created under Title 7, chapter 14, part 11, the taxes, revenue, or
20 fees legally pledged for the payment of debt or for the operations of a regional resource authority are not
21 subject to approval by the governing body.

22 (3) ~~Except for judgment levies under 2-9-316 or 7-6-4015, all~~ EXCEPT FOR CERTAIN JUDGMENT
23 LEVIES AS PROVIDED UNDER 2-9-316 OR 7-6-4015, ALL tax levies are subject to 15-10-420."

24

25 **Section 4.** Section 7-6-4453, MCA, is amended to read:

26 **"7-6-4453. Certain special mill levies also available.** (1) The all-purpose mill levy does not include
27 the levies imposed for bonded indebtedness, to pay judgments or tax protest refunds, or for special
28 improvement district revolving funds of municipalities. Subject to 15-10-420, additional levies may be made in

addition to the all-purpose mill levy, as provided in subsection (2). Sections 7-6-4451, 7-6-4454, 7-6-4455, and this section may not be construed as repealing those statutes providing for multiple separate levies.

(2) ~~Extraordinary~~ Subject to subsection (3), extraordinary levies otherwise authorized to pay for bonded indebtedness, judgments, tax protest refunds, or special improvement district revolving funds may be made by municipalities in addition to the all-purpose mill levy provided for in 7-6-4451, 7-6-4454, 7-6-4455, and this section.

(3) ~~A property tax levy for the purpose of satisfying a judgment IN EXCESS OF THE LIMITS PROVIDED IN 2-9-108 or tax protest refunds is subject to voter approval pursuant to 15-10-425."~~

Section 5. Section 7-7-2202, MCA, is amended to read:

"7-7-2202. Authority to issue general obligation bonds to satisfy judgments. (1) The board of county commissioners of every county of the state may issue, negotiate, and sell coupon bonds on the credit of the county, as provided in this part, for the purpose of funding, paying in full, or compromising, settling, and satisfying any judgment rendered against the county in a court of competent jurisdiction, including the repayment of tax protests lost by the county, when there are not sufficient funds available to pay the judgment. The question of issuing bonds TO SATISFY ANY JUDGMENT IN EXCESS OF THE LIMITS PROVIDED IN 2-9-108 must be submitted to the registered electors of the county pursuant to 7-7-2223.

(2) The resolution providing for the issuance of the bonds must recite the facts concerning the judgment to be funded and the terms of any compromise agreement entered into between the board and the judgment creditor."

Section 6. Section 7-7-2221, MCA, is amended to read:

"7-7-2221. Issuance of certain general obligation bonds without election. Bonds may be issued without submitting the ~~same proposition~~ to an election if the bonds are issued for the purpose of:

(1) ~~enabling a county to liquidate its indebtedness to another county incident to the creation of a new county or the changing of a county boundary line, as set forth in 7-7-2201(5); and; AND~~

(2) ~~funding, paying in full, or compromising, settling, and satisfying any judgment which may have been rendered against the county in a court of competent jurisdiction, as set forth in 7-7-2202 and 15-1-402~~

(2) FUNDING, PAYING IN FULL, OR COMPROMISING, SETTLING, AND SATISFYING A JUDGMENT WITHIN THE LIMITS PROVIDED IN 2-9-108 THAT MAY HAVE BEEN RENDERED AGAINST THE COUNTY IN A COURT OF COMPETENT JURISDICTION, AS SET FORTH IN 7-7-2202 AND 15-1-402."

Section 7. Section 7-7-4221, MCA, is amended to read:

"7-7-4221. Election on question of incurring indebtedness -- exception. (1) Except as provided in subsection (2) and 15-1-402, whenever the governing body of any municipality considers it necessary to issue bonds pledging the general credit of the municipality for any purpose authorized by law, the question of issuing the bonds shall first be submitted to the registered electors of the city or town.

(2) It is not necessary to submit to the electors the question of issuing refunding bonds to refund bonds issued and outstanding or the question of issuing revenue bonds not pledging the general credit of the municipality under any laws of this state."

Section 8. Section 15-1-402, MCA, is amended to read:

"15-1-402. Payment of property taxes or fees under protest. (1) (a) The person upon whom a property tax or fee is being imposed under this title may, before the property tax or fee becomes delinquent, pay under written protest that portion of the property tax or fee protested.

(b) The protested payment must:

(i) be made to the officer designated and authorized to collect it;

(ii) specify the grounds of protest; and

(iii) not exceed the difference between the payment for the immediately preceding tax year and the amount owing in the tax year protested unless a different amount results from the specified grounds of protest, which may include but are not limited to changes in assessment due to reappraisal under 15-7-111.

(c) If the protested property tax or fee is on property that is subject to central assessment pursuant to 15-23-101, the person shall report to the department the grounds of the protest and the amount of the protested payment for each county in which a protested payment was made.

(2) A person appealing a property tax or fee pursuant to Title 15, chapter 2 or 15, including a person appealing a property tax or fee on property that is annually assessed by the department or subject to

central assessment pursuant to 15-23-101, shall pay the tax or fee under protest when due in order to receive a refund. If the tax or fee is not paid under protest when due, the appeal or mediation may continue but a tax or fee may not be refunded as a result of the appeal or mediation.

(3) If a protested property tax or fee is payable in installments, a subsequent installment portion considered unlawful by the Montana tax appeal board need not be paid and an action or suit need not be commenced to recover the subsequent installment. The determination of the action or suit commenced to recover the first installment portion paid under protest determines the right of the party paying the subsequent installment to have it or any part of it refunded to the party or the right of the taxing authority to collect a subsequent installment not paid by the taxpayer plus interest from the date the subsequent installment was due.

(4) (a) Except as provided in subsection (4)(b), all property taxes and fees paid under protest to a county or municipality must be deposited by the treasurer of the county or municipality to the credit of a special fund to be designated as a protest fund and must be retained in the protest fund until the final determination of any action or suit to recover the taxes and fees unless they are released at the request of the county, municipality, or other local taxing jurisdiction pursuant to subsection (5). This section does not prohibit the investment of the money of this fund in the state unified investment program or in any manner provided in Title 7, chapter 6. The provision creating the special protest fund does not apply to any payments made under protest directly to the state.

(b) (i) Property taxes that are levied by the state against property that is centrally assessed pursuant to 15-23-101 and any protested taxes on industrial property that is annually assessed by the department in a school district that has elected to waive its right to protested taxes in a specific year pursuant to 15-1-409 must be remitted by the county treasurer to the department for deposit as provided in subsections (4)(b)(ii) through (4)(b)(iv).

(ii) The department shall deposit 50% of that portion of the funds levied for the university system pursuant to 15-10-109 in the state special revenue fund to the credit of the university system, and the other 50% of the funds levied pursuant to 15-10-109 must be deposited in a centrally assessed property tax state special revenue fund.

(iii) Fifty percent of the funds remaining after the deposit of university system funds must be

deposited in the state general fund, and the other 50% must be deposited in a centrally assessed property tax state special revenue fund.

(iv) Fifty percent of the funds from a school district that has waived its right to protested taxes must be deposited in the state general fund, and the other 50% must be deposited in a school district property tax protest state special revenue fund.

(5) (a) Except as provided in subsections (5)(b) and (5)(c), the governing body of a taxing jurisdiction affected by the payment of taxes under protest in the second and subsequent years that a tax protest remains unresolved may demand that the treasurer of the county or municipality pay the requesting taxing jurisdiction all or a portion of the protest payments to which it is entitled, except the amount paid by the taxpayer in the first year of the protest. The decision in a previous year of a taxing jurisdiction to leave protested taxes in the protest fund does not preclude it from demanding in a subsequent year any or all of the payments to which it is entitled, except the first-year protest amount.

(b) The governing body of a taxing jurisdiction affected by the payment of taxes under protest on property that is centrally assessed pursuant to 15-23-101 or on industrial property that is assessed annually by the department in the first and subsequent years that a tax protest remains unresolved may demand that the treasurer of the county or municipality pay the requesting taxing jurisdiction all or a portion of the protest payments to which it is entitled. The decision in a previous year of a taxing jurisdiction to leave protested taxes of centrally assessed property in the protest fund does not preclude it from demanding in a subsequent year any or all of the payments to which it is entitled.

(c) The provisions of subsection (5)(b) do not apply to a school district that has elected to waive its right to its portion of protested taxes on centrally assessed property and on industrial property that is assessed annually by the department for that specific year as provided in 15-1-409.

(6) (a) If action before the county tax appeal board, Montana tax appeal board, or district court is not commenced within the time specified or if the action is commenced and finally determined in favor of the department of revenue, county, municipality, or treasurer of the county or the municipality, the amount of the protested portions of the property tax or fee must be taken from the protest fund or the centrally assessed property tax state special revenue fund and deposited to the credit of the fund or funds to which the property tax belongs, less a pro rata deduction for the costs of administration of the protest fund and related expenses

1 charged to the local government units.

2 (b) (i) If the action is finally determined adversely to the governmental entity levying the tax, then
3 the treasurer of the municipality, county, or state entity levying the tax shall, upon receipt of a certified copy of
4 the final judgment in the action and upon expiration of the time set forth for appeal of the final judgment, refund
5 to the person in whose favor the judgment is rendered the amount of the protested portions of the property tax
6 or fee that the person holding the judgment is entitled to recover, together with interest from the date of
7 payment under protest. The department shall refund from the school district property tax protest state special
8 revenue fund the protested portions of property taxes and interest to a taxpayer in a school district in which the
9 school district has elected to waive its right to its portion of protested taxes for that specific year as provided in
10 15-1-409. If the amount available for the refund in the school district property tax protest state special revenue
11 fund is insufficient to refund the property tax payments, the department shall pay the remainder of the refund
12 from the state general fund.

13 (ii) The taxing jurisdiction shall pay interest at the rate of interest earned by the pooled investment
14 fund provided for in 17-6-203 for the applicable period.

15 (c) If the amount retained in the protest fund is insufficient to pay all sums due the taxpayer, the
16 treasurer shall apply the available amount first to tax repayment, then to interest owed, and lastly to costs.

17 (d) (i) (A) If, after a final determination by the Montana tax appeal board or a court or after
18 settlement of an appeal, the final assessed value of a property that is centrally assessed under 15-23-101 or an
19 industrial property that is annually assessed by the department is less than 75% of the department's original
20 assessed value, the governing body may demand that the state refund from the general fund the protested
21 taxes equivalent to the difference between the final determined assessed value and 75% of the original
22 assessed value.

23 (B) For industrial property under subsection (6)(d)(i)(A) in which the school district has elected to
24 waive its right to its portion of protested taxes for that specific year, the department shall refund from the school
25 district property tax protest state special revenue fund the protested portions of property taxes and interest to a
26 taxpayer.

27 (C) The provisions of subsection (6)(d)(i)(A) do not apply to protested taxes for which the taxpayer
28 protests the classification of the property.

(ii) If the protest action is decided adversely to a taxing jurisdiction and the amount retained in the protest fund is insufficient to refund the tax payments and costs to which the taxpayer is entitled and for which local government units are responsible, the treasurer shall bill and the taxing jurisdiction shall refund to the treasurer that portion of the taxpayer refund, including tax payments and costs, for which the taxing jurisdiction is proratably responsible. The treasurer is not responsible for the amount required to be refunded by the state treasurer as provided in subsection (6)(b).

(iii) For an adverse protest action against the state for centrally assessed property, the department shall refund from the centrally assessed property tax state special revenue fund the amount of protested taxes and from the state general fund the amount of interest as required in subsection (6)(b). The amount refunded for an adverse protested action from the centrally assessed property tax state special revenue fund may not exceed the amount of protested taxes or fees required to be deposited for that action pursuant to subsections (4)(b)(ii) and (4)(b)(iii). If the amount available for the adverse protested action in the centrally assessed property tax state special revenue fund is insufficient to refund the tax payments to which the taxpayer is entitled and for which the state is responsible, the department shall pay the remainder of the refund proportionally from the state general fund and from money deposited in the state special revenue fund levied pursuant to 15-10-109.

(e) In satisfying the requirements of subsection (6)(d), the taxing jurisdiction, including the state, is allowed not more than 1 year from the beginning of the fiscal year following a final resolution of the protest. The taxpayer is entitled to interest on the unpaid balance at the rate referred to in subsection (6)(b) from the date of payment under protest until the date of final resolution of the protest and at the combined rate of the federal reserve discount rate quoted from the federal reserve bank in New York, New York, on the date of final resolution, plus 4 percentage points, from the date of final resolution of the protest until refund is made.

(7) A Subject to subsection (8), a taxing jurisdiction, except the state, may satisfy the requirements of this section by use of funds from one or more of the following sources:

- (a) imposition of a property tax to be collected by a special tax protest refund levy;
- (b) the general fund or any other funds legally available to the governing body; and
- (c) proceeds from the sale of bonds issued by a county, city, or school district for the purpose of deriving revenue for the repayment of tax protests lost by the taxing jurisdiction. The governing body of a

county, city, or school district is authorized to issue the bonds pursuant to procedures established by law. The bonds may be issued without being submitted to an election. Property taxes may be levied to amortize the bonds.

(8) (a) A property tax levy for the purpose of satisfying a final judgment or settlement is subject to voter approval as provided in 15-10-425.

(b) Bonds issued for the purpose of satisfying a final judgment or settlement must be submitted to the registered electors of the jurisdiction pursuant to 7-7-2223, 7-7-4221, or 20-9-421.

(8)(9) If the department revises an assessment that results in a refund of taxes of \$5 or less, a refund is not owed."

Section 9. Section 15-10-420, MCA, is amended to read:

"15-10-420. Procedure for calculating levy. (1) (a) Subject to the provisions of this section, a governmental entity that is authorized to impose mills may impose a mill levy sufficient to generate the amount of property taxes actually assessed in the prior year plus one-half of the average rate of inflation for the prior 3 years. The maximum number of mills that a governmental entity may impose is established by calculating the number of mills required to generate the amount of property tax actually assessed in the governmental unit in the prior year based on the current year taxable value, less the current year's newly taxable value, plus one-half of the average rate of inflation for the prior 3 years.

(b) A governmental entity that does not impose the maximum number of mills authorized under subsection (1)(a) may carry forward the authority to impose the number of mills equal to the difference between the actual number of mills imposed and the maximum number of mills authorized to be imposed. The mill authority carried forward may be imposed in a subsequent tax year.

(c) For the purposes of subsection (1)(a), the department shall calculate one-half of the average rate of inflation for the prior 3 years by using the consumer price index, U.S. city average, all urban consumers, using the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of labor.

(2) A governmental entity may apply the levy calculated pursuant to subsection (1)(a) plus any additional levies authorized by the voters, as provided in 15-10-425, to all property in the governmental unit,

including newly taxable property.

(3) (a) For purposes of this section, newly taxable property includes:

(i) annexation of real property and improvements into a taxing unit;

(ii) construction, expansion, or remodeling of improvements;

(iii) transfer of property into a taxing unit;

(iv) subdivision of real property; and

(v) transfer of property from tax-exempt to taxable status.

(b) Newly taxable property does not include an increase in value that arises because of an increase in the incremental value within a tax increment financing district.

(4) (a) For the purposes of subsection (1), the taxable value of newly taxable property includes the release of taxable value from the incremental taxable value of a tax increment financing district because of:

(i) a change in the boundary of a tax increment financing district;

(ii) an increase in the base value of the tax increment financing district pursuant to 7-15-4287; or

(iii) the termination of a tax increment financing district.

(b) If a tax increment financing district terminates prior to the certification of taxable values as required in 15-10-202, the increment value is reported as newly taxable property in the year in which the tax increment financing district terminates. If a tax increment financing district terminates after the certification of taxable values as required in 15-10-202, the increment value is reported as newly taxable property in the following tax year.

(c) For the purpose of subsection (3)(a)(ii), the value of newly taxable class four property that was constructed, expanded, or remodeled property since the completion of the last reappraisal cycle is the current year market value of that property less the previous year market value of that property.

(d) For the purpose of subsection (3)(a)(iv), the subdivision of real property includes the first sale of real property that results in the property being taxable as class four property under 15-6-134 or as nonqualified agricultural land as described in 15-6-133(1)(c).

(5) Subject to subsection (8), subsection (1)(a) does not apply to:

(a) school district levies established in Title 20; or

(b) a mill levy imposed for a newly created regional resource authority.

(6) For purposes of subsection (1)(a), taxes imposed do not include net or gross proceeds taxes received under 15-6-131 and 15-6-132.

(7) In determining the maximum number of mills in subsection (1)(a), the governmental entity:

(a) may increase the number of mills to account for a decrease in reimbursements; and

(b) may not increase the number of mills to account for a loss of tax base because of legislative action that is reimbursed under the provisions of 15-1-121(7).

(8) The department shall calculate, on a statewide basis, the number of mills to be imposed for purposes of 15-10-109, 20-9-331, 20-9-333, 20-9-360, and 20-25-439. However, the number of mills calculated by the department may not exceed the mill levy limits established in those sections. The mill calculation must be established in tenths of mills. If the mill levy calculation does not result in an even tenth of a mill, then the calculation must be rounded up to the nearest tenth of a mill.

(9) (a) The provisions of subsection (1) do not prevent or restrict:

(i) ~~—— a judgment levy under 2-9-316, 7-6-4015, or 7-7-2202;~~

(ii) ~~—— a levy to repay taxes paid under protest as provided in 15-1-402;~~

(I) A JUDGMENT LEVY AS ALLOWED UNDER 2-9-316, 7-6-4015, OR 7-7-2202;

~~(iii)(i)(II)~~ an emergency levy authorized under 10-3-405, 20-9-168, or 20-15-326;

~~(iv)(ii)(III)~~ a levy for the support of a study commission under 7-3-184;

~~(v)(iii)(IV)~~ a levy for the support of a newly established regional resource authority;

~~(vi)(iv)(V)~~ the portion that is the amount in excess of the base contribution of a governmental entity's property tax levy for contributions for group benefits excluded under 2-9-212 or 2-18-703;

~~(vii)(v)(VI)~~ a levy for reimbursing a county for costs incurred in transferring property records to an adjoining county under 7-2-2807 upon relocation of a county boundary;

~~(viii)(vi)(VII)~~ a levy used to fund the sheriffs' retirement system under 19-7-404(3)(b); or

~~(ix)(vii)(VIII)~~ a governmental entity from levying mills for the support of an airport authority in existence prior to May 7, 2019, regardless of the amount of the levy imposed for the support of the airport authority in the past. The levy under this subsection ~~(9)(a)(ix) (9)(a)(vii) (9)(A)(VIII)~~ is limited to the amount in the resolution creating the authority.

(b) A levy authorized under subsection (9)(a) may not be included in the amount of property taxes

1 actually assessed in a subsequent year.

2 (10) A governmental entity may levy mills for the support of airports as authorized in 67-10-402, 67-
3 11-301, or 67-11-302 even though the governmental entity has not imposed a levy for the airport or the airport
4 authority in either of the previous 2 years and the airport or airport authority has not been appropriated
5 operating funds by a county or municipality during that time.

6 (11) The department may adopt rules to implement this section. The rules may include a method for
7 calculating the percentage of change in valuation for purposes of determining the elimination of property, new
8 improvements, or newly taxable value in a governmental unit."

9

10 **Section 10.** Section 20-9-403, MCA, is amended to read:

11 **"20-9-403. Bond issues for certain purposes.** (1) The trustees of a school district may issue and
12 negotiate general obligation bonds, oil and natural gas revenue bonds, or impact aid bonds of the school district
13 for the purpose of:

14 (a) building, altering, repairing, buying, furnishing, equipping, purchasing lands for, or obtaining a
15 water supply for a school, teacherage, dormitory, gymnasium, other building, or combination of buildings for
16 school purposes;

17 (b) buying a school bus or buses;

18 (c) providing the necessary money to redeem matured bonds, maturing bonds, or coupons
19 appurtenant to bonds when there is not sufficient money to redeem them;

20 (d) providing the necessary money to redeem optional or redeemable bonds when it is for the best
21 interest of the school district to issue refunding bonds;

22 (e) funding a judgment against the district, including the repayment of tax protests lost by the
23 district, subject to subsection (4); or

24 (f) funding a debt service reserve account that may be required for oil and natural gas revenue
25 bonds or impact aid revenue bonds.

26 (2) Money realized from the sale of bonds issued on the credit of a high school district may not be
27 used for any of the purposes listed in subsection (1) in an elementary school district, and the money may be
28 used for any of the purposes listed in subsection (1) for a junior high school but only to the extent that the 9th

1 grade of the high school is served.

2 (3) If applicable, the trustees shall specify whether the bonds are qualified school construction
3 bonds as described in 17-5-116(1) or tax credit bonds as provided in 17-5-117.

4 (4) Bonds issued for the purpose of satisfying a final judgment or settlement IN EXCESS OF THE
5 LIMITS PROVIDED IN 2-9-108 or property taxes paid under protest as provided in 15-1-402 must be submitted to
6 the registered electors of the school district as provided in 20-9-421."

7

8 **Section 11.** Section 20-9-421, MCA, is amended to read:

9 **"20-9-421. Election to authorize the issuance of school district bonds and the methods of**

10 **introduction.** A school district may not issue bonds for any purpose other than that provided in ~~15-1-402~~, 20-9-
11 412, and 20-9-471 unless the issuance of bonds has been authorized by the qualified electors of the school
12 district at an election called for the purpose of considering a proposition to issue the bonds. A school district
13 bond election must be called by a resolution as prescribed under the provisions of 20-20-201 when:

14 (1) the trustees, of their own volition, adopt a resolution to that effect; or

15 (2) the trustees have received a petition that asks for an election to be held to consider a bond
16 proposition and that has been validated under the provisions of 20-9-425."

17

18 **Section 12.** Section 20-9-471, MCA, is amended to read:

19 **"20-9-471. Issuance of obligations -- authorization -- conditions.** (1) The trustees of a school
20 district may, without a vote of the electors of the district, secure loans from or issue and sell to the board of
21 investments_or, as provided in subsection (2), a bank, building and loan association, savings and loan
22 association, or credit union that is a regulated lender, as defined in 31-1-111, obligations for the purpose of
23 financing all or a portion of:

24 (a) the costs of vehicles and equipment and construction of buildings used primarily for the storage
25 and maintenance of vehicles and equipment;

26 (b) the costs associated with renovating, rehabilitating, and remodeling facilities, including but not
27 limited to roof repairs, heating, plumbing, electrical systems, and cost-saving measures as defined in 90-4-
28 1102;

(c) the costs of nonpermanent modular classrooms necessary for student instruction when existing buildings of the district are determined to be inadequate by the trustees;

(d) any other expenditure that the district is otherwise authorized to make, subject to subsection

~~(5), including the payment of settlements of legal claims and judgments, INCLUDING THE PAYMENT OF~~
SETTLEMENTS OF LEGAL CLAIMS AND JUDGMENTS WITHIN THE LIMITS PROVIDED IN 2-9-108; and

(e) the costs associated with the issuance and sale of the obligations.

(2) (a) Before seeking to secure a loan or issue and sell obligations to a regulated lender specified in subsection (1), the trustees shall first offer the board of investments a written notice of the board's right of first refusal.

(b) If the board of investments accepts the offer to issue a loan or purchase obligations, the board shall provide a written response to the trustees by the later of:

(i) 120 days following delivery of the trustees' offer to the board; or

(ii) the day after the next meeting of the board of investments.

(c) If the trustees have not received a written acceptance by the deadline provided for in subsection (2)(b), the trustees may seek to secure a loan or issue and sell an obligation to a regulated lender specified in subsection (1).

(3) The term of the obligation, including an obligation for a qualified energy project, may not exceed 15 fiscal years. For the purposes of this subsection, a "qualified energy project" means a project designed to reduce energy use in a school facility and from which the resulting energy cost savings are projected to meet or exceed the debt service obligation for financing the project, as determined by the department of environmental quality.

(4) (a) At the time of issuing the obligation, there must exist an amount in the budget of an applicable budgeted fund of the district for the current fiscal year available and sufficient to make the debt service payment on the obligation coming due in the current year. The budget of an applicable budgeted fund of the district for each following year in which any portion of the principal of and interest on the obligation is due must provide for payment of that principal and interest.

~~(b) For an obligation sold under subsection (1)(d) for the purposes of paying a tax protest refund, a district may pledge revenue from a special tax protest refund levy for the repayment of the obligation, pursuant~~

1 to 15-1-402 (7).

2 (5) Except as provided in 20-9-502, 20-9-503, and subsections (1)(a) and (1)(c) of this section, the
3 proceeds of the obligation may not be used to acquire real property or construct a facility unless:

4 (a) the acquisition or construction project does not constitute more than 20% of the square footage
5 of the existing real property improvements made to a facility containing classrooms;

6 (b) the 20% square footage limitation may not be exceeded within any 5-year period; and

7 (c) the electors of the district approve a proposition authorizing the trustees to apply for funds
8 through the board of investments or a bank, building and loan association, savings and loan association, or
9 credit union that is a regulated lender, as defined in 31-1-111, for the construction project. The proposition must
10 be approved at an election held in accordance with all of the requirements of 20-9-428, except that the
11 proposition is considered to have passed if a majority of the qualified electors voting approve the proposition.

12 (6) The school district may not submit for a vote of the electors of the district a proposition to
13 impose a levy to pay the principal or any interest on an obligation that is payable from the guaranteed cost
14 savings under energy performance contracts as defined in 90-4-1102.

15 (7) ~~Except as provided in subsection (4)(b), the~~ The obligation must state clearly on its face that
16 the obligation is not secured by a pledge of the school district's taxing power but is payable from amounts in its
17 general fund or other legally available funds.

18 (8) An obligation issued is payable from any legally available fund of the district and constitutes a
19 general obligation of the district.

20 (9) The obligation may bear interest at a fixed or variable rate and may be sold to the board of
21 investments or a bank, building and loan association, savings and loan association, or credit union that is a
22 regulated lender, as defined in 31-1-111, at par, at a discount, or with a premium and on any other terms and
23 conditions that the trustees determine to be in the best interests of the district.

24 (10) The principal amount of the obligation, when added to the outstanding bonded indebtedness of
25 the district, may not exceed the debt limitation established in 20-9-406."

26
27 **NEW SECTION. Section 13. Applicability.** [This act] applies to a property tax levy imposed or bonds
28 issued on or after [the effective date of this act].

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- END -